

The Corruption Notebooks Vol. VII

Edited by Hazel Feigenblatt
and Global Integrity



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Innovations for Transparency & Accountability

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Introduction

India received one of its lowest scores (59) in the civil service conflicts of interest subcategory of the Global Integrity Report: 2011's assessment. What this really means for people in the country can take many forms, but a story rather than number may be a better way to show it.

That's where the city planner in Pahalgam who acquired tracts of land through proxies and reclassified them in the master plan as touristic to increase their value comes in. As part of the scheme, he also reclassified the adjoining villages – where people had been living for centuries – as “green zones,” effectively forbidding them from improving their community or even expanding their homes.

In Nicaragua, election integrity was the lowest rated category of all (41) due to a lack of transparent elections in recent years. How this manifests itself to Nicaraguans may be better explained by the case of the chief electoral judge who owns numerous luxurious properties – a fleet of planes included- and doesn't think it out of the ordinary.

“The jets are not as expensive as the media want to portray them. I mean, it's nothing out of the ordinary. My family is like any other, nothing more than a regular Nicaraguan family,” he's said to the media.

Jordan earned the lowest score (13) in the state-owned enterprises subcategory, and the story of state-owned National Resources Investment & Development Corp. (Mawared) may be the best example of what such a low score really means. Mawared was supposed to turn the heart of Jordan's capital, Amman, into a luxurious business hub with high-rise towers, hotels and deluxe apartment buildings.

Instead, the corporation became embroiled in multiple corruption investigations about illegal donation of public funds

– for example, US\$3,5 million to a sports club –, and payment of exaggerated rates for goods and services including feasibility studies and implementing projects, among other irregularities.

These and other stories are part of the GIR because, while indicators and scores are useful tools to assess a country's anticorruption legal framework and its implementation, telling first-hand accounts of what the situation represents in people's daily lives helps paint a more complete picture.

This year, we asked reporters to choose a topical area they'd like to write about and found that a significant number decided to focus on stories about weak anti-corruption agencies, silenced journalists, and failing judicial systems. These stories comprise Part I: Tales of Toothless, Sleeping or Hunted Watchdogs.

As has been the case in previous GIRs, stories of outright shameless corruption were not absent, ranging from a president receiving foreign aid and donations through a nonprofit organization to how a young generation of civil servants seems to be inheriting the same corrupt habits from their predecessors. These stories can be found in Part II: Greed Gone Wild.

Even though the GIR focuses on anti-corruption mechanisms on the national level, a few reporters found interesting stories of how the same issues manifest themselves on the sub-national level. In addition to the story of the city planner who tried to enrich himself at the expense of the community, Part III: Small Town, Big Hell: Corruption in the Local Level includes stories that show how a lack of transparency on land ownership allows for regular citizens to be taken advantage of, and how political influence can help to take over the neighbor's land.

Another common story in the Corruption Notebooks is how the weakest groups – children included – are among the first to suffer the consequences of corruption. Our reporters' stories talk of doctors and nurses stealing medicine to stock their own private pharmacies and bureaucrats abusing their office to steer contracts to favored companies, among other cases. These stories are captured in Part IV: Sex for Grades and Other Ways of Praying on the Weak.

Finally, Part V: How Corruption Moves State-Owned

Companies shows corruption to be a defining factor in the day-to-day operations of government companies, whether they are in the electric, construction or logging industries.

There's no question that every time we ask reporters to find stories about corruption, they will come back with not one but several stories in the most diverse areas of public life. While that is an uninspiring perspective, we hope that by publishing these stories in the Global Integrity Report we provide enough individual voices and faces to help inspire reform-minded individuals to continue working towards more transparent and accountable governments.

Hazel Feigenblatt
Global Integrity Managing Director

Part I

Tales of Toothless, Sleeping or Hunted Watchdogs

“Showing once again that they are willing to have an anti-corruption body to satisfy international donors only to the extent that it doesn’t actually expose corruption, in 2011 Kenya’s political elite disbanded the Kenya Anti-Corruption Commission (KACC)... for the third time since its first creation in 1997.”

— From the Reporter’s Notebook on Kenya



In Bosnia, the judicial system is so slow that even its members are starting to lose faith. “Let’s be realistic, in this country it is difficult to sentence anyone who is of some importance,” said Amor Bukić, the chief RS prosecutor.

BOSNIA






























Corruption of Biblical Proportions

*By Merima Husejnović**

As international organizations step up warnings about a rising tide of corruption in Bosnia and Herzegovina (BiH), the judicial system is still too slow to address the problem. For every five people convicted of corruption, only one serves any time in prison. The rest get away with a fine or probation. In some cases, the government pardons them and wipes their criminal records clean.

Transparency International, a global anti-corruption watchdog, presented data in 2010 showing that the level of perceived corruption in BiH far surpassed that in neighboring countries. BiH was placed between 91 and 97 out of 178 total

OVERALL SCORE: 61  WEAK
LEGAL FRAMEWORK SCORE: 92  VERY STRONG
ACTUAL IMPLEMENTATION SCORE: 35  VERY WEAK

Category I	Non-Governmental Organizations, Public Information and Media	72	
I-1	Anti-Corruption Non-Governmental Organizations	75	
I-2	Media's Ability to Report on Corruption	73	
I-3	Public Requests for Government Information	69	
Category II	Elections	75	
II-1	Voting and Party Formation	91	
II-2	Election Integrity	84	
II-3	Political Financing Transparency	50	
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	50	
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	58	
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	46	
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	51	
III-4	Budget Process Oversight & Transparency	46	
Category IV	Public Administration and Professionalism	42	
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	41	
IV-2	Whistle-blowing Protections	0	
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	68	
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	58	
Category V	Government Oversight and Controls	65	
V-1	National Ombudsman	73	
V-2	Supreme Audit Institution	77	
V-3	Taxes and Customs: Fairness and Capacity	58	
V-4	Oversight of State-Owned Enterprises	60	
V-5	Business Licensing and Regulation	54	
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	63	
VI-1	Anti-Corruption Law	100	
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	42	
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	69	
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	40	



countries. Slovenia, for example, ranked 27th.

Corruption is present in every sphere of BiH society, from business privatization and budget disbursements to health care. Its rampant presence in the judiciary, the branch of government that should be leading the fight, is especially troubling.

Ivana Korajli, spokeswoman of Transparency International, said that the judiciary in BiH has proven itself completely ineffective in prosecuting corruption.

“It is obvious that the judiciary in BiH does not employ the right means to deal with this problem,” Korajli said.

BiH has an anti-corruption strategy and legal framework, but the laws and benchmarks have produced no significant results. Statistics show that over the past five years, 1,458 corruption proceedings have been conducted and one-third of the defendants have been acquitted. Only 211 cases resulted in prison sentences, with others found guilty of graft either paroled or fined.

Indictments against top-level officials get thrown out for the most part, and only some of their low-level colleagues are sentenced to imprisonment. Even in those cases, as practice has shown, there is no guarantee that the sentenced person will actually go to prison.

Some manage to avoid prison, and criminal records were erased for others after they received pardons from the government.

Twenty-five officials in BiH were pardoned from 2006 to the end of 2010. They had been prosecuted for corruption while they served as ministers, mayors, judges, presidents of boards of directors, executives and inspectors.

The discretion to pardon lies with the three members of the BiH presidency, the presidents of the two entities and the mayor of Brčko District, once they receive an opinion from the Pardon Commissions at the state or entity ministries of justice or the Brčko District Judiciary Commission. Officials don't have to follow those opinions or elaborate on their reasons for pardoning someone.

A pardon can decrease a prison sentence, commute it to parole or even erase a defendant from the criminal records. Also, the accused can be absolved from going to prison.

After receiving a pardon, some officials have continued to work in government agencies, public companies and in other public positions.

The Supreme Court of the Federation of BiH (FBiH) in 2008 sentenced Halid Galijašević and Mufid Lojo to four and six months in prison respectively for abuse of office and authority. Galijašević was the president of the board of directors of BiH Post Bank, and he was found guilty of signing off in May 2002 on a 70,000 Konvertible Marks (KM) loan, about US\$46,600, and 50,000 KM (US\$33,300) grant to Lojo, who was then the director, so that Lojo could buy an apartment. In return, Lojo signed off on a 50,000 KM loan for Galijašević.

Neither spent a day behind bars. FBiH president Borjana Krišto commuted their sentences to two years probation in December 2009.

Galijašević is now investment manager in BH Gas, a public company, and serves on the board of directors of the FBiH Bureau of Employment. He said that his pardon was justified because no material damage resulted from the crime of which he was convicted.

Many employees of judicial institutions say that this practice is frustrating because it undermines their work.

“This kind of criminal justice policy is even a motivation for new criminal offenses,” said Meddžida Kreso, president of the Court of BiH.

This problem was indicated in the latest report of Group of States Against Corruption (GRECO) adopted in May 2011.

“Statistics show rather alarming data on the prosecution and adjudication of this type of offense: Most cases end up in acquittals or suspended sentences,” the GRECO report said, adding that the main challenge in fighting corruption in BiH lies with the effective application of existing legislation.

“It is crucial that a more proactive approach to the detection, prosecution and punishment of corruption be pursued in BiH.”

Delayed Proceedings and Missing Evidence

Trends in prosecuting corruption do not forecast a bright future

for accountability. Although the number of reported corruption cases is rising, fewer investigations are culminating in trials. In 2010, prosecutors at all levels worked on 3,615 charges, and courts prosecuted 238.

The length of investigations against leading and influential politicians, public officials and directors of public companies extend far beyond the six months the law prescribes, and court proceedings last for years.

For example, in March 2005 Former FBiH Finance Minister Dragan ovi and six others were charged with organized crime, abuse of office, bribery and tax evasion to the tune of 38.7 million KM in custom duties, committed in 2000.

Apart from ovi, the other defendants were Jozo, Jerko, Mladen and Slavo Ivankovi -Lijanovi, the owners of meat processing factory Lijanovi from Široki Brijeg, Mato Tadi, then president of the BiH Constitutional Court, and lawyer Zdravko Lu i.

Their trial started in October 2005. A year later, ovi was found guilty of abuse of official authority and sentenced to five years imprisonment. But that verdict was later revoked and a retrial started in November 2007. Seven months later, the appellate panel of the state court turned the case over to the Sarajevo Cantonal prosecutor due to the lack of jurisdiction.

In August 2011, Sarajevo Cantonal Court confirmed the indictment against ovi for abuse of authority, and his trial is due to begin soon.

Transfer of the case from the state to the cantonal level went on for two and a half years. While the evidence boxes were traveling from one institution to another at least nine times, 40 original documents – containing vital evidence – were lost. The documents were sent without an accompanying list of contents or a handover document, making it difficult to establish who was responsible for losing the documents.

Similarly, Bi ak i and Nedžad Brankovi, the former prime ministers of the FBiH government, were acquitted of charges that they abused their positions because the court lost the original documentary evidence. Milorad Dodik, former prime minister and current president of the Republika Srpska, was also charged with abuse of office, along with Novak Kondi, former

RS finance minister. And both were acquitted for lack of original documents.

Employees of the judiciary are starting to lose faith in the legal system.

“Let’s be realistic, in this country it is difficult to sentence anyone who is of some importance,” said Amor Buki , the chief RS prosecutor.

Even among politicians, more and more are speaking out about the corruption Bosnians face every day.

“The extent of crime and corruption here are biblical,” says Dragan avi , leader of Democratic Party of RS. “I have talked about this for so long it became pointless.”

Apart from corruption, he is referring to the fact that the government in BiH was formed almost 15 months after October 2010 general elections. Leading politicians could not agree on the allocation of ministerial positions.

Some Signs of Progress in Fighting Organized Crime

Although many believe that there is clear lack of political will to fight corruption, there are some instances that show the situation is improving slowly when it comes to prosecuting organized crime.

In September 2010, Muhamed Ali Gaši was sentenced to 17 years of imprisonment for organizing a criminal organization, endangering public safety and attempted murder. As one of the most famous “tough guys” from Sarajevo, Gaši managed to stay untouchable for years. His name was often associated with racketeering, illegal construction and money laundering.

In 2010, authorities were able to put an end to another criminal organization. Police arrested 14 people accused of drug smuggling, extortion, money laundering, the robbery of 2.5 million KM from the cargo center of Sarajevo airport and the murder of five people. The head of this organization was Zijad Turkovi , who is now facing trial along with seven other people.

The other six pleaded guilty and gave statements admit-

ting that many of the allegations in the indictment were true. They also discussed Turkovic's involvement in them.

Among other things, Turkovic and his group are charged with killing Mithat Meki and his pregnant girlfriend, Maria Salas-Cortez. Some evidence shows that the baby was removed from the womb and the bodies doused with acid before they were buried.

Civil society groups have also joined in a fight against corruption. Independent media outlets and a number of international and domestic organizations are monitoring government work, organizing campaigns and issuing reports that shed light on criminal offences.

Korajli said Transparency International has helped raise public awareness about corruption and is putting the pressure on law enforcement agencies.

"Of course this situation can be fixed in the future, but only if all institutions are willing to do that. We need radical reforms, not just empty talks," she said.

** Merima Husejnovi joined CIN in April 2011 after four years at the Balkan Investigative Reporting Network (BIRN), where she was first a reporter and later an editor. She mostly covered war crimes. She received her degree in journalism in 2008 from the University of Sarajevo's Faculty of Political Science.*

Ramata Soré



Burkina Faso's Customs Service has been denounced as the most corrupt service in the West African nation by the independent National Network of the Anti-Corruption Struggle (REN-LAC).

BURKINA FASO

The Customs Chief and a Custom of Unequal Justice

*By Ramata Soré**

In Burkina Faso the law doesn't always apply equally to the rich and the poor, and if anyone had doubts, former Minister of Justice Zakalia Koté cleared them all out.

In 2007, the director general of the Customs Service in Ouagadougou, Ousmane Guiro, was charged with forging public documents that benefited local and foreign businesses and cost the country more than 500 million CFA (US\$1million).

Koté decided to take justice into his own hands.

"Mr. Guiro is not an average Joe. ... Jailing him after his first appearance in court is abnormal," he told a judge in 2008. He also swiftly asked another judge to take over the case from

OVERALL SCORE: 61 ■ WEAK
LEGAL FRAMEWORK SCORE: 64 ■ WEAK
ACTUAL IMPLEMENTATION SCORE: 52 ■ VERY WEAK

Category I	Non-Governmental Organizations, Public Information and Media	63	■
I-1	Anti-Corruption Non-Governmental Organizations	88	■
I-2	Media's Ability to Report on Corruption	85	■
I-3	Public Requests for Government Information	17	■
Category II	Elections	60	■
II-1	Voting and Party Formation	93	■
II-2	Election Integrity	86	■
II-3	Political Financing Transparency	2	■
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	48	■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	49	■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	38	■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	35	■
III-4	Budget Process Oversight & Transparency	71	■
Category IV	Public Administration and Professionalism	48	■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	38	■
IV-2	Whistle-blowing Protections	0	■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	84	■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	71	■
Category V	Government Oversight and Controls	69	■
V-1	National Ombudsman	97	■
V-2	Supreme Audit Institution	81	■
V-3	Taxes and Customs: Fairness and Capacity	79	■
V-4	Oversight of State-Owned Enterprises	8	■
V-5	Business Licensing and Regulation	79	■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	77	■
VI-1	Anti-Corruption Law	100	■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	75	■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	63	■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	69	■



Judge Stephane Sory, who was then accused of making “de la justice spectacle.” He was removed from the capital Ouagadougou, where he was serving, to Kaya, in the north of the country, which can be perceived as punishment.

Guiro denied the allegations and hasn’t since been summoned to the court for that case, and no further actions were taken against him. He was not suspended from his job, as stipulated by law. Guiro’s case was not raised during the criminal court’s special session in June 2011.

Sources within the judiciary who requested anonymity said that in 2011 Guiro’s case was moving toward a dismissal in his favor. The new judge assigned the case refused to comment about the dismissal but said she had forwarded her conclusions about a year ago to the General Prosecutor’s Office.

This reporter contacted the attorney general, Honorine Dabiré Méda, and she denied that Guiro’s case had been dismissed. However, she said she was not able to say when the case would be judged.

