

# **Illicit Political Finance**

**and State Capture**

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This publication is a background paper published as part of the preparatory process for a 2009 Democracy Round Table co-organized by International IDEA and Mexican institutions on the topic of Illicit Funding in Politics and scheduled to take place in Mexico-City on 1 and 2 December 2009. The paper does not aim to represent a complete overview and analysis of a very complex global phenomenon, but essentially provides thought-provoking elements for the forthcoming Round Table debate.

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# Overview

This paper addresses an urgent topic: the use of illicit political finance in a systematic manner to influence or ‘capture’ agencies, local governments, territory or even the entirety of states. The evident result is an undermining of the representative processes and of the state itself. This topic has become particularly urgent of late with an international economic recession that leaves cash-rich, transnational criminal groups with more power than ever before.<sup>1</sup>

Indeed, it could be argued that, while focusing on the issue of terrorism, the democratic international community has given too little attention to the threat posed by transnational organized crime (TOC), which can finance and supply – as well as become – terrorist organizations. The threat posed by TOC may be greater than that posed by terrorism. ‘Without a doubt, the greatest single threat today to global development, democracy and peace is transnational organized crime’, according to Antonio Maria Costa, Executive Director of the United Nations Office on Drugs and Crime (UNODC).<sup>2</sup>

While political party and campaign financing mechanisms receive much attention from the democracy assistance community, very little attention is paid to other forms of political finance, especially its illicit forms. This paper is intended to encourage deeper examination of established methodologies to influence, subdue or defeat democratic processes for private gain. Even where elections are free and fair, post-election disenchantment often ensues as legislators and other officials seemingly ‘lose touch’ with the people who elected them. The processes by which democratic government loses touch with people may be viewed more clearly through the lens of illicit political finance and state capture.

The impetus for this paper comes from Mexico, appropriately enough. President Felipe Calderón, who is courageously battling illicit political finance and state capture, suggested the topic. The Government of Mexico chairs the Council of the International Institute for Democracy and Electoral Assistance (International IDEA) in 2008–09, and proposed that the topic of ‘Illicit Finance in Politics’ be the subject of a December 2009 Round Table to be held in Mexico City. President Calderón has been among the most forthright of public officials in recognizing the extent to which organized crime

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<sup>1</sup> ‘The financial sector, facing widespread illiquidity and insolvency, is being penetrated by cash-rich organized crime groups: money-laundering has never been easier, more widely practiced, and on such a grand scale.’ Speech by Antonio Maria Costa, Executive Director, United Nations Office on Drugs and Crime, to the 18th Session of the UN Commission on Crime Prevention and Criminal Justice, 16 April 2009. See also ‘Italy’s Mafia thrives in global financial meltdown’, Associated Press, 25 April 2009.

<sup>2</sup> United Nations, ‘UNODC, European Commission agree drugs, crime, terrorism inextricably linked: bilateral solutions needed to combat new threats’, Press Release SOC/NAR/919, UN Information Service, 18 January 2005.

has infiltrated his country's government and politics, and threatens democracy itself. And President Calderón has been the boldest of officials in seeking to reorganize government to cope with this threat.<sup>3</sup>

'Building' democracy and peace is a popular subject for aid agencies. But, while seeking to 'fix failed states'<sup>4</sup> is laudable, it appears that insufficient attention is given to identifying, diagnosing and preventing the deterioration of democratic processes. This paper suggests that illicit political finance is a key contributor to the underperformance and loss of credibility of democratic governments, and urges a more proactive approach in identifying, measuring and seeking to counteract flows of illicit political finance at the local and national level. If illicit political finance is a widespread means of undermining representation, more attention needs to be paid to defending, and not only building, democracy. Where illicit political finance becomes entrenched, elections and other institutions become façades intended to provide legitimacy to governments in sore need of it.

Analysis of politics often focuses on highly-visible formal institutions and the people holding office within them. However, visible political life is sometimes a subset of power, and there are powers that prefer to remain invisible. Journalists and others who may try to expose such power often do so at the cost of their freedom,<sup>5</sup> or their lives.<sup>6</sup>

Illicit political finance takes the form of acts that include bribery, coercion and violence. In its most organized form, illicit political finance is aimed at disabling or capturing governmental functions to facilitate control of markets, territories and the polities associated with them. Illicit political finance, then, could be thought of as a strategy to gain a competitive advantage over other political and economic actors. Organizations employing illicit political finance may be legal or illegal, private or governmental. In some cases, even development assistance may fuel corruption and conflict and become a source of illicit political finance. The mix and extent of types of illicit political finance vary across countries, but no matter how well regulated a society is, there will be efforts to exert influence on governments by avoiding or skirting these regulations.

In analysing illicit political finance, questions arise about the meaning of these terms. While corruption might be used as a synonym for illicit political finance, the word is most often used to mean bribery of government officials. Illicit political finance encompasses a broader range of actors and phenomena, and does not have the same political connotations as corruption. It refers to a system in which licitly- and illicitly-generated funds are directed at perverting the functions of government, and it emphasizes the givers as much as the recipients. The intention here is to focus on the systems of illicit political finance that are most pernicious to democratic governments. For this reason, illicit political finance is analysed with regard to processes of state capture. What follows is a brief digression into defining

<sup>3</sup> 'Crime threatens democracy, Mexico's President warns', *New York Times*, 24 June 2009. Also see interview with President Calderon: 'El crimen es la mayor amenaza a los derechos humanos', *El Universal*, 27 February 2009.

<sup>4</sup> Ghani, Ashraf and Lockhart, Clare, *Fixing Failed States* (Oxford: Oxford University Press, 2008).

<sup>5</sup> Roberto Saviano, author of *Gomorra*, a book about the Camorra Mafia based in Naples, now lives with five bodyguards and travels in two armed cars. See 'Living with the Mafia's wrath', BBC, 1 December 2008.

<sup>6</sup> Gathmann, Moritz, Klussmann, Uwe and Schepp, Matthias, 'Risking all for press freedom: Russian journalists put their lives on the line', *Spiegel Online International*, 26 January 2009. 'Nowhere in Europe is life more dangerous for journalists than in Russia, and no Russian newspaper has had as many of its journalists killed as Novaya Gazeta.'

terms that are admittedly imprecise, describing phenomena that cry out for more empirical research.

Something illegal is illicit; the two terms have much in common and overlap greatly, although illicit is the broader category, adding the nuance of grey areas of legality, and suggesting clandestine activities. Illegal means ‘against the law, unlawful’. Illicit means almost the same thing, but it also includes the improper – that is, grey areas of what is lawful or not – and further suggests ‘the furtive or clandestine nature of acts so characterized’.<sup>7</sup> Illicit also refers to things or acts that may be forbidden by custom.<sup>8</sup> To add to the confusion, consider for example a drug that may be legally prescribed by a doctor. If that drug is sold without a prescription, then it is converted into an illicit (though not strictly illegal) substance, and the act of its (probable) clandestine sale is both illegal and illicit. There is a tendency to conflate the illegal and the illicit. In this paper, the slightly broader category of illicit is favoured.

The meaning of ‘political’ is so broad as to defy utility but here we restrict the political to actions, by actors private or public, that are intended to influence the functioning of the state and democratic institutions, including the media.

‘Finance’ may be thought of as an investment of money or any other type of influence requiring interpersonal and inter-organizational payments of money. It is a neutral term. We are concerned with the effects of finance, understanding that it is not necessarily the quantity of money at stake that is decisive in terms of outcomes. For example, the investment of a few thousand dollars to pay for the assassination of a capable, honest but obstructive (to illicit interests) government official<sup>9</sup> may have greater impact than millions of dollars offered in, say, bribes to many officials over a period of time.

Illicit political finance can also come about via the often legally grey areas of lobbying, the definition and regulation of which has yet to emerge in most countries, and ‘legal bribery’, typified by the assumed quid pro quo behind many donations to political parties and candidates. While state capture is often practised by private actors, it also can be practised by people within the government, in alliance with private actors or not. Illicit political finance facilitates corruption and other means of effectively privatizing – through bribes, intimidation and violence – vital state functions, federal and local agencies, members of parliament, political parties, key government actors, local governments, and state territory.

State capture aims at systematically distorting or displacing the state through a clandestine parallel entity or entities,<sup>10</sup> and may be classified as the most pernicious manifestation of political corruption. Although a better definition of the term is needed, its essence is ‘*shaping the formation of the basic rules of the game*’ (i.e. laws, rules, decrees and regulations) through *illicit* and non-transparent private

<sup>7</sup> Wilson, Kenneth G., *The Columbia Guide to Standard American English* (New York: Columbia University Press, 1993).

<sup>8</sup> Haworth, Alan and Simpson, Ronald, *Moonshine Markets: Issues in Unrecorded Alcohol Beverage Production and Consumption* (London: Routledge, 2004).

<sup>9</sup> See, e.g., Wood, Nicholas, ‘12 convicted in assassination of Serbian Prime Minister’, *New York Times*, 23 May 2007. Zoran Djindjic, the pro-reform Prime Minister, was gunned down in Belgrade in March 2003 by former secret police and members of the so-called Zemun gang, which has been linked to organized crime.

<sup>10</sup> For a summary of the 10 essential state functions, see Ghani and Lockhart, *Fixing Failed States*.

payments to public officials'.<sup>11</sup> It refers to a strategy by powerful actors to weaken, co-opt, disable or privatize governmental agencies, territory, and the state itself. Some commentators maintain that it is in the interest of clandestine groups and organized crime for the state to be functional,<sup>12</sup> if only for the sake of greater profit. Such a relationship may be parasitical, particularly in more developed economies. In less-developed countries with weaker, vulnerable governments, the relationship with the host body may resemble malignant cancer. State capture is to be distinguished from petty corruption; it is manifested as meta-corruption, or grand corruption, in which illicit political finance is used to systematically control public institutions.

In 2001, Daniel Kauffman and co-author Joel Hellman highlighted the importance and problems of analysing, and measuring, state capture with reference in particular to the former Soviet Union (emphasis added):

In transition economies, corruption has taken on a new image – that of so-called oligarchs manipulating policy formation and even shaping the emerging rules of the game to their own, very substantial advantage. We refer to this behavior as state capture. *Though this form of grand corruption is increasingly being recognized as the most pernicious and intractable problem in the political economy of reform, few systematic efforts have been made to distinguish its causes and consequences from those of other forms of corruption. Moreover, there have not been any attempts to measure this specific type of corruption and to compare it across countries. . . .* We define state capture as the efforts of firms to shape the laws, policies, and regulations of the state to their own advantage by providing illicit private gains to public officials.<sup>13</sup>

Rasma Karklins explains that corruption constitutes a hidden political arena. When it starts to dominate a regime, any analysis that ignores it is misleading. 'In some cases, the misuse of public power has become so widespread that analysts speak of the "stealing of the state", or "state capture"' and ask 'how this situation affects the distribution of power and authority in the political system, how it distorts the formal declarations of government policy, how it influences the character and composition of the political elite over time'.<sup>14</sup>

While the phenomenon of state capture also takes place within non-democratic governments, it can be argued that, except in rare cases, non-democratic governments are examples of comprehensive state capture, whether by clans, organized crime networks, armies, militias, liberation movements, oligarchs, multinational corporations, foreign governments, or a combination thereof.

Analysing illicit political finance provides a clearer understanding of the processes by which government loses touch with the people, and how representation is eroded. What seems clear is that there is a

<sup>11</sup> 'Seize the state, seize the day: state capture and influence in transition economies', *Journal of Comparative Economics*, 31/4 (December 2003), pp. 751–773.

<sup>12</sup> Mattsson, Therese (head of the Swedish National Criminal Police, Institute for Security and Development Policy), at the Forum on 'Organized Criminal Networks in Sweden and their Connections Abroad', 11 November 2008.

<sup>13</sup> Hellman, Joel and Kaufmann, Daniel, 'Confronting the challenge of state capture in transition economies', *Finance and Development* magazine (International Monetary Fund), 38/3 (September 2001).

<sup>14</sup> Karklins, Rasma, 'Typology of post-communist corruption', *Problems of Post-Communism* (2002).

well-developed menu of tactics and strategies to infiltrate, harness, co-opt, obstruct, intimidate or attack government in order to realize the will of *certain* groups of people. Transitional democracies, in particular, appear highly vulnerable to state capture. Illicit political finance saps democratic legitimacy, trust and efficacy, and, by stimulating conflict and instability, can sow the seeds of a transitional democracy's degeneration. It is a subject closely related to International IDEA's work in the areas of electoral assistance, democracy and gender, conflict and security, and democracy and development, and touches on constitution building as well.

## New approaches to political finance

### *Wishful thinking in democracy assistance*

The standard approach of democracy assistance regarding political finance appears to assume that political finance consists of little more than campaign and political party finance, and that such finance can be regulated in ways similar to those used in developed democracies. This approach could be called 'just do as we do'. These assumptions lead to assistance in developing rules, penalties and enforcement mechanisms for campaign finance that seek to mimic those in developed democracies, but in practice they are seldom implemented or enforced in developing democracies, with the exception of contests for the highest offices.