That was the situation until Jan. 1, 2012, when police seized suitcases containing about 2 billion CFA (US\$4 million) in cash and traced them to Guiro.

The discovery was hardly a surprise, considering Guiro’s background and the fact that Burkina Faso’s customs department has been denounced as the most corrupt service in the West African nation by the independent National Network of the Anti-Corruption Struggle (REN-LAC).

This time, though, President Blaise Compaore promptly reacted to the news, issuing a decree “ending” the services of Guiro. Prime Minister Luc Adolphe Tiao said, “(The government) is uncompromising when it comes to tackling corruption and misuse of public funds: Whoever the suspect is, the law should apply,” according to media reports.

Whether that’s true in Burkina Faso remains to be seen.

For judges to be committed to the fight against corruption, the judge who was assigned Guiro’s 2007 case said, there is a need for a new breed of courageous judges. “But we also need the support of the people, media and even institutions fighting against corruption,” the judge explained.

That support seems to have grown in 2011 with months of fierce protests and military mutinies that seem to have Compaore's government in a fragile state.

Judges: Part of the Problem, Not the Solution

Blaise Sondo, REN-LAC executive secretary, cited three reasons for why strong action is not taken against corruption in Burkina Faso's courts: The first is that many civil servants put politics ahead of their duty. The second is the existence of inadequate laws and the failure to implement the existing ones. And the third reason is the lack of judicial independence.

Many judges admit the prosecutor's office lacks independence concerning prominent persons.

Judge René Bagoro, chairperson of the Administrative Court of Ouagadougou and the General Secretary of the Magistrates' Union of Burkina Faso, said that the judiciary still suffers from its excessive dependence vis-à-vis the chancellery through the prosecutor.

"Therefore, the chancellery – and by extension the executive branch – controls prosecutions. This situation often prevents justices from taking action against influential people or those close to power. In addition, clientelism and politicization within the judicial system oblige judges to rub shoulders with politicians and other influential people and protect them when having troubles, yet this attitude undermines their sense of independence when it comes to rule on a case," he said.

One of the judges, who asked that he not be named, said, "The prosecution handles the case only if the facts are denounced by means such as the press and persistent rumors.

"The prosecution is headed by a Minister of Justice who reports to the executive branch and may prevent an attorney from opening an investigation against a guru [elite]," said the judge. "It is illegal, but as sad as it is, it is the daily matter in our judicial system."

The judiciary's weaknesses have been documented in international reports.

"Systemic weaknesses include arbitrary removal of judges, outdated legal codes, too few courts, a lack of financial and hu-

man resources, and excessive legal costs,” says the 2012 Index of Economic Freedom.

“The president’s broad powers and overwhelming majority of the ruling party have guaranteed the executive a legally secure monopoly on power. ... This state of affairs has persisted for years, and the elections of 2005-2007 consolidated the disequilibrium between the political branches,” the Transformation Index 2010, by the Bertelsmann Foundation, found.

Corruption, Big and Small

Customs offices such as those led by Guiro may be known as the most corrupt in the country, but they’re hardly an exception. According to the Business Anti-Corruption Portal, public officials often demand facilitation payments for licenses and services. The police, political groups, the judiciary, health care workers and tax collectors are the civil servants who, along with the media, most commonly engage in corruption.

Change is slow in this small West African state. Despite government steps to adopt regional and international legal anti-corruption frameworks, the lack of access to information, absence of whistle-blower legislation and weak enforcement power of anti-corruption institutions are still regarded as severe impediments to the fight against corruption.

Transparency International scored Burkina Faso at 3.1 out of 10 in its 2010 Corruption Perceptions Index, placing it 98th out of 178 countries. In 2011, it slipped to 3 out of 10 and ranked 100th out of 183 countries.

The Afrobarometer survey found that about 40 percent of respondents, in a nationally representative sample, thought that most or all government officials were corrupt, although less than 15 percent of respondents said they personally had paid bribes for government services.

The government of Burkina Faso has consistently prioritized policies and reforms to combat and punish corruption. At the level of petty corruption, there seems to be moderate effort to prosecute corrupt officials.

REN-LAC in 2009 conducted a “sting” operation against city workers in Ouagadougou who were requesting bribes to

expedite birth certificates and residency documents. REN-LAC turned over its report to the mayor's office, whose own investigation confirmed the accusations, and one person was arrested.

There remains a disconnect, however, between widespread perceptions of corruption, significant government rhetoric and institutional action, and the lack of prosecutions of grand corruption.

In 2009, lawmakers did not demand investigations when the media revealed big corruption cases, such as money misuse at the Commission of Data Protection (Commission de l'Informatique et des Libertés- IL) or the use of parallel checks at the Saponé sanitary district. In 2006, the National Assembly refused to suspend now late Parliament Member Bana Ouandaogo's immunity despite a request from the court. Ouandaogo, also chairperson of the Burkinabe Red Cross, was accused of embezzling more than 674 million CFA (US\$1.5 million) from the Red Cross' office.

"All these scandals show that despite many public institutions controlling the state's issues in Burkina Faso, the administration has not yet shown signs of its strong desire to clean up the mess, even though there have been some sporadic initiatives," said REN-LAC's Sondo. "Those actions remain an island in a sea of wrongdoings."

A Part of Everyday Life

If corruption of political and economic leaders is considered "big corruption" because of the large amounts of money involved through fictitious companies and embezzlements, corruption practiced by civil servants is "small corruption," said REN-LAC.

The Burkinabe government's actions in the fight against corruption are hesitant and at best a charm offensive to attract foreign aid and support, Sondo said.

REN-LAC, based on interviews to 2,000 people in 2008 and a similar number in 2009, reported that the amount of money lost via "small corruption" was approximately 30 million francs CFA (US\$60,000) in 2009 and 11 million francs

CFA (US\$22,000) in 2008.

Mafing Condé, a consultant on corruption with the World Bank and other institutions, thinks that the rise of the small corruption is due to ignorance, as people think they are obliged to bribe an agent to get any kind of help.

“When people need some help, they are ready to break the law, and that’s why, despite all the sensitization campaigns, we notice an increase of small corruption. The consequence is that between 2008 and 2009 the money (lost to) small corruption increased at least 66 percent,” he said.

After Guiro’s new arrest, Prime Minister Tiao vowed to be “merciless” on corruption cases and labeled “unacceptable” that “a civil servant can hold ... almost 2 billion CFA in a poor country.”

REN-LAC, which has frequently criticized “the submission of justice to political power and the impunity granted big white-collar delinquents,” welcomed Tiao’s words but asked for a judicial process without political interference. “We hope the judiciary inquiries continue without political interference of any kind, to clarify the origin of the money and that all those involved are found and punished,” said REN-LAC’s Sondo.

** Ramata Soré is an award-winning journalist. She has been an investigative journalist at the bimonthly newspaper L’Événement since 2001. Since 2005, she has been running her blog, <http://blog.ramata.info>, where she makes comments and analysis on local and international issues.*

William Murphy



In Ireland, a decade of tribunals uncovering unsavory links between big corporations and senior politicians concluded in 2010 with yet new inquiries about the deep economic crisis exacerbated by both official policies and bank governance failings.

IRELAND
Sleeping Watchdogs
Let ‘Celtic Tiger’ Boom Go Bust

*By Gerard Cunningham**

Ireland, which had endured a battering over the past decade and a half as several tribunals uncovered unsavory links between big businesses, took a beating again during the Irish banking crisis that began in 2008 and continued to reverberate in 2011.

As Ireland’s banking sector went into free fall, it was first forced to seek state guarantees, and eventually taken into state ownership as the details of over-reliance on the property sector to fuel growth became apparent.

Warnings that the “Celtic Tiger” economic boom was built on sand had been ignored.

Three reports were prepared on the banking collapse, one

by Central Bank Governor Patrick Honohan, and one by German economist and current head of the European Financial Stability Facility Klaus Regling and British academic and economist Max Watson commissioned by Finance Minister Brian Lenihan.

The third one was prepared by a statutory commission of inquiry approved by the Oireachtas (parliament) and headed by Finnish economist Peter Nyberg.

Finding Reasons for the Collapse

Regling and Watson found Ireland's financial crisis was largely "home-made," "bank governance and risk management were weak – in some cases disastrously so," and "official policies and bank governance failings seriously exacerbated Ireland's credit and property boom."

The absence of "forceful warnings from the Central Bank compounded the problem," which was a "plain vanilla property bubble."

The Honohan report, tasked with looking at the role of the Central Bank as the financial regulator in the crisis, was published in May 2010.

The report found "a degree of complacency about the likely performance of well-governed banks that proved unfounded."

Honohan criticized "a comprehensive failure of bank management and direction to maintain safe and sound banking practices" and "a regulatory approach which was and was perceived to be excessively deferential and accommodating."

The decision to extend a state guarantee to the Irish banks was not included in the list of things the Honohan report was asked to analyze, fueling suspicion that the political motivation was to protect property developers.

Investigations Continue

Criminal inquiries by the Office of the Director of Corporate Enforcement and Ireland's police force, An Garda Síochána, into some of these issues are ongoing. Former Anglo Irish Bank

chairman Sean Fitzpatrick has been arrested and questioned by Irish police, as has finance director Willie McAteer.

But the lack of progress in the three years since the implosion began has done little to inspire public confidence that those responsible will ever be held to account.

Trust in the Irish political process -- which has survived a decade long buffeting from the revelations in anti-corruption tribunals -- finally collapsed at the end of the decade, as the scale (and cost) of the banking collapse became clear and the country had to avail of a bailout funded by the “troika” of the International Monetary Fund (IMF), EU (European Union) and ECB (European Central Bank).

The Edelman Trust Barometer found in a September 2011 survey that trust in government and the political process was at 28 percent, the lowest in Europe, against a global average of 49 percent.

“It is a tremendously complex investigation,” said Michael O’Toole, crime correspondent with the Irish Daily Star. He added that one file sent to the director of public prosecutions (DPP) contains 17 volumes.

“I was told late last year that the investigation was 90 percent complete,” O’Toole said. “We know files have been sent to the DPP.

“White-collar crime is very, very hard to investigate and to prosecute, you’re talking gray areas. And that means more intelligence, more information, more evidence that has to be processed by the garda and the DPP.”

‘Herding and Groupthink’ Faulted

The Parliament-appointed statutory commission investigating the banking crisis reported in March 2011, “the extent to which large parts of Irish society were willing to let the good times roll on until the very last minute.” It criticized a “herding and groupthink” in financial markets.

But the act that governed the commission meant its inquiries were held in private, rather than airing evidence in public, and the failure of the report to “name and blame” individuals responsible for the crisis was widely criticized.

“There was a huge amount of naïvete, and a few individuals taking extremely naïve politicians for a ride,” says Ken Curtin, a local Fianna Fáil activist from Cork. “Unfortunately some of those extremely naïve politicians were at a very high level, and the naïvete stretched in a huge way into the civil service as well.”

The commission, though, declined to name names, leading independent Member of Parliament Richard Boyd Barrett to observe that the commission had “blamed everyone and no one.”

“In the case of the civil service, I believe that they never asked the question (about why the lack of active oversight) because it wasn’t part of their job spec, and they stuck with their particular box,” said Curtin. “And as long as they never had to ask the question, they were happy to keep driving on with what they were doing.”

In May 2011, Commercial Court Justice Peter Kelly strongly criticized the failure of the DPP to mount any prosecutions following commercial court cases involving judgments or millions of euros, despite what he called “prima facie evidence” and admissions of criminal wrongdoing with papers to that effect having been sent by him to the authorities years ago.

Undesirable State of Affairs

“This is not a desirable state of affairs,” he said. “An apparent failure to investigate thoroughly yet efficiently and expeditiously possible criminal wrongdoing in the commercial and corporate sectors does nothing to instill confidence in the criminal justice system as applicable to that sector.”

In the Dáil (House of Representatives), politicians pledged that new legislation would enable faster investigations in the future.

The Office of the Director of Public Prosecutions has a policy of not commenting publicly on criminal investigations so it wasn’t possible to obtain their version for this report, but in comments in November 2011 shortly after he retired, former director James Hamilton publicly said “the voluminous and complex nature of the evidence” in white-collar investigations

might require “expert juries.”

The judge granted an extension to the Office of the Director of Corporate Enforcement in its investigation into the former Anglo Irish Bank. The investigation is ongoing.

Among a weary and dispirited public, shell-shocked by the economic collapse of the last few years and jaded by years of revelations of corruption, there appears to be little faith that prosecutions will follow.

“I don’t know what a tracker mortgage is” – that was the opening line from a 2007 television commercial for the Irish financial regulator, promoting its consumer information services just as the 10-year “Celtic Tiger” boom peaked.

But as scandals rocked the financial sector and the incompetence of regulatory oversight was exposed, many in Ireland wonder if the regulator itself understood the complex financial instruments being used – and recklessly abused – by many of the banks under its watch.

** Gerard Cunningham has worked as a journalist since 2001, and is currently reporting on the Smithwick tribunal and contributing to the Scibernia science podcast. Previously, he worked as a contributing editor at Newswhip.ie, an Irish online news website. For five years he covered the Morris tribunal into Garda corruption for the Irish Times and RTE. He is the author of two books.*

Collins Kureyu



After PLO Lumumba, then director of the Kenya Anti-Corruption Commission (KACC), accused the husband of an assistant minister of attempting to bribe him to stop an investigation in 2012, Kenya's anti-corruption agency was disbanded yet again.

KENYA

The Hunters Get Hunted – or Kenya's War Against Corruption

*By Peter Moss**

Critics of Kenya's government may differ on the extent and scope of corruption, but they all agree on one thing: Corruption in the country is more deeply entrenched than ever before.

Showing once again that they are willing to have an anti-corruption body to satisfy international donors only to the extent that it doesn't actually expose corruption, in 2011 Kenya's political elite disbanded the Kenya Anti-Corruption Commission (KACC).

For the third time since its first creation in 1997, the commission ceased to exist after a fast and hard move by Parliament erased from the map and ordered the creation of a new

OVERALL SCORE: 68 ■ WEAK
LEGAL FRAMEWORK SCORE: 85 ■ STRONG
ACTUAL IMPLEMENTATION SCORE: 53 ■ VERY WEAK

Category I	Non-Governmental Organizations, Public Information and Media	65 ■
I-1	Anti-Corruption Non-Governmental Organizations	74 ■
I-2	Media's Ability to Report on Corruption	72 ■
I-3	Public Requests for Government Information	50 ■
Category II	Elections	62 ■
II-1	Voting and Party Formation	84 ■
II-2	Election Integrity	88 ■
II-3	Political Financing Transparency	14 ■
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	60 ■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	54 ■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	53 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	51 ■
III-4	Budget Process Oversight & Transparency	81 ■
Category IV	Public Administration and Professionalism	70 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	60 ■
IV-2	Whistle-blowing Protections	46 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	88 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	85 ■
Category V	Government Oversight and Controls	75 ■
V-1	National Ombudsman	57 ■
V-2	Supreme Audit Institution	90 ■
V-3	Taxes and Customs: Fairness and Capacity	88 ■
V-4	Oversight of State-Owned Enterprises	70 ■
V-5	Business Licensing and Regulation	69 ■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	78 ■
VI-1	Anti-Corruption Law	100 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	82 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	71 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	60 ■



Ethics and Anti-Corruption Bill.

The decision came by a Ministry of Justice and Constitutional Affairs proposal, filed shortly after in July the KACC director, PLO Lumumba, accused Dennis Apaa, the husband of an Assistant Minister of Tourism, Cecilly Mbarire, of attempting to bribe him to stop KACC investigating a firm in connection with irregular procurement of construction services in the Makueni district.

Apaa denied the allegations and Lumumba, the hunter, and his team of directors, were ‘hunted’ and sent off unceremoniously and a new team was to constitute the new anti-corruption body that lacks essential prosecutorial powers.

Kenyans ended up paying approximately 500 million shillings (US\$5 million) to compensate the officers relieved of their duties, per their contractual agreements.

On November President Mwai Kibaki signed the reform into law, an action perceived by political analysts and international observers as a political vendetta. Lumumba said his removal was payback for probing senior politicians.