The focus on regulation of campaign finance often ignores a critical question: how influential or decisive is money in campaigns?

It may seem difficult to measure the impact of campaign finance, because many other variables are involved, such as incumbency and a candidate's unquantifiable appeal to voters. Yet there is some compelling empirical analysis on the subject, albeit largely from developed democracies. One analyst, an advocate for US campaign reform, claims that beyond the basic investment needed to introduce oneself to voters in congressional elections, 'additional spending has little or no determinative effect'.<sup>15</sup> Another study analyses the same two candidates who run against each other in consecutive elections; the sample for this study is about 1,000 US congressional races since 1972. In these cases, the amount of money spent by the candidates 'hardly matters at all'. A winning candidate can cut his spending by half in the next election and lose only 1 per cent of the vote. Meanwhile, a losing candidate who doubles his spending in the next election can expect to shift the vote in his favour by only that same 1 per cent. 'What really matters for a political candidate is not how much you spend; what matters is who you are. Some politicians are inherently attractive to voters and others simply aren't, and no amount of money can do much about it.'<sup>16</sup>

What is the impact of campaign spending in developing democracies? This is difficult to say, beyond the anecdotal evidence, which can be striking. In Peru's 1990 presidential contest between Alberto Fujimori and writer Mario Vargas Llosa, the latter spent upwards of 60 times more on his campaign

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<sup>15</sup> Americans for Campaign Reform, 'Does money buy elections? The impact of spending on US congressional campaigns', Policy Paper PB08-1, January 2008, p. 2.

<sup>16</sup> Levitt, Steven D. and Dubner, Stephen, *Freakonomics* (New York: William Morrow, 2005), p. 12.



than Fujimori, who won the election.<sup>17</sup> Indeed, it is suggested that candidates who try to buy voters' allegiance, especially that of poor voters, might actually end up alienating rather than wooing them. If campaign spending beyond a certain amount has no impact on elections, then perhaps our attention might be better directed to other kinds of political finance (namely, of course, the illicit sort that happens before and after elections).

Similarly, for political parties, the aid community approaches the subject with preconceived notions and a lack of information. An assumption apparent in political party assistance is that political parties in developing democracies should, or could, resemble the institutionalization of parties in developed democracies – or, strangely enough, that they should adopt even higher standards for internal democracy, gender equality and transparency. This approach could be called 'do as we say, not as we do'.

Thomas Carothers has written perhaps the most complete study about political parties in new democracies and assistance thereto – *Confronting the Weakest Link: Aiding Political Parties in New Democracies*. It should be standard reading for all who propose to assist political parties. In a chapter well-titled 'The standard lament', he enunciates the common shortcomings of these parties, noting that they do not fulfil what are assumed to be the traditional functions of Western political parties. As for international aid to political parties, he concludes that it has had little or no effect, which is not surprising given how little we know, or want to know, about these highly mistrusted institutions.<sup>18</sup> Curiously, even with all their shortcomings, Carothers does not see an institutional alternative to political parties, whatever functions they might actually be performing. Current trends suggest that in many democracies political parties very often are little more than temporary fundraising and branding committees that represent not a party but a particular candidate, and display few signs of institutional life between campaigns.

False assumptions and wishful thinking are likely to frustrate efforts to understand the actual mechanisms – and impact – of campaign finance and the functions of political parties, thereby wasting resources. In many elections in developing democracies, illicit political finance is playing an increasingly decisive role, possibly greater than that of legal contributions.<sup>19</sup>

Democracy assistance remains focused on elections, and with good reason: fair elections in theory, and often in practice, impose accountability on politicians, and provide a sporadic expression of popular will. Electoral assistance is relatively easy to understand and provide (so long as there is

<sup>17</sup> Interview with Kevin Casas Zamora, Senior Fellow, the Brookings Institution, February 2009.

<sup>18</sup> Carothers, Thomas, *Confronting the Weakest Link: Aiding Political Parties in New Democracies* (Washington, DC: Carnegie Endowment for International Peace, 2006). This book is considered by many reviewers the most significant accumulation of knowledge regarding political parties in developing democracies. Carothers offers little hope that aid has accomplished much, or can accomplish much, by assisting political parties, even as he insists on the importance of political parties to democratic systems.

<sup>19</sup> Millman, Joel and De Cordoba, Jose, 'Drug-cartel links haunt an election south of border', *Wall Street Journal*, 3 July 2009. 'Until recent years, Mexican drug traffickers focused the bulk of their bribery efforts on law enforcement rather than politicians. Their increasing involvement in local politics – in town halls and state capitals – is a response, experts say, to the national-level crackdown, to changes in the nature of the drug trade itself and to the evolution of Mexico's young democracy.'

political support in the recipient country, which is not always a given). Election procedures and laws can be shared between countries, whatever their level of development; there is a well-established menu of choices for designing and administering electoral systems. However, there are indications that electoral assistance may unwittingly be reinforcing electoral democracy, in which elections legitimate undemocratic governments. 'At the core of the promotion of democracy was the promotion of elections: for example, in 2006 donors provided \$500m to finance elections in the Democratic Republic of the Congo. Yet the premise that elections are effective in such conditions has yet to be evaluated.'<sup>20</sup>

While many democracy promoters claim that elections are a key mechanism for preventing or resolving conflict between groups, recent empirical research suggests an opposite tendency in poor countries. According to some studies, where per capita gross domestic product (GDP) is below 2,700 US dollars (USD), elections actually increase the probability of conflict, while in countries over this threshold elections and democracy do reduce conflict.<sup>21</sup> The recent elections in Kenya and Iran should help to underscore the potentially conflictual and explosive consequences of elections.

While the media draw our attention to national elections, less-visible elections may be just as important yet more likely to be manipulated. In many countries, such as Colombia, enforcement of campaign finance laws tends to focus largely on presidential elections and to a much smaller degree on parliamentary elections. Meanwhile, local elections are almost entirely overlooked, and it is here that the capacity to monitor, audit and enforce campaign finance laws is weak to non-existent.

It is common to hear in most developing democracies that all parties cheat on campaign finance; and, as any party enjoying electoral success is believed to be exceeding campaign spending limits, there is no incentive either for parties or for parliament – host to the winning parties – to provide an adequate budget for enforcing these rules.

Another problem is that even if campaign spending is well monitored and well audited, proof of campaign finance violations generally only will emerge after the elections, with few or no sanctions against offending candidates or parties, assuming that there is an independent magistrate to judge such cases. In developing democracies, attempts to restrain campaign finance appear to have met with little success, particularly where illicit businesses play a large role in local and national economies. Beyond presidential elections, resources simply are not available to try to control campaign finance violations or illicit funding of campaigns. Colombia's legislature is proposing an innovative – and severe – law that offers some hope in combating the influx of 'narco' money into elections by proposing severe sanctions for some campaign finance violations, even if such violations are not proven until well after the elections in which they took place. In the United States, proposals are being put forward to try to blunt the apparent quid pro quo of large campaign contributors being rewarded by financial appropriations through legislative 'earmarks'.

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<sup>20</sup> Chauvet, Lisa and Collier, Paul, 'Elections and economic policy in developing countries', IRD, DIAL, Paris and CSAE, Department of Economics, University of Oxford, September 2008.

<sup>21</sup> Collier, Paul, *Wars, Guns, And Votes: Democracy in Dangerous Places* (New York: Harper/HarperCollins Publishers, 2009).

In many countries, established and institutionalized political parties are withering away at an impressive rate. The head of one political party in Colombia has said ‘Political parties no longer exist’.<sup>22</sup> In Guatemala and a number of other countries, parties emerge and disappear like mushrooms. Politicians create a party, which they personify. This appears to be a global phenomenon that the democracy assistance community wishes to counter through strengthening political parties, increased transparency and so on. Such wishful thinking appears to be obstructing attempts to understand what political parties have become in many places – temporary election committees representing one or very few candidates. The names of these new political parties reflect the new reality, as they often amount to little more than a campaign slogan (e.g. Primero Colombia – Colombia First) rather than a coherent platform ideology. Argentina has more than 30 political parties. Traditional parties like the Peronist or Justicialist Party are exceptional in their longevity but were once, like many European parties, social and political organizations. Loyalty to parties is declining, and not only among citizens. Elected officials often change affiliations, compounding the increasing irrelevance of parties. We do not yet fully understand the consequences of this phenomenon, but it may have several important implications. First, as parties become dominated by one or few candidates, we are speaking less of party finance than of candidate finance. And, as candidates, not parties, become the focus of financing, the opportunities for illicit influence and capture may increase.

Door-to-door campaigning has largely been replaced by the overwhelming influence of broadcasting, especially television. Some research suggests that the political party systems that have emerged during the broadcasting age since the 1970s are less likely to solidify,<sup>23</sup> and where the effects of the media on politics, and the politics of the media, are concerned, again, there appear to be lacunae in the approaches of democracy builders. The influence of television, and growing influence of the Internet, urge us to reconsider how campaigns are regulated. The primary use of campaign funds is to buy time on television; access to the airwaves is access to brain waves.

Perhaps the Internet, where access is widely available, will help to level the political playing field, allowing lesser-known and less well-financed candidates to make direct appeals to the public. In the United States in 2008, a previously obscure Democratic presidential candidate, Howard Dean, was propelled into the public consciousness by the Internet. For President Barack Obama, the Internet proved to be a tool for generating unprecedented quantities of campaign finance, thus proving the Internet to be a political medium complementing television, where much of those funds were invested. Regulation of campaigns increasingly should mean regulation of access to the media, and encourage us to focus greater attention on television, radio and the Internet as the public arena for the sport of politics, and to consider new approaches to the structure and refereeing of political tournaments. The sports metaphors are not unintentional: political competition could very well learn from the structure if not the regulation of athletic competitions. There is little better way to take the measure of candidates than by placing them in public, well-refereed, face-to-face encounters. Athletic competitions favour those who are skilled and prepared, and the athletes’ record of accomplishments speaks for them. We

<sup>22</sup> Senator Alfonso Valdivieso, head of the Cambio Radical Party in Colombia and former Prosecutor General of the Nation, in an interview with Santiago Villaveces, *International IDEA*, 25 February 2009. The Senator may be exaggerating, or expressing his frustration with the decline of political parties, as other interlocutors counted two somewhat institutionalized parties in Colombia.

<sup>23</sup> Mainwaring, Scott, Zoco and Edurne, ‘Political sequences and the stabilization of interparty competition’, *Party Politics*, 13/2 (March 2007).

don't see athletic outcomes determined by advertising or other media; we might stop to consider that political advertising offers little information about a candidate, often misinforms, and represents a huge waste of money.

### *Assessing illicit political finance and state capture*

Illicit aspects of governance may appear difficult to assess, as they are by nature clandestine. However, this dark side of public life is not unknowable, and various scholars, particularly economists, are making inroads into describing and measuring these phenomena. The World Bank and others are currently attempting to analyse the conditions and processes by which state capture occurs, and to measure its extent. Colombia's ongoing political crisis may be characterized by processes of illicit political finance and state capture, and Colombian scholars<sup>24</sup> and non-governmental organizations (NGOs) are producing sophisticated studies on the subject.

Measurements and assessments of the degrees of state capture are just beginning to be developed. The most prominent is a survey developed by the World Bank in 2000 known as the Business Environment and Enterprise Performance Survey (BEEPS), surveying 20 transition economies, and utilizing a survey design that seeks to permit an in-depth empirical analysis of governance and corruption, unbundling governance into its component dimensions, and pays particular attention to state capture by parts of the corporate sector (i.e. the propensity of firms to shape the underlying 'rules of the game', including the 'purchase' of legislation and court decisions). The survey also provides measures of other dimensions of 'grand corruption', such as that related to public procurement.<sup>25</sup> The World Bank had also been producing a more general set of governance indicators, which can provide insights into the state dysfunctionality resulting from illicit political finance and state capture. However, these governance indicators have recently met resistance from within the World Bank, which during the last two years saw fit to exclude them from its broader measures of development in its World Development Indicators, the flagship data product of the World Bank.<sup>26</sup> Transparency International's survey of perceptions of corruption is well known, and there are two additional emerging indices that are highly relevant.

Mo Ibrahim, the communications entrepreneur from Sudan, has set up a foundation to improve governance in Sub-Saharan Africa, which is known for awarding a 5 million USD prize to African leaders for effective governance. His foundation has created the Ibrahim Index of African Governance in recognition of 'the need for a more comprehensive, objective and quantifiable method of measuring governance quality in sub-Saharan Africa'. Another relatively new organization, the Institute for Effective States, is creating a Sovereignty Index in order to create 'a judgement on the effectiveness of each state according to each of its ten functions and in terms of the overall effectiveness and the extent of change, in relation to its own past performance and to other states', with the expectation that such

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<sup>24</sup> See the pioneering study, *La Captura y Reconfiguración Cooptada del Estado en Colombia* [The capture and co-opted reconfiguration of the state in Colombia] by Luis Jorge Garay Salamanca, Eudardo Salcedo-Albarán, Isaac de Leon-Beltrán and Bernardo Guerrero, published by the Grupo Metodo (an interdisciplinary group of NGOs).