When Lumumba took over office in 2010, he said, “there shall be no sacred cow ... the long-term health of the country requires that we exorcise the ghosts of corruption.” He talked of “high-voltage files” that would find their way to the Attorney General’s Office for action, with a pledge to “slay the dragon of corruption.”

A year later, KACC boasted of “intervening and disrupting a possible loss of public funds in excess of 1.51 billion shillings (US\$11 million),” and vouched for a declaration of graft as a “national disaster.”

But despite the constant restructuring of Kenya’s anti-corruption body, since 1997 there have been no tangible high-profile prosecutions or convictions of key suspects in major graft scandals, such as the Goldberg and the Anglo-Leasing scams.

In the Goldenberg scam, the government was found to have subsidized gold exports far beyond standard arrangements, which cost the country about 10% of its GDP and it is not clear that any gold was actually exported. The Anglo-Leasing scam refers to government contracts to print passports granted to a non-existent firm, later linked to government min-

isters. Both cases received wide media attention and those involved complete impunity.

This helps explain why the media often refers to it as “a barking dog with blunt canines that cannot bite,” or variations of the sentence.

A Strategy That ‘Condones Rather Than Condemns’ Corruption

Macharia Munene, political science professor at the United States International University in Nairobi, said that the anti-corruption institution has always been a political outfit. “The whole idea is to please international donors who press for such structural adjustments,” he said, but the corruption fight ends up being fictitious.

Munene views this lack of political commitment as a strategy that “condones rather than condemns” corruption.

Morris Odhiambo, executive director of the Centre for Law and Research International (CLARION), based in Nairobi, blames politicians for “playing games with the people.” He said the war against graft in Kenya has never started and reforms appear real only in theory and not in practice.

“I have never seen a bigwig being jailed for corruption,” said Rachael Nakhumicha, who sells groundnuts in Gikombaa market. “This government is just like the old one.”

It is against this backdrop that some Kenyans believe there is no political backup to end corruption. Boniface Thuku, a newspaper vendor in the heart of Nairobi, said he sells more newspapers when there are big headlines of political stand-offs, but “We are tired of political bickering in these sickening times of economic struggle.”

Former Corruption Fighter Declared a Drug Kingpin

In retrospect, the anti-corruption body never had much of a chance. Its first chief (for a few months in 1997), John Harun Mwau, now a member of Parliament, in June 2011 was designated by United States President Barack Obama’s administra-

tion as a drug lord under the Kingpin Act. The designation is applied to significant foreign drug traffickers and denies their businesses access to the U.S. financial system.

Known as “The Boss” within Kenyan political, social and business circles, Mwau responded to the U.S. designation by asking Kenya’s government to shield him from being “captured, shot and buried in the deep sea by U.S. snipers,” according to the Sunday Nation newspaper.

In November 2011, internal security assistant minister Orwa Ojode reported to Parliament that police investigations absolved the legislator of any involvement in drug trafficking, corruption, money laundering, human trafficking, contract killings – or “any criminal behavior”.

He continues to serve in Parliament.

Another head of the government’s anti-corruption agency was John Githongo, a former journalist who left the post in 2005. He later accused top government ministers of corruption for having links to a huge contract given to a nonexistent company, Anglo-Leasing, to print new high-technology passports and build navy ships and forensic laboratories.

Githongo left Kenya for the United Kingdom, citing death threats.

A 2009 U.S. diplomatic cable released by WikiLeaks in 2010 includes among those plotting Githongo’s death yet another former director of the Kenyan anti-corruption commission, Aaron Ringera.

According to the cable from the U.S. ambassador in Nairobi, “this TD corroborates Githongo’s conclusion about Ringera, who is identified in a room with leading Kikuyu politicians, including ministers of government, plotting to kill Githongo in 2009.”

“The conclusion one can draw from this report, combined with Githongo’s testimony, is that Ringera is part of those within the Kenyan political elite seeking to suppress information and those with information that could assist in punishing and minimizing corruption in Kenya,” the cable says.

Ringera has denied the allegations.

Githongo returned to Kenya and founded Inuka Kenya Trust, a grass-roots advocacy group aimed at creating an in-

formed citizenry. Githongo said he thinks that a way to end corruption is to uphold the principle of restitution, letting suspects give back to the public what they allegedly stole.

Odhambo, of CLARION, said Kenya needs “social sanctions” against perpetrators of corruption.

A New Anti-Corruption Agency, and an Old Fight

In December 2011, Kibaki and Prime Minister Raila Odinga announced the nomination of Mumo Matemu to head the newly constituted EACC. Matemu, a lawyer, worked as commissioner at the Kenya Revenue Authority. If he is confirmed by Parliament, his first task is likely to be preventing corruption loopholes ahead of the 2012 election.

The Task Ahead of Him Is Mighty

The book “The Anatomy of Corruption in Kenya; Legal, Political and Socio-Economic Perspectives,” says “Without understanding clearly how existing systems are made to malfunction so that a breeding ground for corruption is created, one can never create the environment to fight against corruption.”

Pivotal in the process is a measure that will ease access to public information. Otherwise, phrases such as “chasing the wind” and “taking a step forward and two backwards” will continue to better characterize Kenya’s strategy against corruption.

Or maybe it could be better said to resemble an act from “Waiting for Godot.”

** Peter Moss is a senior reporter with the Standard Group and has international experience as editor, researcher, producer and translator. He has won international awards for his reporting on human rights, poverty and hunger. His work was also shortlisted in the Commonwealth Broadcasting Awards. Moss is fluent in written and spoken Kiswahili.*

David Le Masurier



Since declaring its independence in 2008, Kosovo has struggled with corruption in local management, even in institutions like the Police. In 2011 the director of procurement for the Kosovo Police was indicted because of a rigged fuel supply contract.

KOSOVO **Policing the Police and Contract Fraud**

*By Lavdim Hamidi**

Who polices the police? In Kosovo, the Special Prosecutor Office is doing so, indicting the director of procurement for the Kosovo Police in connection with a fuel supply contract that could cost the young nation 280,370 euros (US\$391,055).

Xhevahire Vatovci, the procurement director, was indicted on Oct. 25, 2011, the result of a months-long investigation centering on the winning bidder for the fuel-supply contract, HIB Petrol. The court has yet to confirm the indictment.

Earlier that month a European Union Rule-of-Law Mission in Kosovo (EULEX) judge ordered the arrest of Vatovci on a separate case, related to fraud allegations on 2009 Kosovo

Police contracts for police weapons and ammunition.

The police fuel contract case is just one of scores of fraud inquiries in Kosovo involving government agencies and businesses, and officials and business people say many more possible frauds and bribes go undiscovered because companies are reluctant to file a report for fear of losing future work and contracts.

By June 2011, 119 cases of financial crimes were under investigation by the Special Prosecutor Office, and 47 percent of those involved public officials. Of the 119 cases, 50 focused on financial crimes and 69 were corruption cases.

Sevdije Morina, deputy chief prosecutor in the Special Prosecutor Office, said, "These corruption acts are usually very sophisticated, very difficult to investigate." Morina added that in 2011 the Special Prosecutor Office has given more importance to the cases most likely to be prosecuted.

The Kosovo Police HIB Petrol Fuel Case

Morina said the initial suspicion in the Kosovo Police case was raised when HIB Petrol submitted a tender that presented zero profit. Other companies competing for work normally calculated profit in the bidding price.

The investigation further revealed that besides the price, the cost of transporting the fuel was also included in the tender, which helped HIB Petrol to win the contract.

"The winning operator selected by the police presented zero profit on the price of fuel supply, which has emerged in the cheapest tender," Morina said. "But the internal police auditor thinks that this operator is actually the most costly, having included the cost of transportation among the supply price of fuel, which does not usually happen."

"The company that I represent is not under investigation, the contracting authority is," said Ibrahim Bucaliu, owner of HIB Petrol Company. He declined to comment on ongoing investigations but said that HIB Petrol competed in an open tender and was declared the winner.

A Kosovo Police spokesman, Baki Kelani, confirmed that an investigation is also being conducted by the Department of

Crime and Corruption within the Kosovo Police and Prosecution Office.

After the prosecution started the investigation, in February 2011, Vatovci was suspended with suspicion that she had abused her official position.

A Young Country Battling the Age-Old Problem of Corruption

Kosovo was an international protectorate under the United Nations' Security Council Resolution 1244 between June 1999 and February 2008, when it declared its independence from Serbia. All of its public assets and enterprises were internationally managed until 2007, when the transfer of power from international to local management was completed.

The European Commission (EC) in its 2010 progress report on Kosovo cited numerous and persistent irregularities in procurement practices. The EC report found that procurement officers remain in a weak position and subject to intimidation.

In early October 2011, Kosovo enacted a new law covering procurement practices, requiring that contracts with major financial value also be signed by top-level officials.

Kosovo's General Audit recommended strengthening the monitoring and follow-up of procurement activities, including actions aimed at helping to ensure that oversight agencies' recommendations are implemented and that officials are held accountable for their actions.

The EC's 2011 Progress Report on Kosovo, which was published in October, cited the procurement legislation as an improvement but noted that procurement practices in Kosovo still are not in line with European standards.

Much is at stake. The value of public procurement contracts awarded in 2009 has remained at around 20 percent of Kosovo's GDP, about 482 million euros (US\$645 million).

Corruption, the Cost of Doing Business

Numerous businessmen in Kosovo who would speak only on

condition of anonymity said that they cannot win public tenders in Kosovo without paying a percentage of the contract's value to corrupt officials.

One business owner recounted what happened years ago after he won a tender worth 17,707 euros (US\$24,040) to supply a public company with about 8,000 liters of motor oil.

After he was declared the winner, officials in the public company asked him to initially send 3,100 liters of oil and later the remaining 4,900 liters.

"When I brought 3,100 liters, a senior company official asked me to pay a 1,500 euro (US\$2,000) bribe, or about 10 percent of the contract," he said. "I refused to pay, arguing that I couldn't give such an amount of the money where the profit is very small."

After his refusal, the state company canceled the contract for the remaining 4,900 liters of oil. The state company simply said that the remaining oil was no longer needed.

"I've realized that their plan was to initially ask from me about 10 percent of the total value of the contract, as well as 10 percent on the second supply, or 20 percent overall of value of the tender," the businessman said.

Such bribes are all too common, businessmen say.

And such bribes illustrate why the "Public Pulse" report, launched in March 2011 by the United Nations Development Program (UNDP) in Kosovo, found that the third-biggest problem the country faces, after unemployment and poverty, is corruption.

According to the World Bank, the unemployment rate in Kosovo has reached 48 percent and poverty remains persistent and widespread, with 45 percent of the population below the national poverty line and 17 percent considered to be extremely poor.

The "Public Pulse" survey found that 15 percent of respondents said that in the last six months they were in a situation in which public officials conditioned performance of their services by asking for bribes, gifts and other favors.

Despite being forced to pay substantial sums of money to senior officials in public companies, or other state institutions, business executives often do not report this to the police

or prosecutor.

“If you present a case to the prosecutor or media, you will be known as person that doesn’t give money for corruption, therefore you could never win public tenders, since there exists a chain of corruption in institutions which cooperate very well with each other,” the businessman said. He added that many businesses prefer to pay a percentage on behalf of corruption, otherwise they are forced to close.

Because of this, the prosecuting body so far has failed to prove any case where officials accept bribes to favor certain companies in tenders.

Besides bribes, the EC’s most recent Progress Report found that the Kosovo justice system remains weak, citing a significant backlog of cases and the overall inefficiency of the courts.

Few Reports of Fraud, Yet a Sweeping Problem

Business associations say that few of their members complain that they are forced to pay a percentage of a tender in order to win the business.

Berat Rukiqi, secretary general of Kosovo Chamber of Commerce (Oda Ekonomike e Kosovës), the institution representing about 10,000 businesses, said that four years ago a business had complained to the chamber about not winning a tender, suspecting that the tender winner had paid off corrupt public company executives.

“He had doubts that another company has given money to win the tender but didn’t bring concrete evidence,” Rukiqi said.

He said there is a belief among businesses that some companies fail to win public tenders because certain businesses have close ties with strong institutional structures. As a result, only a select group of companies tend to land contracts. This has an impact on the reduction of capital and discourages further investments in Kosovo, he explains.

Avni Zogiani, the leader of the Organization for Democracy Anti-corruption and Dignity, or COHU (Organizata per Demokraci, Anti-korrupsion dhe Dinjitet), says that it is difficult to win public tenders in Kosovo without giving a percentage of money to corrupt officials.

Zogiani added that there are indications that businesses have to provide 10 percent to 20 percent of the total tender value in order to win tenders.

He explained that the organization he leads has conducted monitoring of tenders in institutions and the results were that main tenders are won by businesses which have connections with politics.

The newspaper Preportr, published by COHU, some months ago found that 40 million euros (US\$55 million) has been granted/contracted by two ministries of the Kosovo government (Ministry of Transport and Ministry of Education) to companies that have directly financed the biggest political party in the country, the Democratic Party of Kosovo (Partia Demokratike e Kosovës), during the electoral campaign 2009. The party is led by Prime Minister Hashim Thaçi.

The 40 million euros in contracts and grants, according to the newspaper, was awarded to eight companies through 24 public bids.

Zogiani said, “Businesses are serving politics by providing funds, while the politics rewards them with public tenders.”

Business leaders confirm the situation.

Nehat Emërllahu, owner of the company Proterm in Pristina, a firm specialized in the installation of heating and air conditioning systems, says his company faces many difficulties to win public tenders in Kosovo.

Five years ago, Proterm’s annual financial turnover was 3.7 million euros (US\$5 million) and now it barely reaches 700 thousand euros (US\$941,642), which has forced the firm to reduce workers from 100 to 25.

“We cannot win public tenders because everyone already knows that we don’t give money for corruption to win a tender,” he said.

** Lavdim Hamidi is journalist with 10 years experience in several print media in Kosovo. He is covering the economy in the daily newspaper Zeri in Pristina. In 2010, he won the Special Award for Investigative Journalism in Kosovo; in 2008, he won first prize in the competition for the Balkan Fellowship for Journalistic Excellence in Vienna, Austria.*

Radio Free Europe



In Macedonia, investigative journalists have gone from corruption fighters to corruption victims due to the government and the private sector's influence in media organizations, through advertising pressure or politicians' ownership of news outlets.

MACEDONIA

Reporters, from Corruption Fighters to Victims of Corruption

*By Aleksandar Bozhinovski**

When Peter, an investigative reporter at a newspaper in Macedonia's capital city of Skopje, wrote a story about a small impoverished town in the eastern part of the country, he had no idea the story would cost him his job.

Peter, not his real name, is in his 30s. His editor, someone he had worked with going back to 1996, wanted a story looking at the town and its people 20 years after Macedonia's independence.

"It wasn't an investigation, and I knew what people were going to say. It was a boring thing, to say honestly," Peter said. "People told me that they feel miserable, unemployed and with

OVERALL SCORE: 78 ■ MODERATE
LEGAL FRAMEWORK SCORE: 93 ■ VERY STRONG
ACTUAL IMPLEMENTATION SCORE: 63 ■ WEAK

Category I	Non-Governmental Organizations, Public Information and Media	80 ■
I-1	Anti-Corruption Non-Governmental Organizations	81 ■
I-2	Media's Ability to Report on Corruption	74 ■
I-3	Public Requests for Government Information	85 ■
Category II	Elections	82 ■
II-1	Voting and Party Formation	94 ■
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III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	68 ■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	72 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	71 ■
III-4	Budget Process Oversight & Transparency	83 ■
Category IV	Public Administration and Professionalism	77 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	68 ■
IV-2	Whistle-blowing Protections	67 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	90 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	84 ■
Category V	Government Oversight and Controls	84 ■
V-1	National Ombudsman	87 ■
V-2	Supreme Audit Institution	96 ■
V-3	Taxes and Customs: Fairness and Capacity	85 ■
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V-5	Business Licensing and Regulation	75 ■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	72 ■
VI-1	Anti-Corruption Law	100 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	68 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	71 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	50 ■



no hope. Literally everybody I talked with blamed Ljubisav Ivanov – Dzingo (mac: Љубисав Иванов – Синго), general manager of Rik Sileks Ad Kratovo (mac: Силекс), a big company in the mining sector, for their poverty and hopelessness.

“I wrote a short article,” Peter said. “Never even in my worst imagination did I assume that this was going to cost me my job.”

The next day, when the article was published, Peter and other journalists at the newspaper heard angry shouting and hand-pounding on the table from the office of newspaper manager. Peter’s editor and the newspaper company’s manager were also overheard shouting in the office.

Later, Peter’s editor told him the company manager was very angry about Peter’s article and urged the editor to fire Peter. The newspaper manager refused.

But a couple of days later, Peter was called into the newspaper manager’s office and fired. He was accused of selling information to the competition “with no evidence whatsoever,” Peter said. “I was shocked. The manager told me that I will probably not get another working contract.”

A week later, Peter’s editor also was fired.

Government’s Advertising Buys Influence

Peter blamed the mining company’s general manager, whom he suspected of exerting pressure on the newspaper. Dzingo is a member of Macedonia’s Parliament and president of the Socialist Party (Социјалистичка партија на Македонија), a coalition partner of the ruling party, VMRO-DPMNE (mac: ВМРО-ДПМНЕ). He holds the ministry seat for agriculture.

Peter said he believes Dzingo wields such power in government that he can do substantial financial damage to the newspaper. Macedonia’s government, since VMRO-DPMNE took power in 2006, is the newspaper’s biggest advertiser.

Official figures on the government’s advertising spending have never been released, despite numerous requests by organizations such as Transparency International.

Roberto Beliĉanec (mac: Роберто Беличанец), executive director at Skopje-based nongovernmental organization Me-

dia Development Center (mac: Центар за развој на медиуми), says that prior to 2006 Macedonia's government never spent so much money on advertising. While there always has been speculation about which newspaper or TV station was more aligned with the various political parties, he said the surge in advertising – with the government constantly running some media campaign – has allowed Macedonia's leaders to manipulate the media.

Politicians' Sons Run Broadcasters, Violating Law

Dzingo may wield more influence over national TV broadcaster Sitel (mac: Сител), where his son Goran Ivanov is general manager. Another TV broadcaster, Channel 5 (mac: Канал 5), is run by Emil Stojmenov (mac: Емил Стојменов), son of Borislav Stojmenov (mac: Борислав Стојменов), a businessman, former minister of finance, member of the Macedonian Parliament and president of VMRO-Makedonska (mac: ВМРО-Македонска), another coalition partner of ruling party VMRO-DPMNE.

This violates Macedonia's law.

"The root of corruption in Macedonian media lies in laws," Beliĉanec said. "I don't mean how they are written, but because they are ignored by major media outlets.

"The law for broadcasting media clearly forbids public representatives to own or run media, directly or indirectly," Beli anec said. "It's a very good law; it was hailed by the EU five years ago."

Article 11 of the law covering broadcast media states: "Political parties, institutions of state, institutions of state administration, public companies, local self-management, public administrators and members of their families, shall not conduct broadcasting or be owners, co-owners or in any way participate in ownership of broadcasting media."

Zoran Stefanovski, president of the Broadcasting Council (BC), Macedonia's regulatory body, underscored the influence wielded on broadcasters and vowed to take action.

"The Council for Broadcasting Media is elected by the Parliament," Stevanovski pointed out. Borislav Stojmenov and Ljupco Dimovski, with their leadership roles in coalition

partners and in conjunction with the ruling VMRO-DPMNE, “have key influence in the council.”

“I’ve been trying for months to persuade other members of the council that we must react, we must shut down Sitel’s and Channel 5’s license for broadcast, but they refuse,” he said.

“It’s simply political power over law. But I won’t give up,” Stevanovski pledged. “Before the new year I will start a new initiative to shut down those two TV stations. The other alternative is for both of them, Stojmenov and Dzingo, to resign from Parliament.”

Channel 5 and Sitel TV said they had no comment.

The government’s influence over the media is further increased by the flood of advertising during election campaigns, Beličanec said.

While the law allows political parties to advertise on broadcast media, it bars discounts or other or other privileges to be given to political parties.

“But this is broken most of time,” Beličanec said. “In fact, like the case with Channel 5, this TV station comes up as a sponsor of VMRO-DPMNE during last parliamentary elections. There was a similar case with A1 TV (now closed after filing for bankruptcy) where SDSM, the opposition social democrats (former communists), spent most of their money.

“Corruption in the media is quite clear for me,” Beličanec said.

Taking a Stand as a Witness to Media Abuses

Like Stevanovski, Macedonian journalist Ognen Čančarevic is fighting corruption in the media. The public prosecutor called Čančarevic to testify as a witness to abuses at his former employer.

“With high hopes I joined the journalist team at the daily *Vreme* in 2004,” Čančarevic said. But just a few months after starting, Čančarevic started having suspicions about his employer’s business practices. “They didn’t give us a salary on a bank account, but in cash. I believed that this was a temporary situation. But it wasn’t. I and other colleagues never received paychecks – always cash.”

Čančarević also discovered that the company was not paying for his health, social or pension insurance.

“I couldn’t believe this, so I asked the editors of the paper who didn’t know what to say or were telling me that everything was OK, and that insurance would be paid all at once,” he said.

“I called the authorities many times, even from the mobile phone which was given to me by the owner of the paper. I’ve sent them official complaints and gave them a copy of my job contract,” Čančarević said. “Breaking of the laws was quite obvious. Nevertheless, the authorities never took any action.

“Even when I gave proof that my company didn’t pay income tax (in Macedonia, income tax is paid by employers), authorities remained silent,” he said. “From 2004 until I left Vreme in December 2007, the company paid only a small portion of my insurance, all in all for approximately 18 months. To this day, my insurance, as well as that of my colleagues from Vreme, has not been paid,” said Čančarević, who now works for the daily newspaper Vecer.

However, authorities did take action in late 2010, when Velija Ramkovski, the owner of Vreme as well as two other daily newspapers and TV stations A1 and A2, was arrested along with managers in his companies and charged with tax evasion, money laundering and creating a criminal organization.

Ramkovski is now in custody, and his trial continues.

Until 2009, Ramkovski’s A1 TV was the recipient of a substantial amount of government money for advertising. Ramkovski, speaking in an A1 studio, claimed that the government of Premier Nikola Gruevski paid him 4 million euros for government commercials from 2006 until 2010. Ramkovski’s A1 TV was viewed as a supporter of the government. That is until the beginning of 2010, when his A1 television suddenly started to criticize the government.

Čančarević, one of the first to take the stand against Ramkovski, said of the whole experience: “I don’t feel justice. I feel even more corruption on my shoulders because my insurances are not paid and Vreme still owes me one salary. It will never be paid because the firm doesn’t exist anymore.

“I have done everything legally. I responded immediately when the state wanted my help in resolving the crime, even risk-

ing my personal safety,” he said.

‘Legalized Corruption’

Lidija Dimova, executive director of the EU-sponsored Macedonian center for European training, is a fearsome critic of corruption in media.

“We as well as Transparency Macedonia (TM) have noted since the coming to power of Prime Minister Nikola Gruevski and his VMRO-DPMNE party, the nontransparent, irrational and unjustified spending of the country’s budget money to finance campaigns in media owned by people who are in political alliance with government. According to TM, this causes pressure on the media’s objective and impartial reporting regarding government performance.”

Ilmi Selmani (mac: Илми Селмани), president of Macedonia’s State Anti-Corruption Commission, called this “legalized corruption.”

“For me corruption is quite clear, in both directions – media toward political parties and vice versa,” Dimova said.

As for Peter, the investigative reporter whose story about an impoverished town and its people cost him his job, the corruption is even clearer. Peter, who is telling the story of what happened to him for the first time, is a victim of the government’s corruption of the media.

Peter, an award-winning journalist, still can’t find a job in the media. He is scraping by now on social welfare.

“I’m not sure I want to work in journalism in Macedonia anymore. It stinks,” Peter said. “Maybe it is time for a career change.”

**Aleksandar Bozhinovski has been an investigative journalist in Macedonia since 1996. Beginning at the daily newspaper Vecer, he has also worked at Nova Makedonija, Vreme and the weekly Forum, covering cases of organized crime, terrorism and issues involving the police and army. Bozhinovski won second place in the best investigative story category from Danish Scoop institute and Macedonian Media Institute.*

Secretaría de Relaciones Exteriores de México



In a session with lawmakers about U.S. drone flights over Mexican territory, foreign relations secretary Patricia Espinosa said the law allows the president to approve such flights, but a journalistic investigation found no paper trail that the permits exist.

MEXICO

Ghost Records of Surveillance Flights – This Is Transparency?






























*By Daniel Lizárraga**

Mexico's war against drug trafficking took a new turn early in 2011 with the United States sending unmanned drones over the country, according to a New York Times story.

But were these flights for intelligence purposes approved by Felipe Calderón's government? U.S. officials say yes, according to the New York Times, but an extensive search turns up no records of Mexico's government receiving written requests from President Barack Obama to allow such activities.

The search also didn't find any official documents regarding the number of flights, routes, names of officers in charge, or final destination of the collected information.

OVERALL SCORE: 67  WEAK
LEGAL FRAMEWORK SCORE: 83  STRONG
ACTUAL IMPLEMENTATION SCORE: 51  VERY WEAK

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Eight requests for access to information addressed by this reporter to the Mexican security Cabinet turned up nothing.

The Times' story in March said the overflights began in February, and that Calderón and Obama discussed the drone flights during a meeting at the White House early in March. The revelations prompted opposition lawmakers to summon Chancellor Patricia Espinosa to explain the situation before Mexico's Senate.

Stammering her words and avoiding eye contact with her questioners, the foreign relations secretary stated that, according to the Constitution and the National Security Law, granting such permits and authorizations was an exclusive power of the Mexican president.

"Hundreds of overflying permits are granted every day. All of them are granted in the exercise of powers vested upon the Executive Power," she said. "The National Security Law bestows the power to obtain information, with due respect to individual rights," she emphasized.

Ghost Flights and Ghost Records

However, despite what she told the congressmen, the permits don't seem to exist.

The Federal Law of Transparency — effective since 2003 — grants to citizens and media the right to demand records from public servants about the decisions they make in the exercise of their powers. The war on drug trafficking is not exempt from that law.

In March 2011, this reporter requested of the Office of the President access to information on permits, authorizations, number of flights, routes, and the results of the anti-drug operation in which unmanned U.S. aircraft have been used.

The answer from Los Pinos, the president's residence, was that such information does not exist in the archives.

The Office of the President suggested checking with Air Space Navigation Service and the Center for Research and National Security (Cisen). The answers from both of these agencies were the same: The information on permits, authorizations, number of flights, routes, and the results of the anti-drug

operation does not exist in their archives.

Despite several requests, neither the Calderón administration nor Espinosa's press office answered questions about why there is no written record of the permits Congress was told about.

In October 1997, the Mexican government put in effect the Coordination Basis for Authorizing Overflights in Mexican Air Space. This agreement provided the procedure for authorizing the entrance of foreign aircraft in Mexico for intelligence fact-gathering purposes.

In her appearance before the Senate, Espinosa said that all the overflight requests by the United States and permits were supported by the Constitution and the National Security Law. She did not, however, mention the agreement in effect since 1997.

'An Exclusive Power of the Executive Branch'

"Permits have been granted in specific cases, with quite concrete goals, to gather intelligence information through unmanned aircraft," she said. "It is an exclusive power of the Executive Branch."

Considering the chancellor's statement, this reporter prepared a new package of requests seeking access to the information and addressed them to the agencies in charge of processing the requests or permits related to foreign aircraft.

The answer was again negative. The army, the navy, the Attorney General's Office, the Secretary of Communication and Transportation and the Chancery itself replied that such authorizations are not filed in their archives.

No specific article in the National Security Law vests the Executive Branch with the power to authorize – without the support of official documents or files – overflights by foreign aircraft for intelligence collection purposes.

The Federal Law of Transparency provides that the authorizations or permits for such overflights — if there were any in this case — could be kept reserved for up to 12 years, or alternatively classified, so that their contents could never be known.

In Mexico, a reserved document cannot be opened in a period ranging from one to 12 years, while a classified document can never be known.

However, the secretaries, agencies and the Office of the President did not appeal in their answers to the right to keep the information reserved or confidential, but expressly declared that such documents do not exist in their archives.

Mike Vigil, a retired chief of international operations for the U.S. Drug Enforcement Administration, told *The New York Times* it wasn't that long ago there was no way the DEA could conduct overhead surveillance in Mexico. He added, "And the only way they're going to be able to keep doing them is by allowing Mexico to have plausible deniability."

Lawmakers Call for Action Against the President

Senator Ricardo Monreal, from the Partido del Trabajo (Work Party, or PT), said the absence of written authorizations for the overflights constitutes "a violation to the national sovereignty" for which political trials (impeachment) should be initiated against the responsible persons, who could include the current chancellor and Calderón.

In his opinion, due to the bilateral character of these events, Calderón's government should advise the High Chamber about both the overflight authorizations and the existence of an agreement of that sort.

Senator and former Foreign Relations Secretary Rosario Green said that the legislators of the Revolutionary Institutional Party, or PRI (Partido Revolucionario Institucional), "are fed up with the chancellor going once and again to Congress to tell lies about the agreements with the United States."

She said, however, that initiating trials derived from all this will not be easy because there is a loophole in the Constitution: "It speaks about defending the territory and the seas, but it is not clearly specified that this includes the airspace."

However, Green said in any case the National Security Act describes the procedures required for foreign governments requesting travel authorization for intelligence work and such procedures were not followed in this case.

That means that even if the decisions were classified, there should have been a registry for the file number, but the Mexican government can't show any files – classified or otherwise – related to these flights.

With no records, Mexican historians, scholars and media will not be able to review this bilateral decision or to know how it was made, on what terms, and what results were obtained.

Mexico Then and Now – and Increased Accountability

Cases like this are a test for the Federal Law of Transparency and Access to Public Government Information and Personal Data and the more-transparent Mexico that followed the more than 70 years of dominion by the PRI — “the perfect dictatorship,” as Peruvian writer and Nobel Prize winner Mario Vargas Llosa once called it.

The law enacted eight years ago — July 2003 — has prompted changes in Mexico, enabling citizens to demand accountability about how public resources are used.

“The Mexican Model,” as this system of transparency is called in Central and South America and the Caribbean, has also facilitated investigative journalism. Nowadays, 240 agencies of the federal government are compelled to answer information requests.

Despite the increased transparency, the perception of corruption in Mexico remains at the same level — and in some years is even worse than it was under the PRI.

Mexico was rated 3.1 on a scale of 1 to 10 in Transparency International's 2010 Index of Corruption Perceptions. This rating placed the country 91st among the 130-odd participant nations. Mexico has always oscillated between 2.5 and 3 points on TI's corruption scale; countries scoring 5 or better are considered “clean” of corruption.

Another advantage of the Federal Law of Transparency for citizens and, above all, for journalists is the ability to trace the whole decision-making process of the government. The law certainly helped this reporter in seeking records on the un-

manned flights.

The law, however, does not clearly define any sanctions to be imposed on a state officer, such as Espinosa, for giving the Senate information that cannot be proved by any documentation.

“I instruct all public servants in charge of transparency to not mechanically apply reservations in their decisions over the issues they handle,” said Calderón last August when opening the last Transparency Week organized by IFAI.

During the last five years, his government initiated 32 trials against IFAI because this institute forced it to deliver information.

The Mexican legal system allows the government to protest against IFAI’s decisions, and Calderón chose to do so in a court of administrative justice. The judges are appointed to Calderón’s proposal and have no budgetary autonomy, but IFAI has never lost a trial and in some cases the judges disqualified themselves. However, that doesn’t mean IFAI’s recommendations are always followed.

The Attorney General’s Office (PGR) — one of Calderón’s administration’s judicial arms — has refused to open at least 15 dossiers or more in spite of a decision of IFAI commissioners against it. The IFAI has called for the punishment of the Attorney General for failure to provide information to citizen, but sanctions can only be imposed by an instance controlled by Calderón’s government.