<sup>25</sup> Hellman, Joel S., Jones, Geraint, Kaufmann, Daniel and Schankerman, Mark, 'Measuring governance corruption and state capture: how firms and bureaucrats shape the business environment in transition economies', EBRD and World Bank Policy Research Working Paper 2312, April 2000, p. 2.

<sup>26</sup> *Ibid.*, p. 16.

an index could 'prove effective in promoting a path toward global transparency and stability'.<sup>27</sup>

Former World Bank economist Daniel Kaufmann is often credited with inventing the term 'state capture' in 2000. Kaufmann also was the driving force behind the World Bank's efforts to create the governance indicators that are of such high utility to those seeking to measure important facets of governance more accurately. Kauffman, now a Senior Fellow at the Brookings Institution, argues that there is no chicken-and-egg debate in analysing the relationship between governance and development: better governance fosters more development, while development without improvements in governance is far less sustainable. The corruption that facilitates state capture is at the heart of the obstacles facing democratic governance and democratic development.

One interesting study of illicit political finance and state capture, by two Stanford Business School professors, analyses documentation of bribes paid by Vladimiro Montesinos (who had effectively captured the most important elements of the Peruvian state under the Fujimori presidency) in order to determine a relative value for these checks and balances in a democratic system, from the point of view of someone who is seeking to undermine such a system:

We use the bribe prices to quantify the checks and balances. The size of the bribes indicates how much Montesinos had to pay to buy off those who could have checked his power. The typical bribe paid to a television-channel owner was about a hundred times larger than that paid to a politician, which was somewhat larger than that paid to a judge. One single television channel's bribe was five times larger than the total of the opposition politicians' bribes. The strongest of the checks and balances on the Peruvian government's power, by Montesinos's revealed preference, was television.<sup>28</sup>

This is a telling indicator of the power of television in democracy, and suggests that democracy promoters should pay greater attention to its role. Other novel studies have examined the impact, effectiveness and extent of vote-buying in Africa. It would be interesting to see more data on the prices paid in different countries to buy influence from certain politicians and officials.

### *Cases of state capture*

What seems evident is that for groups that wish to exercise power without lawful restraints, there exist many precedents for how to exploit large, slow-moving, relatively poor, nationally-based, law-bound and bureaucratic public entities to private advantage.

Russia offers an example of a potential democracy, born hastily out of the crumbling of communist monopoly of power, quickly sliding into what is casually referred to as a 'managed democracy', ruled by a fusion of oligarchs and former key state officials, many of them alumni of the state security services. This group is sometimes referred to as 'the 2,000', indicating the approximate number of people that constitute it.

<sup>27</sup> Ghani and Lockhart, *Fixing Failed States*, p. 229.

<sup>28</sup> McMillan, John and Zoido, Pablo, 'How to subvert democracy: Montesinos in Peru', CESifo Working Paper, 21 April 2004.

In the United States, lobbying is coming under increasing scrutiny, particularly after the seeming failure of regulators to regulate; it is suggested that lobbyists from the financial services industry essentially ‘captured’ their regulatory agencies, and that their interests became very similar thanks to the revolving door between the regulatory agencies and much-better paid jobs with the regulated.<sup>29</sup>

Roberto Saviano’s recent book, *Gomorra*, has shed light on ‘The System’ in which clan-centred illicit business networks have come to capture what he estimates to be a third of Italy’s territory, along with local governments and nearly all public works, leading to shoddy construction and turning parts of the countryside into a dumping ground for toxic waste. We need to understand better how even well-developed democracies are experiencing state capture. This is not a South–South or North–South issue. It is a global one, and countries need to share their experience, including their failures as well as their successes.

In Mexico’s current context, the state and society are challenged in a number of places by captains of illicit enterprises, particularly those engaged in the transnational trafficking of drugs, guns and people, as well as by kidnappers, creating, in parts of the country, a climate of insecurity and impunity. President Calderón is taking unprecedented and daring measures to confront and fight the so-called drug cartels, and many police and government officials are sacrificing their lives in what has been called by some analysts a ‘high-intensity’ conflict. While the effectiveness of the various actions can be debated, there is no doubt about the resolve displayed at a critical moment in Mexico’s history. Paradigm shifts often are born of crisis; for both the reform-minded and organized criminals, crisis equals opportunity.

Such was the case in Peru in 2000, when the transitional government – with pressure from the public and the media – was pushed to face up to the corrupt legacy of the Fujimori–Montesinos regime. Peru offers a rich case study in how, essentially, an adjutant of the President was able to capture the media and key agencies – including the military and the judiciary – through bribery, blackmail and cronyism and how, to finance his illicit activities, he used the military (to help direct arms and narcotics trafficking) and the tax authority (as a piggy bank for illicit political finance, and a weapon against those who refused to cooperate). While Peru is a stunning example of how state capture was implemented, with one person largely managing the entire process, it also offers a hopeful case study of how illicit political networks can be dissolved by determined efforts of good citizens and officials under certain circumstances.

When those generating and investing illicit political finance are private entities, they can sometimes form such close relations with a state or its sub-parts as to fuse with, if not ‘capture’, them. Given the intermingling of state and private actors, it can be difficult at times to distinguish state and non-state actors. A state organ may not only become infiltrated by illicit interests, but could itself become the master of an illegal business activity, in which case a particular state agency utilizes illicit political finance to exercise control over other parts or the whole of a government, or over legal and illegal markets.

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<sup>29</sup> Johnson, Simon, ‘The quiet coup’, *Atlantic Magazine*, May 2009. A former Chief Economist of the World Bank argues that an ‘American financial oligarchy’ has re-emerged, amassing ‘a belief system’ shared by many government officials, who sometimes go on to work in the large financial institutions comprising this oligarchy.



Some examples of strategic uses of illicit political finance used toward state capture are cursorily outlined in the following, as yet crude and tentative, table.

Country/region	Alleged agent(s) of state capture	Primacy source(s) of illicit political finance	Primary institutional targets	Territorial expression of state capture
Afghanistan	'Warlords'	Poppies, heroin	Politicians, army, border control	Regional
Bulgaria	'Organized crime' consisting of former and current state security agents	Opaquely-privatized industries, trafficking ±(of women), taxes	Key institutions: customs, judiciary, media, etc.	National
Burma	Army	Drugs, industries controlled by army	The state	National
Colombia	Drug cartels, guerrillas (ELN, FARC), Paramilitary Organizations	Drugs	Legislature, political parties, judiciary, police, border	Local control, with FARC increasingly pushed into remote areas
Guatemala	Elements of the Army and former secret services	Cocaine	Institutions that might impinge on or facilitate trafficking	National
Guinea-Bissau	Drug traffickers	Cocaine, foreign aid	Institutions that might impinge on or facilitate drug trafficking	National
High-conflict countries in Sub-Saharan Africa	Armies (domestic and foreign), 'rebel groups' (domestic and foreign), foreign corporations exploiting natural resources	Natural resources, foreign aid		Regional
Italy	'Organized crime' groups originating in southern Italy	Drugs, extortion, counterfeit merchandise, state contracts	Political, judicial, some media, police	Regional control and penetration of national institutions
Kosovo	Organized crime with the participation of some KLA members	Trafficking (weapons, women, heroin)	Institutions that might impinge on or facilitate trafficking	National
Pakistan	Inter-Services Intelligence (ISI)	Heroin, guns, the state	All institutions	National
Peru 1990–2000	Vladimiro Lenin Montesinos, Head of Peru's Intelligence Service	Cocaine, weapons, embezzlement, procurement <sup>30</sup>	Tax authority, judiciary, military, military intelligence, media	National
Russia and FSU	'Oligarchs' colluding with high state officials, many of whom came from the security services	Opaquely-privatized industries and natural resources (oil, gas), state contracts, taxes	Most economic, political, judicial and security organs, including political parties and media	Regional and international, but in flux as state seeks to subordinate or expropriate some oligarchs
United States	Corporations	Legal profits	Agencies regulating relevant industry	None

Key: FSU = former Soviet Union; ELN = National Liberation Army (Ejército Liberación Nacional); FARC = Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia); KLA = Kosovo Liberation Army.

<sup>30</sup> McMillan and Zoido, 'How to subvert democracy'.

Organizations, licit and illicit, invest illicit political finance to seek a competitive advantage in the marketplace, and in extreme manifestations they seek to eliminate competition and defeat regulation. In democratic transition countries, illicit political finance may be aimed at the pillars of democratic society – the capture of politicians or political parties, journalists or media organs, the police and the judiciary. Possible examples of illicit political finance also include lobbying by large corporations to influence policies, utilizing legal and illegal payments to legislators, or outright bribery to purchase legislators and political parties. Capture often begins with bribery attempts; should they fail to attain the desired effect, then illicit political finance may be used for intimidation and violence. In a number of countries we see subversion of law enforcement and the judiciary spreading into political parties and legislatures.

### *Altered states*

The importance and gravity of the issue of illicit political finance is illustrated by Mexico. Mexico has a highly-regarded and professional Federal Election Commission; its elections are widely considered to be fair, free and transparent; political parties are relatively strong. In addition, rules regarding campaign contributions are well developed, and enforcement mechanisms are adequate. Indeed, Mexico's election system is considered a model for many democracies. Yet even a cursory look at Mexico reveals that its democratic institutions are under duress owing to illicit political finance deployed by illicit transnational networks, otherwise known as 'cartels' or transnational organized crime. Key political, judicial, military and law enforcement institutions are being targeted by these illicit networks which seek protection and influence via illicit payments, threats or violence.

In 2008, in Ciudad Juarez, a border city with a population of about 1.3 million people, around 1,500 people are estimated to have been killed, and nationally approximately 5,000 people were killed during the same period. While most of the murders are the result of territorial battles between traffickers, they also include hundreds of police. Many killings are reminiscent of terrorism in their apparent effort to maximize public impact; the intended effect is to further undermine confidence and trust in the government. Politicians, police and officials in the conflict zones sometimes are presented with little room for negotiation with the cartels, which offer them a simple choice: '*plata o plomo*' (an offer of 'a bribe or a bullet'). Corruption scandals and impunity are having corrosive effects on Mexico's democracy.

According to Dr Edgardo Buscaglia, narco-traffickers and organized crime have infiltrated some local governments by financing the mayors' political campaigns or by bribing their officials. Victor Clark, a lecturer at San Diego State University, has studied Mexican border towns and noted how criminal groups are displacing the state and creating para-statal features, such as taxation by extortion, a traditional scheme by organized crime justified as payment for the service of 'protection'.<sup>31</sup> The cartels also are sometimes creating what appear to be paramilitary groups; their military hardware includes grenade launchers and anti-tank rockets.<sup>32</sup> Police are sometimes outgunned and often unable to protect

<sup>31</sup> An elegant analysis of the Sicilian Mafia's 'protection' industry is presented in Gambetta, Diego, *The Sicilian Mafia: The Business of Private Protection* (Cambridge, Mass.: Harvard University Press, 1993). See also Watson, Julie, 'Drug gangs drive off cops, terrorize Mexican town', Associated Press, 17 February 2009: Villa Ahumada, close to the US border, has been without a police force since May 2008, after the police chief was killed by a group of 70 'hit men' who invaded the town.

<sup>32</sup> Ellingwood, Ken and Wilkinson, Tracy, 'Drug cartels' new weaponry means war', *Los Angeles Times*, 15 March 2009.



citizens. The state's legitimate monopoly on the means of coercion and violence is under challenge. The perverse symbiosis of the drugs and gun trades is underscored by the commonly quoted estimate that 90 per cent of the guns in Mexico are purchased in the United States.

One explanation of the explosion of violence in Mexico is that it is the inevitable result of Mexico's political will and success in removing the leadership of the drug cartels, which now are in a war among themselves and with the state. President Calderón remains confident that the rule of law in Mexico is gaining the upper hand on the lawless elements and urges Mexicans to stay on the course of combating the traffickers and rooting out corrupt officials. The Calderón administration is seeking a complete reorganization of government, including reducing the number of congressional representatives, allowing re-election, purging the police forces and instituting polygraph tests (lie-detectors) for those that remain. The President has consolidated the two federal police forces into one unit, and has begun to connect the country's disparate police forces in one database to improve intelligence-gathering and efficiency.<sup>33</sup> A serious challenge will be ensuring the integrity of the military and the police.