** Daniel Lizárraga is an investigative reporter and the managing editor of news website Animal político. He published several investigations for newspaper Reforma and La Revista, a magazine of the newspaper El Universal dismantled after an act of censure against an article about corruption involving former President Vicente Fox. Since 2005 and to date, Lizárraga covers the President and investigates as cases of corruption and accountability.*



Bhadra Sharma

Former police chief Om Bikram Rana (in brown coat) appeared before the Special Court for his involvement in the “Sudan scam.” In 2011, the UN disqualified its forces from a mission in Sudan due to a fraud linked to substandard equipment.

NEPAL

Sidelined Peacekeepers and a Headless, Toothless Anti-Corruption Body

*By Bhadra Sharma**

Corruption, all too common in Nepalese government, received international attention in 2011 when the United Nations disqualified Nepal’s police from a peacekeeping mission in Sudan because of fraud linked to substandard equipment purchased for peacekeepers.

The U.N. decision was a big blow to Nepal’s pride of five decades of contributing troops to the U.N.’s peacekeeping missions in war-torn countries. The United Nations Mission in Darfur (UNMID) declared the Nepali force “defunct,” citing dysfunctional Armored Personnel Carriers (APCs) supplied from the Czech Republic and reportedly used in World War II.

An inquiry by Nepal's parliament State Affairs Committee (SAC) into the purchase of the inferior APCs and other logistics for the peacekeeping mission concluded that Rs 310 million (US\$4.03 million) out of total Rs 445 million (US \$5.79 million) allocated for procurement was embezzled with the involvement of influential politicians, senior police officials and contractors from Nepal and the United Kingdom.

The "Sudan scam," as it is known in Nepal, is just the tip of the iceberg.

"Sudan scam is making national and international headlines, but there are bigger cases too," said Shreehari Aryal, general secretary of Transparency International-Nepal. "The Ministry of Finance itself says the government lost 4-5 billion rupees (US\$52.1 million to US\$65.1 million) in a fake VAT bill scandal. Around 100,000 hectares of forest worth Rs 16 billion (US\$210 million) was deforested. Political protection is behind all forms of corruption."

During the fiscal year 2010-2011, 6,145 corruption complaints were logged at the Commission for the Investigation of Abuse of Authority, or CIAA (Nepali Akhtiyar Anusandhan Durupayog Aayog). The complaints included corruption charges filed against high-profile former ministers — Forest Minister Deepak Bohara, former Physical Planning and Works Minister Bijaya Kumar Gachhadar, and former Energy Minister Prakash Sharan Mahat.

Also, former Local Development Minister Purna Kumar Sherma, former Labor and Transport Management Minister Mohamad Aftab Aalam, former Minister for Women, Children and Social Welfare Sarba Dev Ojha, and former Health Minister Umakant Chaudhary.

The CIAA dismissed the case against Aalam and Chaudhary with directives that they not repeat their mistakes, but the cases filed against the others are still pending. Aalam was accused of taking bribes in appointing labor attaches; Chaudhary was accused of distributing state money in the name of "health relief" and transferring ministry officials taking money. However, the bureaucrat-led CIAA officials said they could not find substantial evidence to prove that the former ministers had received money.

A Closer Look at the Sudan Scam

How did World War II-era APCs end up being bought for the Nepali police peacekeeping force in Sudan? Influential politicians, including the former home minister overseeing the police, siphoned millions during the military purchases. Nepali Congress (NC) leader Krishna Prasad Sitaula and Communist Party of Nepal-United Marxist and Leninist (CPN-UML) leaders Bam Dev Gautam and Bhim Rawal headed the ministry during the procurement of the APCs.

“Of the total Rs 445 million (US\$5.93 million) allocated for the purchase of arms, around 290 million (US\$3.77 million) was embezzled by the then ‘political and administrative leadership,’ hence substandard weapons were supplied for the mission,” said Ramnath Dhakal, chairman of the SAC.

The SAC urged the CIAA, Nepal’s constitutional anti-graft body, to investigate and charge any officials responsible in the Sudan scam. However, the CIAA could not question or charge politicians including Rubel Choudhary, son-in-law of the former deputy prime minister, and foreign affairs minister Sujata Koirala, who is also a daughter of the late Girija Prasad Koirala (Nepal’s five-time prime minister), during its 18-month investigation into the scam. Media reported that Rubel Choudhary worked as “power broker” between two suppliers — Michael Rider, director of the London-based international munitions supply company Assured Risks Pvt. Ltd., and his local agent Shambhu Bharati, who is also director of Bhagwati Traders.

The CIAA in June 2011 filed corruption cases against 34 senior police officials, including former police chiefs Om Bikram Rana, Hem Bahadur Gurung and Ramesh Chanda Thakuri, at the Special Court. None of the home ministers was charged.

Most officials who have been charged have blamed the security forces’ chain of command.

Besides police officials, two suppliers — Rider and Bharati — were charged with embezzling around Rs 290 million (US\$3.77 million). In the charge sheet, the CIAA concluded that Rider and Bharati abetted Nepal police officials and poli-

ticians in designing, purchasing and supplying obsolete APCs and other logistics.

The CIAA did not charge Choudhary, a Bangladeshi national who had been actively involved in various business activities under the protection of his mother-in-law in Nepal, Koirala, though the media had reported his involvement and cited alleged evidence of his role in the Sudan scam.

Dilli Raman Acharya, the CIAA lead investigator assigned to the Sudan scam case, said he lacked sufficient time to investigate the details of the Sudan scam. Choudhary is already on the Nepal police's most-wanted list for operating an illegal Voice over Internet Protocol (VOIP) service.

'The Headless CIAA Cannot Do Anything'

The CIAA was asked to investigate former Forestry Minister Bohara and former Finance Minister Bharatmohan Adhikari, who were accused of promoting deforestation and protecting tax evaders respectively. But the CIAA dismissed the cases without investigating the allegations.

Bhagwati Kafle, acting chief commissioner of the CIAA, said the body is currently not able to deal with political cases. "The headless CIAA cannot do anything in cases in which politicians are facing corruption charges. The same accused can try to overrule our decision through the Cabinet."

The CIAA's chief commissioner post has remained vacant for the last five years, and the entire board has been vacant for the last two years. The problem is the major political parties want to appoint commissioners loyal to them and won't approve candidates who aren't. Members of the Nepali Cabinet have historically often tried to influence CIAA decisions concerning politicians accused of corruption.

The lack of a permanent head of the CIAA is also hampering prosecution of cases against businesses.

Former Nepal Airlines Corporation Chairman Sugat Ratna Kansakar and some other contractors filed petitions at the Supreme Court challenging the CIAA's authority in cases. The Supreme Court sided with the CIAA, and Kansakar was forced

to return US\$750,000 that was sent to Airbus, violating the Public Procurement Act, to purchase aircrafts. A joint bench led by the then-Chief Justice Ram Prasad Sharestha concluded that the bureaucrat-led CIAA's decision was valid in the Airbus deal and the ruling was established as court precedent.

A Tale of Two Finance Officials

The case against Nepal's finance minister, Adhikari, who was accused of protecting tax evaders, was dismissed by the CIAA. However, Finance Secretary Rameshor Khanal resigned when Adhikari attempted to prepare a budget that would protect only the interests of businessmen.

"He even consulted with some tax-evaders to lift the fines for evading tax; then I quit," Khanal said.

Khanal's statement was later proved true, and Adhikari was forced to cancel his plan.

According to Khanal, Adhikari had tried to prepare a budget with a provision to waive fines imposed against 270 business firms, fines worth Rs 3 billion (US\$39.9 million).

Some say political instability has contributed to corruption and inaction in Nepal. Five prime ministers – Girija Prasad Koirala, Pushpa Kamal Dahal, Nepal, Khanal and Baburam Bhattarai – have taken office since the abolishment of Nepal's monarchy in 2008.

The inability to appoint commissioners at the CIAA and the failure to hold elections at the local level – for the District Development Committee, Municipality and Village Development Committee – contributed significantly to corruption, said Shreehari Aryal, General Secretary at the Transparency International-Nepal.

Instead, all the prime ministers distributed the state coffers to party men in the name of relief assistance. The details authorities collected from the prime minister's office show Dahal, Nepal and Khanal jointly distributed Rs 290 million (US\$386 million), which is equal to the amount distributed in the Sudan scam for relief.

Newly elected Prime Minister Bhattarai, however, has vowed not to do so.

CIAA spokesman Ishwori Paudyal said the government's decision to distribute state coffers to party men was a stark violation of Nepal's prevailing law.

The absence of elected representatives at the local level for the last 10 years has promoted irregularities. "Fiduciary risk is high at the local level, and civil servants have been facing extortion, attacks and threats from political parties and armed groups for money," said Dinesh Thapaliya, spokesman for the Ministry of Local Development.

Three billion rupees (US\$39.9 million) allocated for the local bodies went missing from the state coffers just before the end of the fiscal year 2010-2011.

Consequently, in 2010, the ministry's arrears reached Rs 6.7 billion (US\$85.09 million) from Rs 2.62 billion (US\$33.27 million) in 2008.

One Step Forward, One Step Back

In February 2011, the House ratified the United Nations Convention against Corruption, but still much remains to be done.

Narayan Manandhar, an anti-corruption expert who is currently conducting a research on "Corruption Measurement Practices and Anti-corruption Strategies in Asia Pacific Region," said there is not more corruption in Nepal now, but it seems to be more complex of late. "The practice of bribery seems outdated in Nepal. Instead, a large amount of the government budget is being misused consensually by the political parties," Manandhar said.

In recent years, Nepal has slipped in the global index of transparency, accountability and corruption. Transparency International's most recent annual report released in 2011 placed Nepal as the second most corrupt country in South Asia after Afghanistan. In 2010 Nepal ranked 146th in the list of least corrupt countries; in 2011, the country fell to 154th.

Despite the leaders' claims that they are committed to zero tolerance in corruption, the fact remains that the national anti-corruption body has been operating without constitutionally appointed commissioners for the last five years, and its performance is weakening.

This is not the only area where Nepal's leaders are unwilling to move from words to action. After the 2006 peace deal signed between the then seven- party alliance and the former Maoist rebels, the completion of the constitution writing and the strengthening of democratic institutions became nobody's priority and results have yet to be seen.

"Lack of political will to control corruption and failure to strengthen anti-corruption mechanisms fueled corruption in Nepal," said Aryal, of Transparency International-Nepal.

** Bhadra Sharma is a journalist working with Nepal's leading English daily newspaper The Kathmandu Post. He covers political affairs with special focus on good governance and has also been conducting research on "Transitional Corruption in Nepal."*

Official website of the Republic of Rwanda



On a retreat in early 2012, ministers signed performance contracts with President Kagame (left), as part of Rwanda's policy against corruption. The contracts' downside is that the slightest suspicion of funds misuse can lead to arrests, with or without evidence.

RWANDA

Performance Contracts: Between Accountability and Overzealous Arrests

*By Ignatius Ssuuna**

Sinese Museveni, former Gicumbi District executive secretary in Northern Province, was stopped by the district's guards as he tried to enter his office in July 2011.

The district leadership accused him of refusing to pay debts the district owed to various private service providers. The district advisory council, the highest governing body, passed a vote of no confidence, firing Museveni over alleged incompetence.

Museveni, however, says his trouble arose from his opposition to releasing funds without the proper supporting documents. "They wanted me to go to jail," Museveni said in an interview.

After his dismissal, Museveni petitioned the Ministry of Local Government and the Office of the Ombudsman to intervene so that he might be reinstated. The ministry has yet to look into the matter.

“My experience shows that mismanaging public funds is the worst crime in Rwanda. Once you are implicated, all people isolate you and you become an outcast,” Museveni said.

The minutes of the May 2011 district council’s meeting indicate that Vice Mayor Alexandre Mvuyekure acknowledged that indeed some creditors did not provide proper documents to support their claims. Later, Mvuyekure changed his position and said Museveni’s allegations were not true.

A source from Nyagatare District in Eastern Province -- who asked to remain anonymous -- said that due to the policy of zero tolerance of corruption, government employees end up being arrested even when there isn’t enough proof that they are corrupt.

“By the time proper investigations are done, one could have spent months in prison,” the source said.

In recent years, several executive secretaries, the accounting officers for the districts, have lost their jobs or landed in prison for failure to account for public funds.

In Musanze District, former executive secretary Oswald Habumuremyi and Mayor Celestin Karabayinga found themselves in jail for alleged embezzlement of taxpayers’ funds.

Months later, the prosecution dropped the cases against the two because they lacked enough evidence to sustain an embezzlement case against them.

Firings and accusations without enough evidence to win a case occur in part because district officials sign performance contracts and are under pressure to meet their targets. And because of Rwanda’s zero tolerance policy against corruption, any slight suspicion that public funds were not properly used can lead to arrests – even when there is not enough evidence against them.

Holding Leaders Accountable

The idea of public servants signing performance con-

tracts, locally known as Imihigo, was first institutionalized in Rwanda in 1996.

District leaders (mayors) sign contracts before the president, committing themselves to the achievement of particular tasks in their respective districts.

A committee comprising diverse interests, including civil society organizations, churches and the government, annually assesses the 30 district leaders' progress in meeting their goals. There is no punishment for failing to achieve the targets.

The committee then ranks the districts on the leaders' achievements, and the top three districts are awarded trophies.

Though salaries for civil servants are not paid based on performance contracts, the policy encourages competition between the mayors and district representatives to be held in high esteem by the people.

"The idea of signing a contract is good in the sense that leaders are working against deadlines," said Jean Baptiste Rucibigango, a Rwandan politician and president of the Rwanda Socialist Labor Party (PSR). "It creates a sense of competition among leaders and, in the end, all Rwandans benefit."

Marie Immaculee Ingabire, the chairwoman of Transparency Rwanda, says though the idea behind performance contracts is good, there are no clear indicators to measure the quality of the work the districts promised to achieve.

"If you build schools in one month and win an award but they collapse within three months, will you have done a good job for the people?" Ingabire asked.

She said some leaders push to do things quickly without caring about the quality. "We need experts to plan with the districts, so that leaders achieve something worthwhile."

Ingabire also said the evaluation of a district's work is being done by people with no ability to know whether the work was of good quality. "We need engineers to do the evaluation of schools built because they can tell whether the work was shoddy or not," Ingabire said.

Mismanaged Funds and a Lack of Accountability

Auditor General reports implicate public servants in the mis-

management of public funds each year. Currently, about 200 government officials are appearing before the parliamentary public accounts committee to explain their role in the loss of 9.7 billion Rwandan francs (US\$16 million) highlighted in the 2009-2010 Auditor General Report.

People want to know what happened to the mismanaged funds, but authorities haven't provided information on how much of the money – if any of it – has been recovered. This information was not available at the time of writing.

According to Transparency Rwanda, some officials implicated are not punished. "The prosecution and the Auditor General keep saying some accountants don't have required skills to stop money from getting lost," Ingabire said.

"But I know some people have remained in the same positions even after committing mistakes."

She said having laws against corruption is one thing and implementing them is another.

Another lawmaker, Harriet Mukamurangwa Sebera, said some injustices pointed out by the Office of the Ombudsman have not been addressed.

In 2010, for instance, findings from the Office of the Ombudsman indicated that Everest Rizimana, a former executive secretary for Taking It Global Rwanda (TIG), had harassed junior female employees. The Ombudsman recommended actions be taken against him. He was not punished and he is now a senator. He denied the allegations.

TIG is a program allowing people found guilty of participating in the 1994 genocide against Tutsis to serve all or part of their sentences doing community service.

"The Office of the Ombudsman should be given more powers, so that the anti-graft body is able to prosecute people who bend the rule of law," Mukamurangwa said.

More Power for – and More Scrutiny of – the Auditor General

Juvenal Nkusi is the chairman of the newly established Public Accounts Committee (PAC), which is charged with reviewing

all previous Auditor General reports to look into how public funds are being used. He said it was necessary to put in place an independent PAC to see whether the audits done are accurate.

Nkusi said Parliament, so far, has seen no incidents of bribery or corruption connected to the political leadership.

There is no proof that top politicians have been involved in corruption and get away with it or use their powerful connections to steal.

In a bid to do its work properly, in November 2011, the lower chamber of Parliament voted to look into a proposed draft law that will grant the Office of the Auditor General (OAG) more autonomy in its operations.

If passed, the law will give the Auditor General powers to carry out, among other things, random audits, special audits and investigations and even the hiring of external auditors.

The AG office will also have the right to access all relevant documents and information from public entities and to obtain whatever explanations necessary without need of court order.

Tenders awarded by districts have come under heavy scrutiny and have raised many questions that the tendering process is marred by a lack of transparency.

In some instances, a tender committee advertises tenders but then discloses the allotted budget to friendly bidders, which the contractors quote to win tenders in exchange for kickbacks.

To successfully fight graft, the government needs to carry out a systematic assessment of how tenders are awarded in districts, which is rarely done, said Obadiah Biraro, auditor general.

He said what is happening is not illegal tendering but malpractice in the procurement functions of public entities. "These people should be punished," Biraro said.

One of the Least Corrupt Countries in Africa

In December 2011, Transparency International found Rwanda to be the fourth least corrupt country in Africa and 49th in the

world on the 2011 Corruption Perceptions Index (CPI).

The index ranks countries and territories from 0 (highly corrupt) to 10 (very clean) based on perceived levels of public sector corruption.

The 2011 CPI gave Rwanda a score of 5.1 points, ahead of countries such as South Africa and beating its East African neighbors by a large margin. Rwanda was ranked 66th in 2010 with a score of 4.0. The latest 5.1 score means that Rwanda is considered one of the countries clean of corruption (above the 5.0 mark).

Transparency Rwanda's Ingabire said the country's leadership is committed to fighting corruption. "There is no magic," she said. "There is political will, and President (Paul) Kagame has demonstrated it."

Ingabire said if the commitment against corruption from the top was borrowed by district leaders or all Rwandans, the remaining pockets of corruption would be a thing of the past.

Rwanda's Prosecutor General Martin Ngoga has said to the media that the country's improvement on Transparency International's CPI should not be a cause for complacency.

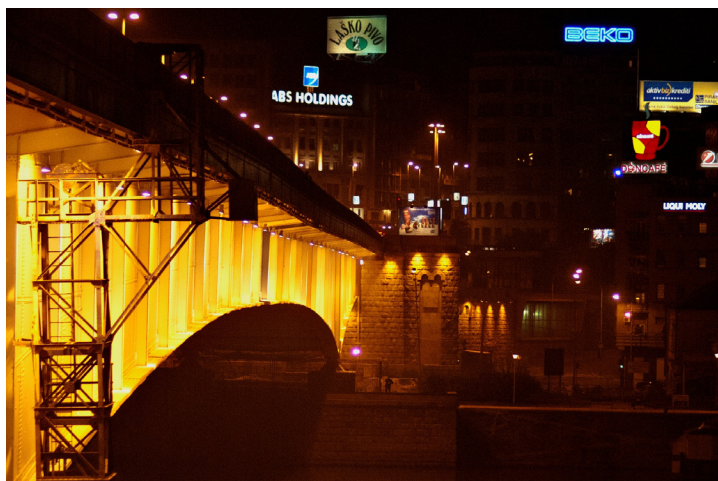
"It gives us a new task because we haven't reached the levels we want, and there is no guarantee that we can't decline. Fortunately Rwanda is a country that can think big and achieve big.

"The more we progress, the higher we aim. Next time we shouldn't be comparing ourselves with neighboring countries but rather the least corrupt countries in the world," Ngoga said.

But the way to a less corrupt Rwanda won't be easy, as Museveni's case shows. The former Gicumbi District executive secretary who said he was fired based on unfounded suspicion is working with his lawyer on gathering evidence and plans to go to court next year to clear his name.

** Ignatius Ssuuna is investigative journalist at The Newtimes, Rwanda's only English daily, and previously worked for The Daily Monitor in Uganda. He has published several stories on corruption cases.*

Boris Sebez



Serbian companies routinely bid on public projects without disclosing when public officials own 20% or more of the company, as the law requires them to do. The European Union remains concerned about corruption in Serbia, especially in public procurement.

SERBIA

Officials' Corporate Fingers Reach into Public Contracts, Public Relations

*By Djordje Padejski**

Companies routinely bid on public projects in Serbia without filing the required disclosure when a public official owns 20 percent or more of that company. In one case, a party official's PR and marketing firm won more than 10 public contracts without filing papers declaring his stake in the company. In another case, officials at a state-owned mining complex were accused of embezzling more than 10 million euros.

Corruption is flourishing in Serbia despite clear anti-corruption laws, conflict of interest regulations and the efforts of anti-corruption bodies.

The Public Procurement Office (PPO Uprava za javne

OVERALL SCORE: 73 ■ MODERATE
LEGAL FRAMEWORK SCORE: 88 ■ STRONG
ACTUAL IMPLEMENTATION SCORE: 58 ■ VERY WEAK

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nabavke) suggests that one clear indication of possible corruption and bid-rigging can be seen in the number of companies vying for public contracts. In 2003, there were on average 8.5 bids per each open call for tenders, but in the first half of 2011 there were on average 3.17 bids per open call.

During the first half of 2011, the PPO identified irregularities in procedures that cost the country about 1.4 billion Serbian dinars RSD (US\$18.38 million), and none of these cases was prosecuted. Details of the irregularities can't be disclosed until legal proceedings are over.

"We sent all the proceedings to the Ministry of Finance and State Audit Institution, but none was sanctioned," said PPO Director Predrag Jovanovic.

By law, the government can award public contracts to companies partially owned by public officials, but if an official owns at least 20 percent of a company taking part in the public procurement process, the company is required to file a report with the Anti-Corruption Agency of Serbia (ACAS). Only five companies filed such a report with the agency from the beginning of 2010 to November 2011. Many more should have.

A company that fails to notify the ACAS is to be fined from 100,000 RSD to 500,000 RSD (US\$1,313 to US\$6,563), but that hasn't happened. Nor is it likely to happen.

"Every action we have launched against companies was terminated before initiating court proceedings, because after our initial claim, companies read the law and do their legal obligations," said Aleksandra Kostic, ACAS spokeswoman. Serbian companies are not published for late submissions.

Online Records Reveal Violations

The PPO has been publishing the basic information about each high-value public contract online in a public database since 2004. This Global Integrity reporter compared these records with officials' asset declarations and found several violations of the law.

Three companies owned by Nenad Popovic, vice president of the Democratic Party of Serbia (DSS) and a member of the Serbian Parliament, signed 19 public contracts in 2010

and 2011, but failed to file paperwork noting he owned the companies.

Popovic's ABS Minel Elektrooprema had 13 contracts in that period with Electric Power Industry of Serbia (EPS Elektroprireda Srbije) worth around 108.8 million RSD (US\$1.42 million). Popovic's ABS Minel Inzenjering had four public contracts with the power distributor in Kragujevac worth around 4.7 million RSD (US\$61,700). And his ABS Kontaktne mreze had two public contracts with public electric power companies worth around 1.68 million RSD (US\$22,051). The parent company ABS Electro did not respond to questions for this report.

Mladen Grujic, another member of Parliament and a party official of New Serbia (NS Nova Srbija), owns 32 percent of the shares of Antikor, which received seven contracts between 2010 and 2011 worth around 39.7 million RSD (US\$520,000). The required paperwork noting Grujic's stake in Antikor was not filed with ACAS. Grujic didn't reply to questions for this report.

Predrag Blagojevic, managing editor of South News (Juznevesti.com), which has reported on the issue, said it would not be difficult to create a database that would cross-check PPO public contract records from the online database with corporate assets records of ACAS.

"It will take no more than 10 days for our programmers to design such an application. The result could be a real-time tool for identifying such shady purchases," Blagojevic said.

The problem in Serbia, however, is not finding who fails to file reports but sanctioning those who fail to do it.

If anti-corruption bodies had more investigative power, more authority and strict standards of cooperation, perhaps Serbia would not have lost 10 million euros (US\$13.52 million) at the state-owned Kolubara coal mine.

The former director of the Kolubara Mining Complex, Dragan Tomic, and 16 others were arrested in October 2011 and accused of fraud and embezzling from the mining complex.

Besides Tomic, who was the director of the mining complex from 2004-2008, others arrested included Dragan Jovicic, director of the mining complex in 2008-2009, and Radoslav Savatijevic, a former member of the Board of Management of the Electric Power Industry of Serbia (EPS).

According to the indictment, mining machinery was rented from private companies, avoiding the public procurement process. Payments to private firms were severely exaggerated – bills reflected the machines were being used for more than 24 hours a day, and sometimes the companies were paid two or three times for the same job.

Savatijevic, an official of the United Serbia (JS) party, is the owner of Beokran and Beogrev, two of the mining machinery companies, both listed as JS donors.

A Political Insider and His PR Machine

A report titled *Pressures and Control of Media in Serbia* found that public relations agencies, marketing and media production companies, owned by party officials or people related to them, help to control the news and stifle an independent press.

The Anti-Corruption Council (ACC *Savet za borbu protiv korupcije*) report indicated companies of Srdjan Saper, informal adviser of Serbia's President Boris Tadic and himself a DS official, had public contracts with more 100 state entities from 2007 to 2011.

In at least 10 of the public contracts from 2010-2011, Saper's companies failed to file the required reports to ACAS noting his connections to the firms, according to the PPO database. His company, McCann Group, had six public contracts worth around 436 million RSD (US\$5.7 million) with Telekom Serbia, the state-owned telecommunication company. Represent Communications, which Saper owns through McCann Group's 40 percent share, had two unreported contracts worth a total of 4.5 million RSD (US\$59,000) with EPS and Republic Telecommunication Agency (RATEL). Universal Media and Adrenalin, also Saper's companies, each had one public contract worth a total 55.6 million RSD (US\$729,800) with Telekom Serbia. No comment was received from these companies.

Belgrade Mayor Dragan Djilas, who also is deputy president of DS, owns a quarter of the shares in the powerful marketing company Multikom Group, the parent corporation for at least seven marketing companies in Serbia. Multikom Group contributed the highest possible donation to DS in 2010 – 4.3

million RSD (US\$56,400), but was not taking public contracts listed in the PPO portal.

But according to a document obtained from Serbia's Treasury Department, Big Print, for which Multikom Group is the parent company, in 2010 and 2011 had serviced several cultural institutions, including Cultural Centre Belgrade, Tourist Organization of Belgrade and Belgrade Drama Theater. These institutions are mainly financed through the city of Belgrade's budget.

Djilas filed an assets report with ACAS noting that he is founder of Prague-based MD International in the Czech Republic, but according to the business register in that country, Belgrade's mayor is owner of one other company. Djilas is listed as founder and executive of Krokus, a limited liability corporation registered in Prague, which is legally active. ACAS representatives could not say whether this was a violation of the law.

Djilas did not report Krokus as an asset. No comment was received from the Djilas for this report.

Serbia's History of Fighting – or Not – Corruption

Combating corruption and championing the rule of law were the top priorities of the Serbian integration agenda since the defeat of Slobodan Milosevic in 2000. The European Union, still concerned about corruption in Serbia, especially in the area of public procurement, provides around 200 million euros annually to support reform efforts in Serbia. And over the last decade, the United States has given US\$810 million to support democracy in Serbia.

Pro-European forces led by the Democratic Party (DS Demokratska stranka) in 2008 formed the government with Socialist Party of Serbia (SPS Socijalisticka partija Srbije), a party founded by former dictator Slobodan Milosevic. The coalition championed an anti-corruption policy, but many independent experts now believe the proclamation was all words and no actions.

On public contracts in Serbia, generally 25 percent of the project cost is lost to corruption acts such as bribes, kickbacks and embezzlement, civil sector groups say.

“Many businesses see Serbian institutions as a stumbling block rather than a trusted partner,” said Kjell-Morten Johnsen, president of the Foreign Investors Council of Serbia, an organization of foreign business enterprises in Serbia. “In spite of initialized reforms, the general impression is that corruption is still an issue.”

The Serbian government regularly expresses satisfaction with its fight against corruption. Justice Minister Snezana Malovic told the Tanjug state press agency in November 2011 that the government had achieved most of its goals in reducing corruption.

Serbia’s government, instead of tackling the corruption problem, is planning to change the Law on Public Procurement and to minimize the work of the PPO, the autonomous body which controls public purchasing. The government wants to centralize both control and contracting of public purchasing under the roof of the Ministry of Finance.

If Parliament adopts the draft law on public procurement, Prime Minister Mirko Cvetkovic, who is also Minister of Finance, formally will award and oversee the awarding of public service contracts.

“This draft law does not solve many obvious problems of corruption in the public procurement sector; it reduces the control authority of PPO and the level of independence of that body”, says Nemanja Nenadic, program director of the Transparency Serbia. He is afraid this change will provoke a less efficient control of public purchases, especially for those labeled as “urgent,” for which it is not necessary to follow the full transparent procedure.

So far, PPO has been trying to stop these shady “urgent” purchases, but if the draft becomes law it will be more harmful for the control process, right before the regular parliamentary elections scheduled for 2012.

** Djordje Padejski is an award-winning investigative reporter with the Organized Crime and Corruption Reporting Project and founder of the Center for Investigative Reporting Serbia. Padejski has investigated corruption, financial crimes, politics and organized crime in the Balkans for 15 years.*

FIFA.



After a bribery scandal prompted his 2010 resignation as FIFA's vice president, minister of Transportation Jack Warner has steadfastly clung to power in Trinidad and Tobago.

TRINIDAD AND TOBAGO **Playing Politics Through Football Scandal and Corruption Allegations**

*By Asha Javeed**

Despite his international fall from grace, the man who's made and broken political parties in Trinidad and Tobago (T&T) has held steadfastly to his portfolio as the government's Works and Infrastructure Minister since May 2010.

Since Jack Warner's resignation from the post of vice president of International Federation of Football Association (FIFA) in June 2010, amid bribery allegations that transformed the upper echelon of the world football body, he's ignored calls by the opposition party the People's National Movement, Transparency International, and even his own Cabinet colleagues to step away from office (Prakash Ramadhar, Minister of Legal Af-

fairs, had called on Warner to resign after news of FIFA broke).

The only slap on the wrist Warner has received was having his ministerial responsibilities halved. The transport element of his portfolio was removed, and the government created a new ministry with a new minister.

Warner has transformed himself in the public eye. He has gone from primary school teacher to a powerful FIFA executive, at one time being FIFA's vice president and president of the Caribbean Football Union, with a segue into local politics.

His seemingly deep pockets enabled him to forfeit his minister's salary since he became a member of Parliament. At \$1 a month wage, he has held on to his controversial portfolio.

As chairman of the United National Congress (UNC), the main party of the country's five-party coalition called the People's Partnership, Warner is often ranked as T&T's best-performing minister and a defender of the woman he helped to become prime minister, Kamla Persad-Bissessar.

While it is true ministers don't usually criticize, they don't always go out of their way to defend the PM's actions. Warner, for example, has issued supporting statements on the frequency of the PM's travel when she's been criticized for it.

And as long as he's paving roads and improving drainage, the electorate seems content to ignore corruption allegations which have dogged him – in and out of office – despite his diminished political clout.

But to some, the fact that he can hold on to power regardless is “humiliating” for the twin island country and is “eroding T&T's hard-earned global reputation,” as former primer minister Patrick Manning said to the media when Warner left FIFA.

T&T's Corruption Perception Score Sinks to New Low

Warner's continued presence in government was a factor in Transparency International's downgrade of Trinidad and Tobago on its Corruption Perception Index (CPI) to an all-time low in 2011.

Richard Joseph, chairman of the local Transparency International chapter, described T&T's drop from 73 in 2010 to 91 in 2011, out of 183 countries, as "precipitous" and raised questions about the government's "avowed commitment to transparency and accountability."

The long shadow cast by Warner's FIFA scandal has considerably darkened T&T's corruption perception.

The 19-month-old People's Partnership government has been plagued with issues of poor governance at state enterprises, newspaper headlines which screamed of scandal as party supporters scrambled to secure the spoils of office and questionable conduct by its ministers.

Transparency International, in their country report, raised concerns about Warner maintaining a national office as Works Minister when he'd been questioned at FIFA. It is alleged that Warner and Mohammed bin Hammam – a contender at the FIFA elections – colluded to offer bribes of up to \$1 million to Caribbean football officials during a meeting held at the Hyatt Regency in Trinidad and Tobago.