In Colombia, drug traffickers such as Pablo Escobar and Carlos Lehder entered the political arena by creating their own political parties – a tactic used by criminals in other countries, although perhaps more discreetly, especially where politicians are guaranteed political immunity (which politicians in Colombia no longer receive). The Mexican cartels are showing signs of political organization, preoccupied as they currently are with battling to consolidate increasingly fragmented markets of trafficking in drugs, human beings and arms, complemented by kidnapping. The cartels are increasingly woven into the social fabric of Mexico, especially among the poor, and recently financed protests in Monterrey, Mexico's wealthiest city, and the border cities of Reynosa and Ciudad Juarez and the Gulf port of Veracruz.<sup>34</sup>

The drug trade and the illicit political finance it generates are undermining democratic institutions and effecting state capture in, among other places, West Africa, Central America, South America, the Caribbean, Central Asia and the Balkans, and in the European Union (EU) countries. Bulgaria was recently denied EU funding owing to pervasive state capture by transnational organized crime, and in southern Italy, where the economy and governments are increasingly believed to be under the sway of organized crime, many town councils have been dissolved for links to such; this process – for determining whether local governments have been infected, and procedures for renewal – could well be of interest to other countries.

Guinea has long been suspected of being a narco state. These suspicions are being confirmed in the wake of a recent coup by a military junta seeking to crack down on cocaine smuggling: the former President's son confessed on state television to being involved in such trafficking. Four senior policemen were also arrested, including the former head of the Central Anti-Drugs Office and a former director of Interpol Guinea.<sup>35</sup>

<sup>33</sup> Llana, Sara Miller, 'Setbacks in Mexico's war on corruption: President Felipe Calderón's government has made a series of moves to clean up the country's police force. Results are open to interpretation', *Christian Science Monitor*, 30 December 2008, available at <<http://www.csmonitor.com/2008/1230/p06s02-woam.html>>.

<sup>34</sup> Wilkinson, Tracy, 'Mexico drug cartels buying public support', *Los Angeles Times*, 3 March 2009.

<sup>35</sup> Green, Matthew, 'Guinea cocaine crusade nets senior officials', *Financial Times*, 28 February–1 March 2009.

Colombian and Mexican cocaine traffickers are extending their reach not only into West Africa, but also within Latin America and the United States. Peru remains a primary source of coca leaves, and there are signs of a renascent Shining Path guerrilla organization in the valleys where coca is grown.<sup>36</sup> In Colombia, '[A]rmed groups seeking land for coca have cleared rainforest and killed and evicted the people who live there. Some 270,000 Colombians were forced to flee their homes in the first half of 2008, according to the human rights group Cohes – a 41% jump on the previous year'. The incentives are clear: the profit margin for cocaine can approach 5,000 per cent.<sup>37</sup> That the cocaine trade fuels conflict is indisputable; now, the war on drugs is becoming a veritable drug war in which drug traffickers have declared war on democracy and the rule of law in many countries in Latin America and Western Africa.

In Guatemala's 2007 presidential elections, dozens of campaign workers and candidates opposing candidates backed by drug traffickers were assassinated. Michael Reid, in his book *Forgotten Continent*, suggests that the real power in the country consists in many ways of 'shadowy networks linking corrupt former army officers and organised criminal gangs of drugs traffickers and money launderers'.<sup>38</sup> Former Vice-President Eduardo Stein has warned that unless something drastic is done, Guatemala runs the risk of becoming a 'narco-state'. Related to the questions of governability in Guatemala is the country's weak and volatile system of party politics, perhaps a reflection of the public's loss of confidence in political parties. More than 30 political parties have disappeared since 1985. Three of the successful parties of the 1980s and 1990s, the Christian Democrats, the Solidarity Action Movement (MAS) and the National Union of the Centre (UCN) have virtually disappeared. Party loyalty is often short-lived. More than 40 per cent of the 158 deputies in Congress have changed their affiliation during the life of the current parliament.<sup>39</sup>

#### *Revealing and confronting state capture*

The United Nations (UN), in cooperation with the Government of Guatemala, has supported the creation of a highly unusual institution called the International Commission against Impunity in Guatemala (CICIG), which hosts 150 investigators and has a two-year mandate to seek to uncover – and aid the prosecution of – such networks. This innovative effort is a pioneering example of how the international community is beginning to seek new models to confront state capture, but it is not clear whether the effort is yielding any changes yet.<sup>40</sup> Critics maintain that it will remain toothless when confronting the issue of sovereignty.

Analysis of state capture is particularly well advanced in Colombia thanks to the efforts of universities, researchers and NGOs. These studies are impressive for their detailed data regarding state capture

<sup>36</sup> Romero, Simon, 'Cocaine trade helps rebels reignite war in Peru', *New York Times*, 17 March 2009; and '13 Peruvian troops killed in ambushes', Reuters, 12 April 2009.

<sup>37</sup> Carroll, Rory and Brodzinsky, Sibylla, 'Spreading fear: how the new cartels deliver chaos to four continents', *The Guardian*, 9 March 2009.

<sup>38</sup> Reid, Michael, *Forgotten Continent: The Battle for Latin America's Soul* (New Haven, Conn.: Yale University Press, 2008).

<sup>39</sup> Painter, James (BBC Latin America analyst), 'Shadows haunt Guatemalan election', 3 November 2007, available at <<http://news.bbc.co.uk/2/hi/americas/7071695.stm>>.

<sup>40</sup> 'Seeking justice in Guatemala', BBC News, 11 March 2008, available at <<http://news.bbc.co.uk/2/hi/americas/7284036.stm>>.

at the local level where paramilitaries and guerrillas are particularly active, resulting in what one researcher calls ‘sub-national authoritarianism’. Researchers also highlight the systematic penetration of the national government, particularly by forces allied to the paramilitaries and drug traffickers (who can be paramilitaries, guerrillas, or neither), and the relationships between decentralization, state capture and conflict.<sup>41</sup> Thus, in Colombia, reform efforts are finding support in good information. A country-wide analysis and mapping of state capture at the local level is being conducted by a consortium of NGOs led by the Electoral Observer Mission (Mision Observatorio Electoral, MOE) and is scheduled for presentation in late 2009.

Understanding of illicit networks, and possible techniques to investigate and dismantle them, is enhanced by Peru’s recent experience, which has resulted in the successful prosecution of former high-ranking members of the country’s political, military and media elite.<sup>42</sup> The ringleaders, Montesinos and Fujimori, are now in jail. One blessing, the only one, that Montesinos left behind was a wealth of data and documentation, including videos and ‘contracts’ for illicit influence in exchange for hard cash. The construction of state capture is laid bare in Peru.<sup>43</sup> Other countries might learn from the exceptional and powerful investigative commissions that Peru’s Congress created in the transition period after the Fujimori–Montesinos regime. These commissions, understandably the product of a specific political context, seized the opportunity to reveal and dismantle a clandestine parallel state operating under a façade of democracy.<sup>44</sup>

Brief observations about the actions taken in Peru to dismantle networks of illicit political finance in Latin America include:<sup>45</sup>

- (1) Laws were passed allowing the setting up of congressional investigative committees with the power to lift the veils of secrecy for banks, other companies and individuals.
- (2) In parallel, the Congress created a specialized sub-judicial system for anti-corruption.
- (3) Part of the reason for the success of these efforts – which put Montesinos, Fujimori, 14 generals, media owners, and more than 100 others into prison – was political will. Another key factor was that no political party had a majority in the transitional Congress,

<sup>41</sup> See, e.g., Niño M., Bertha Jeanette, *Descentralizacion, Conflicto, Participacion y Territorio* (Bogota: Universidad Nacional de Colombia, 2008); ‘Autoritarismo subnacional: estrategias territoriales de control politico en regimenes democraticos’, *Desafios* (Centro de Estudios Politicos e Internacionales, CEPI, Universidad del Rosario, Bogota), 14 (2006); and ‘Parapolitica: La Ruta de la Expansion Paramilitar y Los Acuerdos Politicos’, Corporacion Nuevo Arco Iris, 2007.

<sup>42</sup> Interview with Jose Diez Canseco, former head of the Special Congressional Investigative Committee for Financial and Economic Crimes, 18 February 2008.

<sup>43</sup> Diez Canseco, Jose (comp.), ‘Decretos Secretos y Mal uso de Fondos Publicos: El Peru Bajo el Fujimorismo’, Comision Investigadora de los Delitos Economicos y Financieros Cometidos entree 1990–2001 (2003). See also Congreso de la Republica del Peru, ‘Informe Final: Comision Investigadora de Delitos Economicos y Financieros 1990–2001’, 2003.

<sup>44</sup> I confess unwitting participation in this charade as a long-term observer of Peru’s 1994 presidential elections for the Organization of American States; this election observation mission helped to legitimate the Montesinos–Fujimori regime, which should prompt us to take a more critical look at international election ‘observation’.

<sup>45</sup> Congreso de la Republica del Peru, ‘Informe Final: Comision Investigadora de Delitos Economicos y Financieros 1990–2001’, 2003.

so there was not a dominant party that could obstruct these investigative and prosecutorial initiatives.

- (4) Political will, in turn, was inspired by popular pressure, itself inspired by the investigative media and civil society organizations that had survived the Montesinos regime.
- (5) Sufficient resources were made available to implement investigations, which actually cost relatively little. The sub-judicial system for anti-corruption cost 5 million USD and succeeded in recovering 50 million USD. Part of the expense went to specialized money-tracing companies. Clearly, instituting such measures was profitable for the Government of Peru.

The case of Peru highlights the fragility of transitional democracies and the need for the democracy assistance community not only to be more alert to opportunities to ‘build’ democracy, but also to recognize when it is threatened and offer knowledge and tools to these democracies to help them (a) raise awareness of the problem and the commonalities and differences between countries, (b) understand why the situation is arising, (c) develop appropriate knowledge and tools to defend key institutions, and (d) create new laws, policies and institutions when appropriate.

# Sources of illicit political finance

In addressing illicit political finance, we need to address its varied sources. Primary sources may be divided into three broad categories: finance originating from governments themselves, finance originating from licit businesses, and finance from illicit trade in illicit goods and services.<sup>46</sup>

The most prominent example of the first category is corrupted procurement processes, which have been a relative constant in terms of collusion between corrupt officials and licit businesses, and can create a huge drag on developing economies. This type of corruption tends to be focused on particular contracts and officials who conduct the procurement processes. Meanwhile, the second category might be typified by businesses that give bribes to public officials, politicians, candidates and political parties for the purpose of seeking favours and influence in, for example, the apportioning of government-funded infrastructure projects. These two categories of illicit political finance have received a wealth of attention, not least from Transparency International. It is the third source, illicit trade, that poses a particular threat to democracies and needs to be better addressed.

Illicit trade is an explosive problem, yet it has been relatively neglected. The detrimental impacts of narcotics on democracy have been touched upon above, and will be elaborated upon. But narcotics trafficking is part of a larger problem of illicit trade, the quantity of which is estimated to be growing as much as seven times faster than licit trade. We may posit that the greater the volume of illicit trade, the greater the threat to governance and democracy as more money is deployed to corrupt and capture officials and institutions, not to mention legitimate businesses. Economic power easily translates into political power, and economic power amassed by illicit means will need some form of protection or partnership with the government, as 'these businesses could not achieve their large scale without the active complicity of governments, or without a solid business infrastructure that includes corporations that are often legal, large, and visible'.<sup>47</sup>

One obvious impact that illicit trade has on democratic governments is that it serves to rob them of tax revenues, while enhancing the wealth of TOC groups. Legitimate businesses are threatened by the illicit ones because they can offer the same goods more cheaply by avoiding tariffs and taxes. One example of how government revenues are diminished by illicit trade may be found in the

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<sup>46</sup> The principal activities of organized crime are: 'the illegal arms trade, the illegal drugs trade, money-laundering, computer crime, prostitution and pornography, illegal immigration, terrorism, and fine art'. Freemantle, Brian, *The Octopus* (Chicago: Trafalgar Square Press, 1996).

<sup>47</sup> Naím, Moisés, *Illicit: How Smugglers, Traffickers and Copycats are Hijacking the Global Economy* (Washington, DC: Inter-American Development Bank, 2005), p. 217.

illicit tobacco trade. High tobacco taxes incentivize this smuggling activity, which was estimated to constitute 10.7 per cent of total tobacco sales in 2006, representing a loss in government revenue of approximately 40–50 billion USD annually.<sup>48</sup> Cigarette smuggling was also a mainstay of illicit networks in Bulgaria and Montenegro that later came to claim important political influence.<sup>49</sup>

Illicit businesses also can channel funds into, and effectively subsidize, seemingly legitimate businesses. Thus, the bad drives out the good. For example, a narcotics trafficker may also own several ‘legitimate’ businesses in order to launder money or otherwise serve the illicit business. In Peru during the 1990s, AeroContinente offered unusually cheap fares (and good service)<sup>50</sup> until it was shut down by the Government; it turns out the owner was a drug trafficker who owned a number of ‘legitimate’ transport companies, handy for moving cargo, along with a publishing house ironically named Editoria Transparencia.<sup>51</sup> Before AeroContinente was shut down, two legitimate competing airlines, Fawcett and AeroPeru, went bankrupt.<sup>52</sup>

Any number of economic sectors can become infiltrated by illicit networks and subsidized with dirty money. The positive and perhaps temporary result may be lower prices for consumers, owing to greater business competition, but the negative results include greater corruption and bankruptcy of legitimate businesses. In some cases, the incentive provided by illicit trade – wealth – makes reform difficult. There is little question that drug trafficking can channel considerable wealth into poor countries. ‘Viewed from the economic perspective of comparative advantage (as stressed by neoliberal economics) . . . reliance on illegal drug drops can be interpreted as rational specialization based on a country’s competitiveness in a global market niche.’<sup>53</sup> But at what political and social cost?