"The best thing would have been for him to step away from office while his name was being cleared. But you have these bribery allegations hanging overhead even while he manages a sizable amount of the public purse," Joseph told Global Integrity.

"Two major campaign promises from the 2010 general election that could have reversed this perception are still to be addressed – those are the implementation of the recommendations of the (John) Uff inquiry into the construction sector and the enacting of new public sector procurement legislation," Joseph said.

At odds with T&T's downgrading by Transparency International is a statement by the newly installed chairman of the Integrity Commission, Ken Gordon, who in mid-December 2011 said that not one act of corruption had been unearthed by his office since it came into being in 2005.

Gordon admitted that based on the country's consistent decline in the CPI, the effectiveness of the declaration forms should be reviewed.

While impropriety and allegations often dog office holders, and oftentimes play out in the media, there has been no successful prosecution to date.

Fifty Years of Revolving-Door Governments

Corruption allegations have led to a series of revolving-door governments in the country's 50-year history.

Politicians rarely give up power.

Even disgraced ones never shy from the spotlight.

In this scenario, Warner is the poster boy of local politics – his performance trumps his questionable character.

Warner frequently laments, in the local media, that his success as a minister has made him a target of his peers, and despite the numerous allegations leveled at him, he is often ranked the best-performing minister of the People's Partnership government.

The populace is content to forgive transgressions even as the political parties window dress their politicians, advancing their political muscle by pouncing on their own missteps.

David West, former head of the Financial Intelligence Unit (FIU) and a certified anti-laundering specialist, said there is an absence of integrity in public life.

“There are so many allegations of corruption when any government is in power. The political corruption has manifested itself in the scandals of the Urban Development Corporation of Trinidad and Tobago (Udecott) and its former chairman Calder Hart, the corruption allegations against former energy minister Finbar Ganga, the opposition leader Keith Rowley's Landate investigation, the billion-dollar Piarco Airport inquiry and more recently a \$40 million contract awarded to a family friend of the country's prime minister,” West said. “But they're not limited to the government of the day. There's a lot of private-sector corruption which is not spoken about.

“On the national stage, there's the government's commission of inquiry into the collapse of the country's largest insurance company, Clico, and its parent company, CL Financial. The inquiry has revealed clear negligence of its auditors, clear breaches of corporate governance, the corporate greed of its

executives and the lack of regulatory oversight by the Central Bank of Trinidad and Tobago,” West said.

He lamented that perception and allegations of corruption don’t often lead to prosecutable evidence. He explained that local courts and laws only accept firsthand evidence, but there is no legal protection for confidential informants or whistle-blowers.

“Unless you have laws protecting people, you aren’t going to get people coming forward. So many cases fall apart,” West said.

One politician, he noted, was fired after her family’s firm won a state contract in which she participated.

“That yardstick has not been applied to other politicians. The country has a former prime minister (Basdeo Panday) in the courts for breach of the Integrity in Public Life Act since 2002. In 2011, it is still in the Magistrates court. There’s been no determination of truth,” West said.

Anti-Corruption Cases Are ‘Lawyered to Death’

Of T&T’s political culture, political science Professor Selwyn Ryan said political parties that come into power seek to capture institutions to shame and embarrass their rivals.

“Investigations and commissions of inquiry are initiated, but rarely does anything happen, in part because the war against corruption is a ritualistic continuation of electoral campaigns and also because the police, the Director of Public Prosecutions (DPP), and the Integrity Commission, to which matters are referred, are understaffed and do not have the forensic capacity to undertake the complex investigations that are required in most of these matters,” he said.

Public exchanges between the DPP’s head, the Office of the Attorney General, and the Police Commissioner, among others, in relation to highly visible cases show that some cases may fall apart because of bad police work and little substantial evidence coming forward.

“These investigations not only require enormous specialized human resources but, as the attorney general has recently indicated, are also frightfully expensive,” he said. “Clearly

the DPP's office, the Commissioner of Police and the Integrity Commission are regarded as sites of battle, and it is no wonder incumbents are under endless pressure (to avoid investigating certain cases). Most anti-corruption exercises are in fact 'lawyered to death.'"

West explained that previous administrations had failed to properly police regulations, such as those covering campaign financing, procurement and the Proceeds of Crime Act.

"What you're increasingly seeing is kickback commissions or payback time," he said. "When you support a political party, you should get favorable treatment from the government. This even extends to the attorneys – as the political electorate will favor lawyers that support them. There have only been a few members of the inner bar which has been able to straddle that divide."

West pointed to an alarming development where the country's attorney general and not the Integrity Commission was leading the fight against corruption.

"There's a higher incidence of corruption which manifests itself in the form of white-collar crime," he said.

When West was head of the Financial Intelligence Unit, the ministry revealed that 19 people were being investigated by the FIU and that these cases could lead to further inquiries by the Commissioner of Police into money-laundering practices.

T&T though, has regressed from that reality, he said.

"There's not been one money-laundering case successfully prosecuted in T&T. There are no fines issued for noncompliance with legislation to casinos or real estate agents, two areas which the Financial Action Task Force (FATF) states that money laundering is most prevalent. No one has been fined," he said. "In T&T these two areas have little or no regulation or supervision, which makes it an area ripe for money laundering. In their October 2009 report, the FIU indicated that there were no SARs (Suspicious Activity Reports) reported in either the casinos or real estate business," he added.

Even Bigger Challenges Ahead

T&T is becoming vulnerable to more than political

mismanagement.

Deeper problems are transforming the twin-island republic – an underground sex trade has become a lucrative business, Chinese casinos have proliferated along the country’s restaurant strip – Ariapita Avenue – and in spite of all this, the FIU has not received a Suspicious Activity Report (SAR) concerning casinos.

T&T’s location, resting near the mouth of Venezuela, has traditionally been sold to investors as the gateway to the Americas. That strategic advantage has also been to the country’s detriment, as it has become a transshipment hub for narcotics.

Of late, narcotics seizure at the nation’s ports is on the rise. In 2011, authorities found compressed marijuana valued at more than \$30 million concealed in a refrigerated container at the Point Lisas port. According to Trinidad Express Newspapers, it was the third multimillion-dollar drug interdiction at the port for the year, not to mention other narcotics seizures such as cocaine valued at \$22 million found at Piarco International Airport in August that year.

T&T ended 106 days of a State of Emergency on December 5, 2011, that was imposed after a crime spree that ended 11 lives in 48 hours. The government’s decision to implement the draconian measure was designed to halt rising crime linked to the country’s fertile drug trade.

“We are hurting them in their pockets,” Persad-Bissessar vowed.

Ryan, though, said it’s all political – even the fight against corruption and the rising drug trade. “In resource-scarce societies, politics is naught but a zero-sum struggle to determine whose turn it is to eat and who would lick the slop pail.

“In Trinidad and Tobago, both sides play the game, albeit without the violence that exists elsewhere. Both sides must share the burden of blame.”

**Asha Javeed is an award-winning associate editor of Guardian Media Limited in Trinidad and Tobago. She produces in-depth investigative stories in business and politics. She holds an MA in mass communications.*

Mif168



Unlike most institutions in the country, Uganda's Central Bank had stayed clear of corruption scandals until 2011, when the Parliament started investigating –among other cases-why the bank paid millions to a private individual without parliamentary approval.

UGANDA

The President, the Businessman and a Central Bank's Fractured Reputation

*By Angelo Izama**

Despite Uganda's many corruption scandals, one institution has remained pristine through the years: the country's central bank, the Bank of Uganda.

The Bank of Uganda has been credited for the country's microeconomic success, the liberalization of the financial sector in the 1990s and Uganda's annual gross domestic product of more than 6 percent.

The popular Governor Tumusiime Mutebile has been in charge of the bank for the last 12 years. In 2010, at the International Monetary Fund and the World Bank annual meetings in Washington, the African Banker Awards recognized Mutebile

OVERALL SCORE: 72 ■ MODERATE
LEGAL FRAMEWORK SCORE: 98 ■ VERY STRONG
ACTUAL IMPLEMENTATION SCORE: 52 ■ VERY WEAK

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as Best Governor in Africa.

However, in 2011, the bank's stellar reputation started to crack.

First came the revelation that the bank had paid 142 billion shillings (US\$57 million) to a businessman and high-ranking member of the ruling party, Hassan Basajjalaba.

Through a group of companies, Basajjalaba had leases over three city markets and the Constitution Square. But the leases were signed in a process marked by irregularities that eventually led to the arrest of several city officials and were finally annulled in 2004.

When Basajjalaba lost the markets, he demanded compensation. An official commission initially suggested a Shs68 billion (US\$34 million) compensation, but the businessman appealed to the President, who documents show suggested payment for more than twice that amount.

The chief of the State House legal department said the papers are forgeries by civil servants who sought to inflate the compensation amount. Basajjalaba, answering questions before Parliament's Public Accounts Committee (PAC), claimed the president had approved the payment.

Congressmen are investigating and want to know why the central bank agreed to pay the millions to a private individual without parliamentary approval.

Auditor General John Muwanga, interviewed for this Global Integrity report, said, "Only Parliament had the power to make appropriations from the Consolidated Fund (Treasury)," suggesting the bank and its governor overstepped their authority by committing to pay the compensation even if they had a directive from the president.

In a letter to the Minister of Finance in July, Muwanga noted that before an audit commissioned to KPMG could be finalized, the Bank of Uganda, upon request by the Ministry of Finance, issued guarantees (letters of comfort) to several commercial banks to enable Basajjalaba's Haba Group to borrow US\$65.35 million against the anticipated government settlement of the claims.

"There is lack of clarity as to why the Ministry and Bank of Uganda entered into this settlement agreement with the

Haba Group before the conclusion of the verification exercise,” Muwanga said.

In November 2011, KPMG found that many of the claims for compensation were without basis, and that some companies under Haba Group had failed to meet their contractual obligations. The auditors also found that the claimant owed Kampala City Council Shs 994 million shillings, and questioned the very need to compensate the businessman.

A Fiercely Independent Bank

The Bank of Uganda has a history of not seeking parliamentary approval.

According to reports by the Auditor General’s Office (AG), the Bank of Uganda also has allowed the government to exceed its statutory borrowing limit without parliamentary approval. And earlier AG reports revealed that the Bank of Uganda had allowed various government ministries’ accounts to be overdrawn without appropriate authority, resulting in a record decline in the national reserves.

“We did not see any evidence of the ministers’ approval for any of the government’s overdrawn accounts we reviewed,” Muwanga told the local newspaper *The Daily Monitor*. “I advised the management (at the Bank of Uganda) to investigate all government overdrawn accounts to ascertain the cause and to take corrective action immediately to normalize these accounts.”

Also in 2011, the government dipped into the Treasury (public funds maintained by the central bank) to buy six Russian-made fighter jets for Shs 1,7 trillion (US\$700 million). Uganda’s Parliament is required to approve all expenditures from the Treasury. None was sought and the request came only after the transaction had been made.

It is not unusual for the government to avoid seeking parliamentary approval – and scrutiny – to ensure contracts are not halted.

In a June 2011 interview with the *Financial Times*, Mutebile said the Bank of Uganda was powerless to stop the deal. He also blamed the decline of the reserves for subsequent econom-

ic difficulties the Ugandan economy is currently experiencing, such as a increased inflation.

Mutebile could not be interviewed for this report, but the bank's director of communications, Elliot Mwebya, said: "We are a banker to the government, just like your bank is a banker to you. It is their money we keep. We take their instructions. So if they say move these sums, we do."

These responses are a far cry from the historically feisty tone the Bank of Uganda has used to avoid being accountable to regulatory bodies, citing its constitutional independence.

How Did the Bank Escape From Scrutiny for So Long?

Historically, the bank has fiercely maintained its independence, as granted in the Constitution, to avoid being accountable to regulatory bodies.

According to Uganda's Constitution, "In performing its functions, the Bank of Uganda shall conform to this Constitution but shall not be subject to the direction or control of any person or authority."

Indeed, a senior director with the Inspector General of Government (IGG) said that agency has failed to pierce the shield around the bank because inquiries from the IGG's office are answered with a reply citing the bank's constitutional independence.

"They constantly cite their statutory independence, even where it involves employees' complaints of maltreatment," said the senior director, who asked that he not be named so that he could speak candidly. He declined to be named to be able to speak candidly about the issue. Asked why the IGG did not use its authority to investigate, the director pointed to difficulties questioning decisions by the bank's popular governor.

Uganda's regulatory bodies face weaknesses beyond their powers, as exemplified by a recent case in which President Museveni decided to issue an urgent directive instead of expecting policing institutions to act.

In early 2011, President Museveni issued an urgent directive to stop sugar-producing companies from selling to politicians and speculators who allegedly charge exorbitant prices to consumers.

The measure seemed to target the Minister of Justice, Kahinda Otafire, who responded by publicly challenging the order. “No one will stop me, unless they want me to steal government money,” he said, according to media reports.

Outside from Parliament’s current investigation, there has been little examination of the bank’s actions.

One of the few cases goes back to 2006, when the Bank of Uganda froze the assets of a local businessman, Ben Kavuuuya; he requested a judicial review to determine if the bank had overstepped its authority by freezing assets based on mere suspicion of money laundering.

Justice Engonda Ntende ruled that the bank could not act based on suspicion of fraud nor act “outside the power Parliament gave,” which would lead it to lose the protections granted by the Constitution. Eventually, his accounts were unfrozen.

Failure to Safeguard National Reserves

Now, in the midst of severe economic stress from inflation that some blame on the bank’s failure to safeguard the national reserves, Parliament has taken special interest in the activities of the central bank.

Hurdles congressmen may face in their investigation include the high status and popularity of governor Mutebile and the bank official’s broad interpretation of the constitutional independence.

“We intend to thoroughly investigate the bank and its relationships, and to summon the governor to explain his actions,” said Hon. Nandala Mafabi, leader of the opposition in Parliament and member of the Forum for Democratic Change. “For too long the bank has claimed independence, but that independence is in the execution of its duties. It does not mean they are not answerable to any authority.”

Hurdles congressmen may have to battle include the high status of governor Mutebile, the bank official’s broad interpre-

tation of the constitutional protection, and, last but not least, the bank's employees defense of their yet to be scrutinized benefits, such as a secure tenure and remuneration.

The real question is perhaps whether the country has made any progress from what a 2005 World Bank paper described as Uganda's "neo-patrimonial politics," observing that audits of government by the Auditor General "often read like a reprint of Ali Baba and the Forty Thieves".

** Angelo Izama is a senior investigative reporter with the Daily Monitor Uganda's leading independent daily. In 2007, he was the first to file a landmark freedom of information request to test the country's access to information laws and has been arrested and harassed several times for his work. Recently he has been a Knight Fellow at Stanford University as well as a Reagan-Fascell Democracy fellow at the National Endowment for Democracy.*

Nataliya Kravchuk/Korrespondent Magazine



Opposition leader Yulia Tymoshenko was taken from the court to prison on October 2011, after a seven-year sentence. The process against her has been harshly criticized by the international community for disrespecting international judiciary standards.

UKRAINE

Partisan Justice: Political Foes Go to Jail, Friends Go Free

*By Vlad Lavrov**

While leading Ukraine opposition leader Yulia Tymoshenko has been convicted on charges considered by some as dubious, Ukraine's authorities are much softer on the investigation of far more serious wrongdoings allegedly committed by those close to the government.

In Ukraine, not everyone gets the same treatment. This disparity is most visible in the country's judicial system.

Tymoshenko, Ukraine's former prime minister, narrowly lost to Viktor Yanukovich in the presidential elections in February 2010. Since then, she has been under heavy scrutiny by law enforcement, resulting in a series of criminal cases against

OVERALL SCORE: 63 ■ WEAK
LEGAL FRAMEWORK SCORE: 83 ■ STRONG
ACTUAL IMPLEMENTATION SCORE: 48 ■ VERY WEAK

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her and members of her government.

On October 11, 2011, Tymoshenko was found guilty of abuse of power and sentenced to seven years in prison.

Currently, Tymoshenko and her lawyers are preparing an appeal.

Tymoshenko's conviction prompted a wave of criticism toward the Ukrainian government internationally.