### Foreign aid as illicit political finance?

In some countries, another source of illicit political finance, alarmingly enough, may be foreign aid, particularly among highly-dependent recipient governments. One study embracing this view concludes that analyses of cross-country data ‘provide evidence that higher aid levels erode the quality of governance, as measured by indices of bureaucratic quality, corruption, and the rule of law. These findings support the need for donors to develop less costly and less intrusive ways of disseminating state-of-art knowledge on public sector reform in developing countries’.<sup>54</sup> A growing chorus of analysts, some of them formerly members of the aid community, agree.<sup>55</sup> For example, in *Dead Aid*:

<sup>48</sup> Framework Convention Alliance (FCA) Prepared for the Second Session of the Conference of the Parties to the WHO FCTC, Bangkok, Thailand, 30 June–6 July 2007.

<sup>49</sup> Glenny, Misha, *McMafia: A Journey through the Global Criminal Underworld* (New York: Knopf Books, 2008).

<sup>50</sup> The author of this paper was a client of AeroContinente in the mid-1990s.

<sup>51</sup> *El Comercio*, 9 February 2009, p. 1.

<sup>52</sup> Interview with employee of LAN Peru, who is a former employee of AeroContinte and Fawcett airlines, 17 February

<sup>53</sup> Andreas, Peter, ‘Illicit international political economy: the clandestine side of globalization’, *Review of International Political Economy*, 11/3 (August 2004), p. 645.

<sup>54</sup> Knack, Stephen, ‘Aid dependence and the quality of governance: cross-country empirical tests’, *Southern Economic Journal*, October 2001.

<sup>55</sup> See, e.g., Maren, Michael, *The Road to Hell: The Ravaging Effects of Foreign Aid and International Charity* (New York: The Free Press, 1997); Calderisi, Robert, *The Trouble with Africa: Why Foreign Aid Isn’t Working* (New York: Palgrave Macmillan, 2006); Hancock, Graham, *The Lords of Poverty: The Power, Prestige, and Corruption of the International Aid Business* (New York: Atlantic Monthly Press, 1994); and Terry, Fiona, *Condemned to Repeat?: The Paradox of Humanitarian Action* (Ithaca, NY: Cornell University Press, 2002).

*Why Aid is Not Working and How There Is a Better Way for Africa*,<sup>56</sup> Dr Dambisa Moyo, a native of Zambia, calls for a halt to development aid to Africa. Her explanation of the effects of aid is as follows: ‘You get the corruption – historically, leaders have stolen the money without penalty – and you get the dependency, which kills entrepreneurship. You also disenfranchise African citizens, because the government is beholden to foreign donors and not accountable to its people’.<sup>57</sup>

Paul Collier of Oxford University offers a more nuanced and empirically-based yet still critical view, tending towards the conclusion that aid is not necessarily harmful or conflict-enhancing, but is largely ineffective, thereby representing wasted effort and lost opportunities. He urges aid policies that empower domestic actors.<sup>58</sup> Ashraf Ghani and Clare Lockhart assert that the incompetence and opacity of aid organizations seemingly reflect the incompetence of the governments in the countries they purport to assist, and offer a number of rich case studies from different countries: ‘Good intentions are wasted without positive effects. . . . [I]t is not clear that the aid system has a better track record than the state when it comes to cost-effectiveness, corruption, efficiency, and competent service delivery. Further, it is clear that aid has in many places undermined the state’.<sup>59</sup>

Ghani and Lockhart place governance, the building of ‘effective, functioning states’, at the centre of development aid, which would require far better needs assessment, analysis, planning and – most importantly – coordination among donors, without which, ‘[T]he aid complex . . . undermines states’ capacity to perform essential functions’.<sup>60</sup>

### Illicit international political economy and transnational organized crime

International political economy (IPE) is a well established field of study, but the dark side of political economy – illicit business and its impact on politics – is only slowly emerging as a field of study. ‘The illicit dimensions of the global economy are largely overlooked in the international political literature.’<sup>61</sup> The rapid development of and difficulties in categorizing the phenomenon have left scholars well behind reality.

Transnational organized crime does receive substantial attention in the media, which, while it is helpful in raising awareness of the issue, can tend to sensationalize the subject while adding little in the way of empirical information regarding, for example, measures of illicit financial flows, estimates of which can vary wildly. Indeed, one critical difference between IPE and the study of its illicit variant is that ‘while there is fairly reliable data on the legal dimensions of the global economy, the same obviously cannot be said for the illegal dimensions. There are often “guesstimates”, at best, and are susceptible to exaggeration, distortion and manipulation. Indeed, sometimes the numbers are simply invented. . . . The lack of reliable data on illegal markets is the Achilles heel of IPE research, forcing one to rely on anecdotal information, questionable official estimates, and imperfect methodologies’.<sup>62</sup> However,

<sup>56</sup> Moyo, Dambisa, *Dead Aid* (London: Penguin Group, 2009).

<sup>57</sup> ‘Questions for Dambisa Moyo: the anti-Bono’, interview by Deborah Solomon, *New York Times*, 22 February 2009.

<sup>58</sup> See, e.g., Collier, Paul, *The Bottom Billion* (New York: Oxford University Press, 2005).

<sup>59</sup> Ghani and Lockhart, *Fixing Failed States*, p. 107.

<sup>60</sup> Ghani and Lockhart, *Fixing Failed States*, p. 111.

<sup>61</sup> Andreas, ‘Illicit international political economy’, p. 641.

<sup>62</sup> Andreas, ‘Illicit international political economy’, p. 646.



economists are indeed seeking to measure illicit markets, and the Organisation for Economic Co-operation and Development (OECD) has produced a handbook to attempt this.<sup>63</sup>

It is important to emphasize that we are witnessing an old problem – that of illicit trade – on an entirely new scale, which has coincided with the so-called third wave of democratization: ‘Since the early 1990s, global illicit trade has embarked on a great mutation. It is a mutation similar to that of international terrorist organizations . . .’<sup>64</sup> Its driving elements are: (a) movement away from fixed hierarchies and towards decentralized networks of loosely linked, dispersed agents and cells; (b) the revolution in information technology, which facilitates communications within illicit networks, and allows such communications to be encrypted; (c) the rise in free trade, which has seen the greater porousness of borders between countries and the dissolution of borders between some, as in the EU; (d) the conversion of the former state monopolies of communism into highly corrupt fusions of state and criminal activity; and (e) the increasing mobility of people and capital.

According to Antonio Maria Costa of the UNODC, the past quarter of a century has seen crime emerge as an issue of transnational and macroeconomic dimensions. ‘[I]t has turned into a global business operating in collusion with legitimate activity. It has become more than localized violence – it has turned into a widespread threat to the security of cities, states, even entire regions.’<sup>65</sup> Indeed, TOC has grown more quickly than governments and the international community have been able to comprehend or counteract. Moisés Naím argues that, during the 1990s, global crime ‘has not just soared in volume but, thanks to its ability to amass colossal profits, has also become a powerful *political* force. And the lenses through which we interpret world politics and economics need to be adjusted to this change – urgently.’<sup>66</sup>

The most prominent, profitable and pernicious expressions of this boom in illicit trade include drugs, the greater availability of a greater variety of weapons for purchase in underground markets, a revival of slavery (especially the highly profitable trafficking of women<sup>67</sup>), other forms of human trafficking, and fraud perpetrated via the Internet.

Naím further argues that illicit networks transcend national boundaries more easily than states do. ‘Because of this asymmetry, in the global clash between governments and criminals, governments are systematically losing. Everywhere.’<sup>68</sup> Some national governments are losing localities to what might be termed local tyranny by organized crime, as found in sections of Brazil’s largest cities, numerous

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<sup>63</sup> Organisation for Economic Co-operation and Development (OECD), *Measuring the Non-Observed Economy: A Handbook* (Paris: OECD, 2002).

<sup>64</sup> Naím, *Illicit*, p. 7.

<sup>65</sup> Costa, Antonio Maria, ‘The global crime threat: we must stop it’, Speech to the 18th Session of the UN Commission on Crime Prevention and Criminal Justice, Vienna, 16 April 2009.

<sup>66</sup> Naím, *Illicit*, p. 13.

<sup>67</sup> Trafficking in sex slaves boomed following the dissolution of the Soviet Union and the former Yugoslavia. As with the drug trade, there is a supply chain consisting of suppliers, distributors and consumers across different countries, with poor countries serving as sources and wealthy countries serving as destinations. The ‘commodity’, however, consists of women and girls, many of who are tricked, kidnapped or otherwise forcibly coerced into serving transnational criminal networks.

<sup>68</sup> Naím, *Illicit*, p. 13.



localities in Colombia, and parts of southern Italy. Underscoring the transnational aspect of organized crime, author Suketu Mehta asserts that Mumbai's organized crime is controlled by two exiles, one Muslim, the other Hindu.<sup>69</sup>

Transnational problems require transnational responses, yet '(w)hile crime has gone global, crime control has remained largely state-based',<sup>70</sup> and 'international capacity to identify and counteract TOC is highly fragmented'.<sup>71</sup> TOC is not solely an issue of criminal justice. In addition to the critical linkages affecting democratic governance, it is linked to a variety of other issues, including conflict, the rule of law, security, elections, migration, gender (needless to say, TOC tends to be a male-oriented profession) and terrorism.

TOC, like state capture, is a term that requires greater precision and disaggregation. TOC is a 'frustratingly broad, vague, and fuzzy term, and is too often used as a poorly defined and all-encompassing umbrella category under which all sorts of perceived "transnational threats" are placed. It also tends to focus attention on large mafia-like organizations (often mislabeled as "cartels") and mafia-like leaders . . . rather than on particular market sectors and activities'.<sup>72</sup> 'Underworld,' Mehta says, is 'an expansive term,' but 'it is the wrong word to use for organized crime in Bombay, since it implies something hidden, something beneath. In Bombay, the underworld is an overworld; it is somehow suspended *above* this world and can come down and strike any time it chooses.'

There is agreement that '(t)here is no unified, consensus definition of either organized crime or transnational organized crime'.<sup>73</sup> Of course, that does not deny the existence of such a loosely categorized phenomenon, but only indicates the semantic difficulties of trying to capture such a broad and often loosely-organized phenomenon within the straitjacket of a few words. The UN has adopted the term in the United Nations Convention against Transnational Organized Crime.

### The narco-industrial complex and drug policy

Within the category of transnational organized crime, drug trafficking is receiving considerable attention as it is increasingly recognized as having corrosive impacts on democracy and governance<sup>74</sup> in Mexico, Guatemala, Peru and Colombia, in West Africa and in a number of other countries. Meanwhile, in the United States, critics of current policy cite large number of prisoners held on drug charges, claims of racial bias in the application of the laws, and the corrupting effects of prohibition on law enforcement. The issue of drugs and democracy is a particularly delicate one in most countries. Until recently, discussion of any policy other than prohibition was taboo. Now that taboo is being broken, and prohibition is coming under attack by people ranging from the former Director of the

<sup>69</sup> Mehta, Suketu, *Maximum City: Bombay Lost and Found* (New York: Vintage Books, 2005), p. 133-134.

<sup>70</sup> Cockayne, James, 'Transnational organized crime: multilateral responses to a rising threat', International Peace Academy Working Paper, April 2007, p. 12.

<sup>71</sup> Cockayne, 'Transnational organized crime', p. 17.

<sup>72</sup> Andreas, 'Illicit international political economy', p. 643.

<sup>73</sup> Cockayne, 'Transnational organized crime', p. 1.

<sup>74</sup> 'McCaffrey: drug trafficking threatens democracy', BBC News Online, 9 February 2000. Barry McCaffrey, then the US anti-drugs 'czar', stated that drug trafficking is a 'terrible external threat to democratic institutions in both countries', that is, Mexico and the USA.

UK Anti-Drug Co-Ordination Unit<sup>75</sup> to a group of former presidents from Latin America who, as part of the Latin American Commission on Drugs and Democracy, have declared the War on Drugs to be a failure.<sup>76</sup>

Policy reform alternatives are often classified as ‘harm reduction’, which implies treating drug use as a public health rather than a criminal problem. People in a number of states in the USA have voted by referendum in favour of ‘medicinal marijuana’, the legalization of the sale and purchase of small quantities of the plant. There has been a clash between these revised state laws and the federal law, which mandates prohibition, resulting in the closure of some marijuana ‘clinics’. Marijuana is the largest cash crop in California,<sup>77</sup> and perhaps many other US states. Complicating the situation is a trend towards the establishment of large-scale marijuana plantations, allegedly by Mexican cartels, on US federal lands such as national parks.<sup>78</sup> The policy debate is likely to deepen.

One of the questions being asked about drug prohibition is whether the costs outweigh the benefits. Proponents of some manner of legalization of some narcotics point to the similarities between the problems apparently generated by the illicit drug trade now and the illicit alcohol trade during the 1930s in the United States, when such profits fuelled a surge in organized crime. Interestingly, the presidents of Mexico,<sup>79</sup> Honduras and Argentina recently proposed decriminalization for possession of small amounts of some narcotics, which indicates that a paradigm shift may be beginning. However, much resistance – and fear – remains regarding challenges to the current orthodoxy. Part of the fear is that those who benefit from the illicit drug trade are often well entrenched in power, and the scale of the profits and violence associated with the trade may pose a danger to those who challenge their interests. One characterization of the interest groups benefiting from the drug trade is the ‘narco-industrial complex’ because large interest groups, ranging from the traffickers themselves, to bankers, to politicians to law enforcement groups have a financial incentive to favour continuation of the policy that the United States has called the War on Drugs. The scale of the trade is enormous, and it is not just a ‘South’ problem, but an international one as the supply chain includes growers, processors, transporters, sellers, and, of course, buyers. A lesser-evil debate has begun, and there are signs of political will to seek new solutions at the national level. However, given that this is an international problem, it also will require greater multilateral policy debate, which organizations like IDEA might be well placed to facilitate.

<sup>75</sup> ‘Julian Critchley: all the experts admit that we should legalise drugs’, *The Independent*, 14 August 2008. Critchley states: ‘It is now clear that enforcement and supply-side interventions are largely pointless. They haven’t worked . . . The case is overwhelming . . . the illegality of drugs causes far more problems for society and the individual than it solves.’

<sup>76</sup> *New York Times*, 8 February 2008.

<sup>77</sup> Stateman, Alison, ‘Can marijuana help rescue California’s economy?’, *Los Angeles Times*, 13 March 2009.

<sup>78</sup> Robinson, Joe, ‘War of the weed: public lands are seeing an explosion in pot growing, and not by hippies’, *Los Angeles Times*, 9 August 2005.

<sup>79</sup> ‘Mexico moves quietly to decriminalize minor drug use: President Calderon is set to sign the law, but some fear that letting off users caught with limited amounts of drugs will increase drug use and encourage “drug tourists” from the U.S.’, 21 June 2009. The Mexican legislature quietly voted to decriminalize the possession of small amounts of marijuana, cocaine, methamphetamine and other drugs. See also Gutierrez, Miguel Angel, ‘Mexico seeks to decriminalize small-time drug use’, Reuters, 2 October 2008. The article states that ‘under Calderon’s plan, people carrying up to 2 grams (0.07 ounces) of marijuana or opium, half a gram of cocaine, 50 mgs of heroin or 40 mgs of methamphetamine would face no criminal charges’.

In March 2009, the High Level Segment of the 52nd session of the UN Commission on Narcotic Drugs (CND) in Vienna reviewed progress and challenges in meeting the goals and targets set out in the 1998 United Nations General Assembly Special Session (UNGASS) on Countering the World Drug Problem. Those goals included measurable results in the reduction of the supply of narcotics; according to the UNODC, this has not been achieved. The trend is still towards greater supply and lower prices.<sup>80</sup> While admitting failure, little new was offered in the way of policy; one of the principal recommendations was to increase support for alternative crop cultivation.

Previous US administrations essentially have imposed a gag rule on the UN discussing alternatives to strict prohibition; however, US Secretary of State Hillary Clinton bluntly acknowledged for the first time that the United States plays a major role in stimulating the cross-border drug and arms trafficking with Mexico. ‘Our insatiable demand for illegal drugs fuels the drug trade . . . Our inability to prevent weapons from being illegally smuggled across the border to arm these criminals causes the deaths of police officers, soldiers and civilians.’<sup>81</sup>

The United States banned alcohol and gambling in the 1930s, with the infamous result that organized crime flourished. Now, tax-paying, publicly-held corporations run these rackets in many states. Nevada also has legalized brothels. In some countries and US states, governments operate lotteries and hold a monopoly, as in Sweden on the sale of liquor in which the alcohol content exceeds a certain threshold. The Netherlands has decriminalized most drug use and regulates but does not prohibit prostitution; and in other countries, such as Spain, there is little enforcement of drug laws. None of this means that consumption of narcotics should be condoned, but it is apparent that numerous policy experiments are being conducted at the national and local levels. *The Economist* recently endorsed legalization of narcotics, arguing that:

Prohibition has fostered gangsterism on a scale that the world has never seen before. . . . Legalisation would not only drive away the gangsters; it would transform drugs from a law-and-order problem into a public-health problem, which is how they ought to be treated. Governments would tax and regulate the drug trade, and the use the funds raised (and the billions saved on law-enforcement) to educate the public about the risks of drug-taking and to treat addiction.<sup>82</sup>

*The Economist* recognizes that this proposed solution is a messy one, ‘but a century of manifest failure argues for trying it’. Others argue that the state has an obligation to protect its citizens, especially young people, from the harmful effects of narcotics, and not to surrender either to legalization or to drug traffickers. Law-abiding Sweden offers a success story in prohibiting drugs; supported by effective education policies, the public strongly supports prohibition. In the less law-abiding context of the United States, a 230 million USD anti-drug education programme for children was found to have ‘no statistically significant long-term effect on preventing youth illicit drug use’.<sup>83</sup> Meanwhile,

<sup>80</sup> United Nations Office on Drugs and Crime (UNODC), *World Drug Report, 2008*.

<sup>81</sup> Landler, Mark, ‘Clinton says U.S. feeds Mexico drug trade’, *New York Times*, 25 March 2009.

<sup>82</sup> ‘How to stop the drug wars’, *The Economist*, 7 March 2009, pp. 13–14.

<sup>83</sup> US General Accounting Office, ‘Youth illicit drug use prevention: DARE long-term evaluations and federal efforts to identify effective programs’, GAO-03-172R.

in the Netherlands and other countries, a number of studies suggest that the legalization of drugs has little impact on drug consumption.<sup>84</sup> What all this suggests is that there is no one-size-fits-all policy, and that each country will have to tailor its policies to fit its (changeable) body politic. However, as ever, national sovereignty will prove an obstacle to international cooperation.

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<sup>84</sup> See, e.g., MacCoun, R. and Reuter, P., 'Evaluating alternative cannabis regimes', *British Journal of Psychiatry*, 178 (2001), pp. 123–128.

# A typology of corruption, with particular reference to post-communist countries

We are reminded that illicit political finance represents forms of corruption. There is much overlap between the concepts, and they feed each other. If we are to address the problems of illicit political finance, it may be useful to address its types as well as its applications.

The meaning of the word ‘corruption’ may be so broad that it may be useful to disaggregate the types of corruption. To this end, a few authors have sought to create typologies of corruption. A particularly pithy one is provided by Rasma Karklins with regard to some post-communist countries.<sup>85</sup> Some post-communist governments may be distinctive for their techniques of sourcing illicit political finance. While the extent, scale, sophistication, organization, specific mix, and potential lethality of corrupt practices vary from one country to another, their basic features are similar. National and regional variations are important, and they derive from the differing histories, contexts, cultures, and economies. So, while this typology purports to apply only to post-communist countries, many elements may be familiar to a number of other regions and countries. For example, countries that are highly integrated into the supply chain of narcotics appear to share certain problems of illicit political finance, such as high levels of violence, and high flows of narco money into campaigns. Meanwhile, the techniques used by Vladimiro Lenin Montesinos<sup>86</sup> in Peru in 1990–2000 seem to incorporate all elements of the typology’s most extreme category of corruption, state capture.

Karklins suggests that the distinctiveness of post-communist corruption is linked to the former regimes, which were characterized by monopolies of all kinds, be they political, economic or social. Hence, while state capture appears to be a particular threat to transitional and post-conflict governments, it would seem that the more organized the preceding dictatorship, the more organized the crime will be following a case of state collapse. Special attention should therefore be paid to the precarious nature of transitions, particularly in countries like China and Cuba (should they undergo seemingly democratic transitions). We may recall that Western governments initially applauded the economic and political ‘liberalization’ of former communist countries while failing to appreciate their susceptibility to state capture during such transitions. Meanwhile, the building of democracy is coming under serious strains in Africa where competition for natural resources is providing illicit political finance, often generating armed conflict.

<sup>85</sup> Karklins, ‘Typology of post-communist corruption’, *Problems of Post-Communism*. A more complete and general elaboration of corruption processes and types may be found in Ackerman, Susan Rose-, *Corruption and Government: Causes, Consequences and Reform* (Cambridge: Cambridge University Press, 1999).

<sup>86</sup> There is no need to remark on the irony of the name in relation to post-communist countries.

Vote-buying is one crude manifestation of illicit political finance, and as with many such clandestine practices there is lack of adequate research and understanding of these processes, although it appears to be increasingly common in developing democracies. 'Vote buying, as a specific form of campaign spending (not associated with meaningful political messages), tends to flourish in these environments, as if it were a substitute for political accountability.'<sup>87</sup> Some observers, particularly economists, are beginning to scrutinize these processes.

One interesting study is presented by Oxford University economist Pedro Vicente, who looks at the small, oil-rich African country of São Tomé and Príncipe, where crude vote-buying in the 2006 presidential election appears to have been an effective strategy. Mr Vicente uses microeconomic methods and his statistical analysis of the election results suggests that vote-buying actually induced more people to vote, and that an anti vote-buying campaign mostly cut into the effectiveness of vote-buying on the part of the challenger, if only because he was a late entry into the election and did not have time to purchase votes. It also suggested that vote-buying seemed to be most pronounced in rural areas.

Our main findings provide evidence that vote buying is effective in changing voting preferences/behavior. . . . In terms of real-world implications . . . vote buying in democratic countries similar to STP [São Tomé and Príncipe] may be biasing the balance of power towards a rich elite. Generally, vote buying constitutes a form of appeasement of the population that is not conditional on policy. If vote buying is the main source of 'politicians' accountability', and if it is effective in driving the electorate (as specifically concluded in this paper), policies will necessarily favor the rich elite. This implication may be especially problematic in countries like STP where rent-seeking policies are pervasive, and significant oil revenues are expected in the future.<sup>88</sup>

However, constructive actions can also find support in such research. Vicente also found that 'an informational/sensitization campaign (sponsored by an electoral commission) targeting vote buying may be effective in diminishing its impact, therefore contributing to the undermining of this phenomenon, and potentially . . . increasing of policy accountability'.<sup>89</sup>

Much information regarding the market for purchasing votes, favours and politicians remains impressionistic and anecdotal. For example, Andrew Ellis, Regional Director for Asia and Pacific at International IDEA, notes: 'I have an impressionistic feel that old fashioned vote buying is on the decline, because it's relatively expensive, logistics heavy, and visible, and there are more effective ways of achieving your objective. Why buy large numbers of voters when you can buy a much smaller number of elected members and when TV stations are of more use anyway?'. As a response to the sentiment that lawmakers are being bought, direct democracy instruments are being employed more frequently by voters to circumvent political parties and other perceived obstacles to political representation.

<sup>87</sup> Vicente, Pedro C., 'Is vote buying effective? Evidence from a field experiment in West Africa', Job Market Paper, draft, October 2007, p. 1.

<sup>88</sup> *Ibid.*, p. 29.

<sup>89</sup> *Ibid.*, p. 30.

Vote-buying is but one of many democracy-distorting manifestations of illicit political finance that require more of this type of empirical research, and is found in Karklins' corruption typology, which reads like a manual of the darkest political arts. Karklins' typology is summarized and reproduced as follows. It is divided into three categories: (a) low-level administrative corruption; (b) self-serving asset stripping (or rent-seeking) by officials; and (c) state capture by corrupt networks. These distinctions are important in helping us to focus on the types of illicit political finance that have the greatest impact. The last category is of greatest interest to us, and the point of this illustration is to make clear that corrupt practices can be well planned, well organized and highly systematic, and not simply ad hoc and opportunistic behaviour.

### 1. Low-level administrative corruption

*Bribery of public officials to bend rules:* corruption in everyday bureaucratic encounters between officials and citizens typically involves bribes to officials to break rules and regulations.

*Deliberate over-regulation, obfuscation of rules and disorganization* are related to bribery, but are separate corrupt acts of officials who want to create more opportunities to oblige the public to offer bribes.

*Misuse of licensing and inspection powers:* every state issues professional licences and permits for specific activities that involve the public good, such as public safety or the protection of the environment. Yet licensing is susceptible to corruption, especially while established systems change and new needs arise, as has been the case in post-communist countries. For example, at times inspectors become predatory.

### 2. Self-serving asset stripping by officials

This has many dimensions and includes illicit civil servant spoils, clientelism, and profiteering from privatization and procurement. These practices typically occur in collusion between civil servants and, at times, turn public institutions into private fiefdoms serving the whims of entrenched bosses. The extraction of spoils, rents and tributes tends to be systematic, since formal rules have to be broken repeatedly and on a long-term basis. To sustain the accumulation of corrupt profits and power, the perpetrators have to become skilful in cover-ups, deception, and the corruption of others involved in the transactions. The consequences therefore involve more than misdirection of public money and assets; a hidden political regime is substituted for the formal one.

*Diverting public funds for civil servant spoils.* One practice is to divert money into hidden 'second' budgets that can equal in size the official budgets of ministries or state offices. Quite often the salaries of state officials and civil servants are supplemented with hidden second salaries and bonuses. Bonuses and special salaries are paid at the discretion of supervisors and thus give them extensive leverage. While this use of discretionary power is problematic in itself, it is also an important tool that can help the employer to enforce compliance.

*Mismanagement and profiteering from public assets* include all too many examples, of which only a few can be enumerated here. One practice with long-term consequences involves the exploitative use of natural resources and the environment by state-appointed managers and their political friends. Examples include the deforestation of large parts of East Central Europe for the sake of timber



exports, the breaking of rules about hunting rights for clients who can pay well, and the dumping of nuclear waste.

*Profiteering from privatization* by non-transparent deals that amount to little more than looting is another frequently noted form of post-communist corruption. The World Bank notes that 'corruption has played a key part' in the process of privatization in the post-communist region. The specific techniques used differ from case to case, yet the common denominator is that public officials responsible for privatizing public assets that are intended for the public good have chosen instead to concentrate on their own personal enrichment.

*Malpractice in public procurement.* While the prices that the state receives from privatization deals are typically far too low, the prices that the state pays in procurement typically are much too high. According to a study conducted by the World Bank, malpractice in procurement on large state contracts in Poland can mean that they exceed market prices by a factor of two or three.

*Nepotism, clientelism and the political 'selling' of positions* occur as separate corrupt acts as well as a means to facilitate other corrupt dealings. The latter typically occurs in regard to high-level appointments to offices in charge of significant public assets. Examples include financial, economic and transport ministries, privatization agencies, the management of state-owned enterprises, harbours and other infrastructure facilities, and customs and tax inspectorates. A 1998 World Bank study of Albania, Georgia and Latvia found that the prices of 'high rent' public positions were 'well-known among public officials and the general public, suggesting that corruption is deeply institutionalized'.

### 3. 'State capture' by corrupt networks

This refers to systematic high-level political corruption that establishes a hidden political regime at odds with the constitutional purpose of state institutions. Scholars at the World Bank have defined it as:

The illicit provision of private gains to public officials via informal, nontransparent, and highly preferential channels of access. It can also occur through unclear boundaries between the political and business interests of state officials, which has been a particularly prominent characteristic of many transition countries. In all its forms, state capture tends to subvert, or even replace, legitimate and transparent channels of political influence and interest intermediation, reducing the access of competing groups and interests to state officials.

The analysts note that the capturing may be done not only by private firms or narrow interest groups, but also by political leaders. Furthermore, 'distinctions can be drawn between the types of institutions that are captured – the legislature, the executive, the judiciary, or regulatory agencies'. To this one can add other differentiations in terms of the methods used by various groupings and the extent to which state institutions are corrupted deliberately and actively, or on the basis of inertia.

*The de facto takeover of public institutions for business interests or criminal activity* constitutes an extreme case of state capture. Typically this involves the strategic penetration of executive institutions by corrupt or criminal networks. Since powerful groupings are involved, and much is at stake, this form of corruption is especially difficult to prove and fight. One case where institutional takeover has been



alleged involves drug-fighting offices in some Central Asian states. Another involves Georgia where an international investigation has found that ‘the police, the customs and the courts, those very agencies responsible for fighting corruption, are most widely affected by it’. Allegations about institutional capture also tend to surround the activities of ministries dealing with financial and economic matters that are of great interest to economic oligarchies.

*Forming collusive networks to limit political competition* is a corrupt practice that seriously undermines democratic development. Just as market economies cannot function properly if monopolies or cartels rule, democracies cannot function if collusive power blocs capture the political market. Political competition in elections and decision making is a hallmark of democracy, and it is also a crucial means of empowering those candidates and programmes that best represent the public good – as defined by the citizenry. In post-communist countries political competition has often been undermined by secretive power networks.

As with all patronage networks of corrupt exchange, this is a network of benefit and obligation – that is, it involves rules of reciprocity. Corrupt elite networks tend to expand and self-perpetuate. Their members have a strong motive to keep non-corrupt individuals out of politics, or to try to co-opt anyone who slips through their net. What is more, fear of disclosure adds a strong motive for perpetuating both the network and its corrupt dealings, and thus many political decisions are made with the object of protecting implicated officials, be they someone’s own network or part of a collusive quid pro quo. In addition, any renegade member has to fear severe retribution. It would be important to learn more about the internal workings of these networks, but such research is by its nature highly problematic – even more so as it appears that special rules of silence exist and are enforced.

*The undermining of free elections* through corrupt practices such as illicit party financing and electoral slush funds is often linked to power oligarchies. These also tend to buy newspapers or radio and television stations or to pay for hidden political advertising in supposedly objective media. This is especially problematic if candidates pay journalists for image-building interviews that are presented as neutral reportage. Another corrupt practice that undermines democratic elections involves candidates who seek election solely for the sake of parliamentary immunity from prosecution, as has been reported in the case of Russia.

*Misuse of legislative power.* Bribery has been alleged to play a role in cases when legislators at the national or lower levels have the power to select candidates for various official positions. What is more, researchers at the World Bank speak of laws being ‘purchased’ by business or criminal interests, for example, legislators are illegally paid to pass specific laws. While this can be classified as the active corruption of legislators, there also is passive corruption in the sense of omission and dereliction of duty. Many post-communist parliaments and regulatory bodies have been derelict in their public duty to pass effective laws and regulations on party financing, conflicts of interest, money-laundering, offshore assets, or the review of income declarations of public officials, and even on corruption itself. Similarly, most post-communist legislatures have been passive when asked to pass laws on witness protection, sting operations, and similar programmes that are crucial for the fight against corruption. At times, drafts of promising laws have been deliberately blocked.

This does not mean that there is no anti-corruption legislation. Often there is plenty of it; it is just not the right kind. Thus more than 20 laws to fight corruption were passed in Ukraine between 1992

and 1999 and seven government ministries and departments were assigned to implement these laws, yet no one is actually doing the fighting.

The *corruption of the judicial process* too takes many forms, some of them overlapping with previous categories, such as the de facto sale of favourable decisions by courts. Selective or false investigations and prosecutions constitute other corrupt misuses of the judicial system. Recently, observers of Russian politics have argued that the Interior Ministry under Vladimir Putin has selectively used prosecution for corruption against political opponents.

The *misuse of auditing, investigatory and oversight powers* to hide and promote corruption rather than fight it is related to judicial corruption, but can take special forms, including the corruption of anti-corruption agencies. This is an especially difficult issue to study, but accusations of such misuse have been frequent. Thus a former head of the Committee of State Security (KGB)'s analytical department in Russia has claimed that Russia's Federal Security Bureau has become too riddled with corruption to fight it.

*Using 'kompromat' for political blackmail and coercion.* A politically highly damaging practice is to misuse investigative and judicial power to intimidate citizens and political rivals. This is a concrete legacy of the Soviet system, where lawbreaking became a means of coercion in the sense that everybody was bound to break the law somehow in order to survive and then could be picked out for prosecution if needed. Documentation from Ukraine suggests that state leaders during the regime of Leonid Kuchma deliberately encouraged corruption in order to secure compromising materials (*kompromat*) to use for political blackmail whenever needed. After first encouraging an atmosphere of impunity, state surveillance organs were used to document corruption among officials in various leading positions, and then compliance was secured by the threat of exposure and prosecution. *Kompromat* as a tool of political pressure is common in Ukraine and some other post-communist countries and has become an institutional base of the blackmailing state. A variation on this theme is that corrupt networks remain in place not only because they have common interests, but also due to mutual blackmail: for example, many powerful politicians have compromising material on other politicians that keeps collusion going.

*Corruption of and in the media.* Next to the judiciary, the media are the most crucial player in promoting or hindering any successful anti-corruption activity (we note the high value Montesinos gave to bribing media owners, indicating that they may be the key group in opposing illicit political finance). There are many examples of individual journalists or media outlets being very effective in exposing corruption, but there are also indications of occasional media collusion in corruption cover-ups and other corrupt undertakings. This relates to both newly private and remaining state-owned media. With regard to Russia, Mexico, the Philippines and other countries, we also note the murder of journalists investigating corruption.

To conclude Karklins' typologies of corruption, emerging research, particularly regarding post-communist corruption, has begun to identify its roots and may offer promising strategies for combating it. A basic task is to identify and categorize what it is we are dealing with. As Karklins notes, a typology can do that. It constitutes a vital step for understanding the nature, context, and political implications of various forms of illicit influence.

## Lobbying and ‘legalized bribery’

Lobbying is a grey area of illicit political finance, although a basic sense of democratic ethics would suggest that much of it is, indeed, illicit if not simply illegal. The *New York Times* recently offered, on the same day, two stories illustrating the zone that lobbying can inhabit between the illicit and the illegal. One story is about the bankruptcy of a hotel near Wyoming’s state legislature that was known as the state’s ‘legislative dormitory’ (some US state legislatures convene only infrequently, hence the need for temporary lodgings), ‘where lawmakers in their socks, sometimes with a highball in hand, could wander down the hall and knock on the door of a neighbor and talk through the day’. A photograph accompanying the story shows the hotel sign. One half of the sign states ‘Legislators Welcome’, and next to it ‘Lobbyists Welcome’. The article notes: ‘[T]here is no doubt, lawmakers here said, that coziness has its consequences, for good or ill’.<sup>90</sup> We are left to wonder about the precise nature and consequences of such coziness between legislators and lobbyists.

In the other *New York Times* story published the same day, legislator–lobbyist coziness yields the headline ‘U.S. Raids a Lobbying Firm With Ties to a Congressman’. Federal investigators raided the offices of one of Washington’s biggest lobbying firms, the PMA Group, as part of an investigation into potentially improper campaign contributions. The lobbying firm specializes in helping its clients obtain multimillion-dollar ‘earmarks’, items inserted by a single lawmaker into major spending bills that have played a role in several recent Washington scandals. The firm is best known for its ties to Representative John Murtha, a Pennsylvania Democrat who for decades has dominated the House defence spending subcommittee. The firm’s founder previously worked for Mr Murtha, and its executives and clients are one of Mr Murtha’s biggest sources of campaign contributions. Murtha is reportedly famous for dispensing earmarks to local companies near his home town, which his patronage has gradually built into a hub of military business.<sup>91</sup>

While the United States does have rules regarding lobbying, some argue that their effect is to allow a form of legalized bribery, in which wealthier actors, particularly those backed by large commercial concerns, enjoy greater access to, and cosy relationships with, elected representatives. Another illustrative recent scandal involved a prominent lobbyist with close ties to the George W. Bush administration. The essence of the charges against this well-known lobbyist, Jack Abramoff, besides

<sup>90</sup> Johnson, Kirk, ‘Bankruptcy at Wyoming’s “legislative dormitory”’, *New York Times*, 10 February 2009. See <<http://www.nytimes.com/2009/02/10/us/10cheyenne.html?scp=1&sq=wyoing%20hitching%20post&st=cse>>.

<sup>91</sup> Kirkpatrick, David D., ‘US raids a lobbying firm with ties to a Congressman’, *New York Times*, 10 February 2009, available at <<http://www.nytimes.com/2009/02/10/washington/10raid.html?scp=4&sq=murtha%20lobbying%20%20&st=cse>>.

fraud, is influence peddling. That is, he 'would offer and provide things of value to public officials, including trips, campaign contributions, meals and entertainment in exchange for agreements that the public officials would use their official positions and influence to benefit defendant Abramoff's clients and defendant Abramoff's businesses'.<sup>92</sup> According to the Center for Responsive Politics, an organization that tracks campaign contributions, Abramoff directed more than 4.4 million USD over about five years to candidates and campaign committees,<sup>93</sup> highlighting among other things how little money it takes to sway elected representatives (around 1 million USD per year for all candidates).

There is some mystery surrounding lobbyists, perhaps all too much of it, as many countries lack laws regarding, or definitions of, lobbying.<sup>94</sup> Janos Bertok, who leads the OECD's effort to facilitate the development of guidelines for lobbying, notes that only five countries have laws regulating lobbying.<sup>95</sup> Bertok provides a state-of-the-art review of the issues raised by the increasing prevalence of lobbying, summarized as follows:

- Lobbying is a worldwide practice that can provide policymakers with invaluable insight and data for more informed decision making.
- Concerns that negotiations carried out behind closed doors could override the interests of the whole community push lobbying on to the political agenda in many societies. The five countries (Canada, Hungary, Poland, the United Kingdom and the United States) that have established rules on lobbying require, for example, reporting on lobbying contacts.
- To maintain trust in government and in public decision making, many countries are considering developing or updating regulations in order to shed more public light on lobbying.
- Setting standards and rules for enhancing transparency in lobbying has, however, proved very difficult because it can also be a politically sensitive issue.
- When lobbying reaches the political agenda, policymakers and legislators rapidly face the challenge of determining whether and how to develop enforceable policies or a regulatory framework for enhancing transparency in lobbying that are balanced, are fair to all parties, and adequately address concerns within their own socio-political and administrative context.<sup>96</sup>

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<sup>92</sup> *United States of America v. Jack A. Abramoff, Defendant*, US District Court for the District of Columbia, filed 3 January 2006.

<sup>93</sup> Stolberg, Sheryl Gay, 'Tremors across Washington as lobbyist turns star witness', *New York Times*, News Analysis: 4 January 2006, available at <<http://www.nytimes.com/2006/01/04/politics/04assess.html?scp=7&sq=abramoff%20arrest&st=cse>>.

<sup>94</sup> Interview with Janos Bertok, OECD, October 2008.

<sup>95</sup> Bertok, Janos (Principal Administrator, OECD Public Governance and Territorial Development Directorate), 'Are governance arrangements adequate to prevent conflict of interest in post-public employment and lobbying?', OECD, August 2008.

<sup>96</sup> Bertok, Janos, 'Lobbyists, governments and public trust: building a legislative framework for enhancing transparency and accountability in lobbying', OECD, August 2008.

# Political finance and democratic politics

Money is vital in democratic systems. It enables citizens to organize political parties, helps to train new leaders and is used to present government proposals in election campaigns. However, money also comes into conflict with the democratic principles of civic equality and fair competition in elections by undermining equitable political representation.

Econometric studies suggest that the rise of political and civil rights helps to reduce the level of illicit money in politics, and that the duration of democracy, defined as the number of uninterrupted years over which a country is democratic, reduces corruption. ‘Democracy can help limit corruption if it gives people alternative avenues of complaint and gives incumbents an incentive to be honest. However, . . . it is not a panacea.’<sup>97</sup> The key element of democracy in limiting corruption may be competition, especially of the electoral variety. ‘The strength of the competitive political environment raises the stakes and reduces the likelihood of corruption. A competitive political system can be a check on corruption. For elected politicians the most immediate form of “punishment” occurs at the polls.’<sup>98</sup> Hence, ideally, democracy can stimulate parties to police each other, with corruption and political finance violations publicized by the media, assuming that the political loyalties of the media are also competitive, and that the media have not been substantially captured.

These general theories, however, are often challenged by the evidence that illicit funding rises, at least initially, in newly democratizing countries, before falling as democracies become consolidated.<sup>99</sup> In Russia, Turkey and Latin America, the evidence suggests that illicit funding in politics rose following democratization as the collapse of centralized networks of corruption gave way to a more corrosive and decentralized corruption free-for-all. With the huge potential and illicit rewards available in such contexts, the free-for-all can also assume a more ordered and centralized system of corruption – as we see in post-communist countries.

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<sup>97</sup> Ackerman, *Corruption and Government*, p. 126.

<sup>98</sup> Ackerman, *Corruption and Government*, p. 127.

<sup>99</sup> Rock, Michael T., ‘Corruption and democracy’, DESA (UN Department of Economic and Social Affairs) Working Paper 55, August 2007.

Meanwhile, the effects of illicit political finance and state capture on democratic governance are numerous and deleterious, and include:

- a reduction of government revenues;
- an increase in social, economic and gender inequality;
- deterring economic growth and investment;
- fostering transnational crime, terrorism, corruption and conflict; and
- eroding democratic political institution building, and possibly the very substance and credibility of democratic processes.

World Bank analysis suggests that good governance can yield 300 per cent faster economic growth for poorer countries,<sup>100</sup> but good governance is deterred by state capture. One resulting suggestion is that foreign assistance should focus less on internal governmental mechanisms than on support for external mechanisms for transparency and accountability:

Given the prominence we ascribe to state capture and related forms of influence by the elite in providing a plausible explanation of why growth may not translate into improved governance, then strategies to improve governance and combat corruption ought to specifically address such undue influence and capture. This implies a strategy departing from conventional public sector reform which typically focuses on internal functioning within government. Indeed, the research on state capture for transition economies, as well as analysis of governance diagnostics in some countries in Latin America, point to the importance of voice and external accountability mechanisms, political contestability, and transparency reforms (including media freedom, disclosure of votes by parliamentarians, declaration of assets by politicians, regular monitoring through surveys/report cards, etc.).<sup>101</sup>

Globally, we see many campaign processes being overwhelmed by the need for money, a process driven largely by the need to purchase television advertising. Democracy assistance organizations have focused, for example, on how campaign systems can seek to balance private money with public, towards trying to create a more level playing field. Happily, it should be noted that money does not always determine election outcomes. A glaring illustration of such is the 1990 presidential election in Peru, already mentioned. This suggests that whatever the level of campaign spending, the key issue for candidates is to establish a persona that is sympathetic and seemingly responsive to the electorate. Vargas Llosa was considered too close to the country's elites, and his comparatively huge campaign outlays underscored this, while the relatively modest Fujimori appeared to be more familiar with the needs of the electorate, and displayed the common touch.

Political will is the critical factor in seeking reform of political finance, but such will is often lacking (as the election winners, and successful parties, preside over such reform). This failure highlights the importance of free and independent media with a strong investigative capacity, which can help to

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<sup>100</sup> 'Economics and the rule of law: order in the jungle', *The Economist*, 13 March 2008.

<sup>101</sup> Kaufmann, Daniel and Kraay, Aart, 'Growth without governance', World Bank Policy Research Working Paper 2928, World Bank, November 2002, p. 35.

galvanize the public to demand reforms. Because of this importance, journalists are primary targets of state capture. One of the problems with seeking to regulate political finance is that, while techniques for estimating spending on campaign advertising are readily available, it may be impossible to regulate illicit contributions that might be used for other purposes, such as vote-buying. How does one regulate a suitcase full of cash?<sup>102</sup> Given that even legal campaign contributions are corrupting in the sense that they are a quid pro quo form of legalized bribery, perhaps it is time we began exploring entirely new paradigms and regulated formats for campaigns. One model might be to shift more emphasis – and funding, though it would cost little – to public debates between candidates. Debates allow candidates to directly face each other and the public, and are critical for allowing voters to judge the candidates.

It is time to take a closer look at how elected leaders and political parties lose touch with and betray the electorate. Only when we better recognize and understand illicit political finance and state capture with their intent to undermine democracy can we seek new ways to try to prevent it, and ensure that the will of the people is expressed not only in elections, but in the governing processes that follow.

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<sup>102</sup> One such suitcase, containing approximately 800,000 USD, was discovered en route to Argentina from Venezuela, apparently intended for the campaign of President Cristina Kirchner.



## Preliminary conclusions

- Inadequate attention is being paid to illicit political finance by national and international actors. A more proactive approach at the national and international levels is needed to foster a better understanding of, and more effective policies and measures to curb, the threats posed by illicit political finance.
- The current economic crisis poses particular risks in fostering the growth of cash-rich transnational criminal works. In general, countries in transition from authoritarian regimes appear to be at particular risk of state capture.
- Democracy assistance strategies should take adequate account of the various forms of illicit political finance that may inhibit, distort or undermine the impact of both national and international action in support of democracy.
- Creative efforts should be deployed to formulate new rules for election campaigns that would make them less reliant on money for advertising, and more reliant on the public broadcasting of face-to-face debates between candidates.
- National and international efforts should be geared towards understanding better what types of legislation and international cooperation might prove most effective in deterring illicit political finance, and how different political actors (political parties, legislators, electoral management bodies, the justice system etc.) can be strengthened to fight corruption and illicit political finance.
- Drug trafficking networks are becoming increasingly sophisticated and dangerous; while continuing to combat the illegal trade in drugs, there should be an open discussion of how better to control the sale and use of narcotics in order to reduce the destabilizing, debilitating and destructive effects of this trade.
- More effective research is needed to enable us to understand better the impact of illicit political finance on democracy generally, and on security, conflict, development, elections and political parties in particular. Hence, it is rich subject matter for the democracy assistance community.



- Research in the field of illicit finance in politics should dedicate particular attention to the gender dimension of the linkages between illicit finance and democracy-building. Women are, of course, disproportionately vulnerable to organized crime, particularly in the case of sex trafficking. From a broader perspective, organized crime may also have an indirect adverse effect on gender equity by discouraging women from actively engaging in political processes.
- Opportunities should be created and enhanced for the sharing of experiences and lessons learned in revealing and dismantling networks of illicit political finance.
- IDEA's 2009 Democracy Round Table in Mexico is an opportunity to generate greater awareness and understanding of illicit political finance, and help to define a new international framework to address the phenomenon.

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# Annex

## Treaties and conventions

The *Convention against Transnational Organized Crime* (including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Protocol against the Smuggling of Migrants by Land, Air and Sea and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition).

The *United Nations Convention against Transnational Organized Crime*, adopted by General Assembly resolution 55/25 of 15 November 2000, is the main international instrument in the fight against transnational organized crime. It opened for signature by member states at a High-level Political Conference convened for that purpose in Palermo, Italy, on 12–15 December 2000 and entered into force on 29 September 2003. The convention is further supplemented by three protocols, on human trafficking, migrant smuggling, and firearms trafficking. States that ratify this instrument commit themselves to taking a series of measures against transnational organized crime, including:

- criminalizing participation in an organized criminal group, money laundering, corruption and obstruction of justice;
- acceding to a comprehensive agreement on extradition, mutual legal assistance and law enforcement cooperation; and
- the promotion of training and technical assistance for building or upgrading the necessary capacity of national authorities.

Notwithstanding its widespread adoption, implementation of the Convention appears to be slow in a number of signatory countries such Albania, Bulgaria and Serbia.

The *United Nations Convention against Corruption* was negotiated during seven sessions of the Ad Hoc Committee for the Negotiation of a Convention against Corruption, held between 21 January 2002 and 1 October 2003. The Convention approved by the Ad Hoc Committee was adopted by the General Assembly by resolution 58/4 of 31 October 2003.

## National legislation

*The US Foreign Corrupt Practices Act, 1977*

Powerful national legislation that can block foreign businesses paying bribes in other countries from doing business in the United States.

*The US Racketeering and Corrupt Practices Act (RICO), 1970*

Increasingly adopted by other countries and reflected in the Convention Against Transnational Organized Crime, RICO is proving to be a powerful tool in dismantling organized crime networks.

## Drug-related treaties

The three major international drug control treaties are mutually supportive and complementary. An important purpose of the first two treaties is to codify internationally applicable control measures in order to ensure the availability of narcotic drugs and psychotropic substances for medical and scientific purposes, and to prevent their diversion into illicit channels. They also include general provisions on illicit trafficking and drug abuse. Critics say that these instruments, and their strong support by the United States, are inhibiting policy flexibility at the national level.

*The Single Convention on Narcotic Drugs, 1953 (amended by the Protocol of 25 March 1972)*

*The Convention on Psychotropic Substances, 1971*

*The Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988*

## The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997

The OECD Working Group on Bribery supports countries by monitoring their compliance with the Anti-Bribery Convention. The Convention itself calls for a 'procedure of self and mutual evaluation', also referred to as 'monitoring'. Monitoring takes place in two phases. Phase 1 evaluates the adequacy of a country's legislation to implement the Convention. Phase 2 assesses whether a country is applying this legislation effectively.

## The Paris Declaration

The Paris Declaration, endorsed on 2 March 2005, is an international agreement to which over 100 ministers, heads of agencies and other senior officials adhered and committed their countries and organizations to continue to increase efforts in harmonization, alignment and managing aid for results with a set of monitorable actions and indicators.



# Acronyms

EU	European Union
OECD	Organisation for Economic Co-operation and Development
TOC	transnational organized crime
UNODC	United Nations Office on Drugs and Crime

# International IDEA at a glance

## *What is International IDEA?*

The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization that supports sustainable democracy worldwide.

International IDEA's mission is to support sustainable democratic change through providing comparative knowledge, assisting in democratic reform, and influencing policies and politics.

## *What does International IDEA do?*

In the field of elections, constitution building, political parties, gender in democracy and women's political empowerment, democracy self-assessments, and democracy and development, we undertake our work through three activity areas:

- providing comparative knowledge and experience derived from practical experience on democracy-building processes from diverse contexts around the world;
- assisting political actors in reforming democratic institutions and processes, and engaging in political processes when invited to do so; and
- influencing democracy-building policies through the provision of our comparative knowledge resources and assistance to political actors.

## *Where does International IDEA work?*

International IDEA works worldwide. Based in Stockholm, Sweden, it has offices in Africa, Asia and Latin America.