"The verdict comes after a trial which did not respect the international standards as regards fair, transparent and independent legal process," said Catherine Ashton, the European Union's High Representative for Foreign Affairs and Security Policy. "This unfortunately confirms that justice is being applied selectively in politically motivated prosecutions of the leaders of the opposition and members of the former government."

Yanukovich, meanwhile, in his first interview to foreign media after the verdict, defended the sentence. "What kind of signal do we give society [if Tymoshenko is to be set free]?" he said. "That to be able to commit crimes one should be a member of the opposition?"

A Closer Look at the Case Against Tymoshenko

The case against Tymoshenko focuses on January 2009 when Ukraine and Russia were negotiating a new gas supply deal. In addition to Ukraine being a major importer of Russian natural gas (accounting for two-thirds of Ukraine's consumption), Ukraine is a major transit point for Russian gas shipments to the European Union.

When the gas negotiations reached a standstill, the supply of Russian gas to Ukraine – and to the EU – ceased in the middle of winter.

When weeks later a deal was reached, the market price of gas was to be tied to European levels that would be set quarterly. As a result, the average price that Ukraine ended up paying doubled.

Ukraine's Prosecutor General's Office (PGO – Generalna Prokuratura Ukrainy) found the resulting higher prices led to Ukrainian budget losses of US\$183 million (1.5 billion Ukrainian hryvnia). The court ordered Tymoshenko to pay back the

losses the gas deal caused the state.

Anatoliy Hrytsenko, from the Nasha Ukraina-Narodna Samooborona Faction and head of the Parliament's Committee on National Security and Defense (VRU – Verkhovna Rada Ukrainy), said the gas deal Tymoshenko signed was not good for the country and needed to be revised. Yet, he stressed that this is not the first bad deal signed by Ukraine's officials.

“Why don't we call criminals and put in jail all the country's presidents, prime ministers and ministers who couldn't get a better deal for Ukraine during the negotiations in Moscow, Brussels or Washington?” Hrytsenko wrote in an op-ed column in the *Korrespondent* weekly magazine in early September. “It's absurd to prosecute a prime minister as a criminal. If the investigators could prove her personal benefit, which they could not, it would make sense. Otherwise, this is all settling political scores.”

Indeed, the nearly 30-page verdict contains no indication that Tymoshenko signed the gas deal with the purpose of enriching herself. Her personal gain, the court said, was in “creating the image of efficient leader of the state” prior to the presidential elections.

Tymoshenko's persecution didn't end with her conviction. Just two days after she was sentenced, the Security Service of Ukraine began another criminal case against her. The new case dates back to the mid-1990s, long before Tymoshenko became prime minister, when she ran Unified Energy Systems of Ukraine, which imported Russian gas for resale in Ukraine. The Security Service accuses Tymoshenko of “conspiring” to run up her company's debt of \$405 million to Russia's Defense Ministry from the Ukrainian state budget.

Prosecution Differs for Friends of the Current President

Tymoshenko's sentence and the overall handling of the case – the judge denied her request for bail more than 20 times – starkly contrasts with recent cases brought against defendants close to the current government. While both cases are ongoing,

the accused are not in jail despite being charged with crimes far more severe than Tymoshenko's.

Serhiy Demishkan, charged in an October 2007 killing, is the son of Volodymyr Demishkan, reportedly a close friend of Yanukovich and head of Ukravtodor, the state monopoly in charge of the country's road network. The elder Demishkan is also a member of the pro-presidential Party of Regions.

According to the indictment, Serhiy Demishkan, with two accomplices, kidnapped and murdered a director of a small airline, as they tried to force him to give one of his planes to Serhiy Demishkan. If found guilty, the younger Demishkan could face a life sentence.

However, the Kiev Appellate Court (KAC – Kyivsky Ape-liatsiynyy Sud), where the trial started in late 2010, released Demishkan on bail, pending additional investigation.

In November of 2011, Demishkan received a suspended sentence. After reading the verdict, Judge Volodymyr Yerenko told journalists “there was no intent of premeditated murder.... They wanted to take [the victim] to a notary public ... Maybe there was careless manslaughter in their actions.” The court also considered a medical certificate that stated that Demishkan was terminally ill.

Volodymyr Demishkan has denied interfering on his son's behalf.

Andriy Mamaliga, who represented the victim's family in court, called the mild verdict “the sentencing of the Ukrainian judicial system.”

Judicial disparity also is seen in the case of Ukraine's former president Leonid Kuchma, who ran the country from 1994 to 2004. Kuchma is charged in connection in the 2010 killing of opposition journalist Georgiy Gongadze. The Prosecutor General's Office claims that Kuchma gave orders to his subordinates that eventually led to Gongadze's death, citing tapes allegedly made in secret by his bodyguard Mykola Melnychenko. Yet, In December 2011 the court did not recognize the tapes as evidence and ruled opening of criminal case against Kuchma unlawful.

The appellate court upheld this decision. While awaiting trial, Kuchma is not in jail and is allowed almost unlimited

travel. He has been allowed to go to Cape Town, South Africa, to give a speech at the 62nd International Astronautical Congress.

Kuchma's U.S. legal consultant, Alan Dershowitz, a high-profile criminal defense lawyer who advises Kuchma and helps publicize their position abroad, echoed the criticism that Yanukovich's government is receiving for its crackdown on opposition leaders.

"In Ukraine, using these allegations, the government is trying to prove that it's fair, that they went not only after [Ty-moshenko], but after Kuchma as well," Dershowitz said. "The case is being decided not by the rule of law, but by the whims of individuals."

A Call for Judicial Reform

Mamaliga, meanwhile, also said he doesn't see anything resembling legal standards or the rule of law in the way Ukraine's judiciary works.

"The problem is that there is no mechanism to hold the judges responsible for their decisions, as the applicable legislation regarding unlawful court rulings is almost never implemented in real life," Mamaliga said. The law barring unlawful court rulings is rarely used, he said, as judges simply don't want to take tough action against their colleagues.

Oleksandr Honcharenko, High Council of Justice (VRJ – Vyshcha Rada Justycii) head's chief of service, said sanctions against judges tend to be softer and reprimands often replace harsher sanctions that could otherwise lead to his or her dismissal.

Mamaliga said that while sometimes foul play is at work, in some cases, the judges, especially in the lower courts, simply lack the qualifications to do their job properly.

According to Ukraine's Constitution, judges first are appointed by the president for five years and then, if the first term is served successfully, they are appointed by the Parliament indefinitely. Prior to their first appointment the judges have to complete a test to determine their professional capabilities. While meant to be a crucial indicator of a person's readiness

for the job, often the test is a mere formality, conducted by a judges-appointed body.

“Any attempts to reform this system are eaten up by the corruption,” Mamaliga said. “Independent testing of the judges is needed.”

According to Transparency International’s Global Corruption Barometer 2010 of 86 countries, corruption in Ukraine’s judiciary shared the top position with Peru (both countries scoring 4.4 points out of 5). Furthermore, the 2009 Global Integrity Scorecard rates both judicial accountability and rule of law in Ukraine as “very weak.”

Kateryna Tarasova, head of the Foundation for Assistance to Justice, a Kiev-based nongovernmental organization of current and retired judges, says that the handling of Tymoshenko’s case is no different from the way courts treat average Ukrainians.

“In exactly the same manner, the judges are denying any appeals by the defendant, while agreeing with all the motions by the prosecution,” Tarasova said.

Tarasova said a series of urgent reforms is needed, such as guaranteeing the independence of judges from the influence of prosecutors.

The Tymoshenko Case, the EU and Failed Appeal

The cases against and conviction of Tymoshenko and her government threaten to undermine Ukraine’s EU aspirations. The country’s plan to sign a deep and comprehensive free trade agreement with the EU by the end of 2011 has not been brought to life. Such agreements are viewed as the key to obtaining a visa-free travel agreement with the EU, one of the Yanukovych’s main election pledges.

While Ukraine’s negotiations with the EU have been finalized, the signing and ratification has been postponed indefinitely. Herman Van Rompuy, president of the European Council, cited the perceived deterioration of democracy and rule of law in the country as Europe’s main concern, with the Tymoshenko trial being “the most striking example of this.”

On December 23, just days after the top EU delegation visited Ukraine, the appeals court upheld Tymoshenko's seven-year sentence. She plans to lodge a complaint with the European Court of Human Rights.

** Vlad Lavrov is a staff writer at the English-language publication Kyiv Post. Previously he was business and world editor with Ukraine's weekly newsmagazine Korrespondent, and business editor at the Ukrainian weekly Novynar. Lavrov has participated in several international investigative projects, including ICIJ's Tobacco Underground, which detailed organized crime's involvement in tobacco smuggling and other investigative project of similar relevance.*

Part II

Greed Gone Wild

“The jets are not as expensive as the media want to portray them. I mean, it’s nothing out of the ordinary. My family is like any other, nothing more than a regular Nicaraguan family,” said chief electoral judge Roberto Rivas.”

—From the Reporter’s Notebook on Nicaragua

Claude Bitsure



Gabriel Rufyiri, from the Observatory for Fight against Corruption and Economic Embezzlement, and other civil society actors accuse President Nkurunziza of creating a nonprofit that takes foreign aid and donations from businessmen seeking public contracts.

BURUNDI

A President's Right to Receive Donations

*By Claude Bitsure**

Burundi President Pierre Nkurunziza declared an endless fight and zero tolerance against corruption at the August 2010 swearing-in ceremony for his second term of office.

He had already made the same promise when he was first elected in 2005, “but since then things have failed to improve,” said Pacifique Nininahazwe, managing director of Forum pour le Renforcement de la Société Civile (FORSC – Forum for Strengthening the Civil Society), which represents 146 nonprofit organizations.

In 2011, Transparency International listed Burundi as the most corrupt country in the East African Community

and the eighth most corrupt out of 173 countries. In 2010, Burundi ranked 10th most corrupt, and it landed on the top position in the East African Bribery Index with a corruption prevalence of 36.7 percent.

Burundi's corruption has also been noted by the World Bank's Doing Business report, the Brookings Institution, the Millennium Challenge and the United Nations Development Program.

There are no national statistics, but specific cases are equally illustrative of the extent of the problem. For example, Burundi Ombudsman Mohamed Rukara, has denounced corruption within the Burundi National Police. Specifically, he has said it's become a "tradition" for Traffic Police to demand a payment of bribe of BIF 2,000 per day (US\$1.50) to each public transporter to work undisturbed, regardless of whether their vehicles have all the required papers.

In that context, it's not surprising to hear that civil society organizations accuse President Nkurunziza breaking the law by creating a nonprofit organization that takes foreign aid and donations from businessmen.

Gabriel Rufyiri, president of the Observatoire de Lutte contre la Corruption et les Malversations Economiques (OLUCOME – Observatory for Fight against Corruption and Economic Embezzlement), cited the stadium Nkurunziza in construction in Buye, his home province – a stadium costing BIF 10 billion (more than US\$7.4 million). Rufyiri said that the president is using funding and donations from businesses and foreign countries seeking contracts in the country to pay for the stadium.

"The President of the Republic has no right to receive donations and aids on his own behalf, or to build infrastructures on his own behalf... This stadium should be national, rather than private property of the President," Rufyiri said. OLUCOME will wait for Nkurunziza's mandate to end to ask the court nationalize the President's stadiums.

The stadium is being built by Le Messenger Football Club, a nonprofit organization created by the president. Rufyiri said the president redirecting donor aid and donations for personal projects is a clear violation of Burundi's Constitution, particu-

larly Articles 100 and 101, which establish a series of incompatibilities. It's forbidden for the President of the Republic to receive a gift in his own name, he added.

Nkurunziza's spokesman, Léonidas Hatungimana, countered, "We cannot talk about breaking the law when it comes to development, provided that it saves something else, such as to offer particular employment to masons and their assistants, etc."

As far as the aid and donations are concerned, Hatungimana told the press that it's quite reasonable that the head of the state is offered gifts by friends, as it can be done to anybody else. Hatungimana also pointed out that nothing prevents the president from creating an association, "because being elected president does not make Nkurunziza lose any rights."

Give a Donation, Get a Contract?

Aid and donations have come from governments and businessmen pursuing contracts in Burundi, including China, whose companies have been winning most of the public contracts for road construction, hospitals and schools.

A 2008 study by professors Julien Nimubona and Christophe Sebudandi on the state of corruption in Burundi found that the public procurement sector is the most corrupt. For example, South Africa's Samancor has given a luxury vehicle to the first lady's Buntu Foundation. Samancor subsequently received the license to extract Musongati nickel in Rutana province (in southeast Burundi).

The Buntu Foundation was also involved in the construction of the stadium in Buye, according to OLUCOME's investigations.

National instruments to fight corruption, including the anti-corruption law of 2006, the anti-corruption court and its prosecutor's office, and the anti-corruption Special Brigade have weaknesses or are contradictory, according to legal experts.

Faustin Ndikumana, an economist and chairman of the Word and Action for the Awakening of Awareness and At-

titudes Changing (PARCEM), pointed out that public representatives are obligated by law to declare their assets before taking office and after their terms, according to the anti-corruption law.

However, he noted that no regulatory provision envisioned sanctions against those who would make a false statement of assets to hide how they enriched themselves illegally during their time of office.

Burundi has the Anti-Corruption Brigade, but leading state officials cannot be pursued thanks to the constitutional privilege of jurisdiction, which protects certain officials from being judged by ordinary courts and tribunals. The chairman of PARCEM thinks all citizens should be equal before the courts, especially when it comes to bribery crimes, and that legal reforms are necessary for anti-corruption safeguards to have a chance at being effective.

Jean Claude Bizimana, director for legal affairs at the Burundi Special Anti-Corruption Brigade, noted that in Burundi, illicit enrichment and money laundering are not repressed by the anti-corruption law.

Real Estate at US\$370 per Month

Such impunity is quite evident by the fact that some leading state dignitaries, including the president, the first and second deputy presidents, ministers, senators, some magistrates, general directors, the ombudsman, generals of the police and army and university officials, who earn less than BIF 500,000 per month (US\$370), are erecting houses in the capital as fast as mushrooms grow.

Bizimana said effective strategies to fight against illicit enrichment that have borne fruitful results in other countries include the filing of regular statements of assets by public officials as well as monitoring of bank accounts by financial institutions.

According to PARCEM, another challenge is that the executive is not sufficiently controlled by Parliament in Burundi. “At the executive level, accountability is not compulsory, hence corruption and embezzlements,” said Ndikumana.

For example, since 2006, Burundi's president has personally managed an account under the name "Appui aux Bonnes initiatives" (Support to Positive Initiatives) with assets of as much as BIF 2 billion (US\$15 million). The practice has long been decried by lawyers, economists, the media and civil society organizations who say the money should be managed by a sectorial ministry.

The money is budgeted for and attributed to the president of the republic annually to support "initiatives." He used it to plant fruit trees (including avocado trees) in the provinces.

The PARCEM chairman said there is no control over the use of these funds, so the money can be used for illegal self-enrichment.

Compromised Judiciary

Ruhatora Papien, spokesman for the Ministry to the Presidency in charge of Good Governance, Privatization, Global Inspectorate of the State and Local Administration, stated that much has been made in terms of the fight against corruption. He cited 650 cases that have already been prosecuted since 2006, as a result of which about BIF 5 billion (\$3.7 million) has already been recovered and prevented the embezzlement of BIF 6.5 billion (US\$5 million).

He acknowledged, however, that the anti-corruption laws and tools have shortcomings. According to him, the Anti-Corruption Court's mission is to try to resolve any acts of corruption but, because it doesn't have the required powers to conduct trials, it must appeal to the Supreme Court. The Supreme Court, however, does not investigate.

The Anti-Corruption Court does not pursue authorities who are covered by the privilege of jurisdiction, and officials accused of corruption are judged directly by the Supreme Court. But the judiciary is not independent because the head of the Supreme Council of Magistrates is the president of the republic himself.

The vice president of the Anti-Corruption Court, Cassien Sindaye, deplors the privilege of jurisdiction that prevents the court from prosecuting leading state dignitaries, includ-

ing ministers, director generals and other officials. “The latter commit big corruption consisting in the embezzlement of public funds, with very large amounts,” Sindaye said.

Sindaye cited the case of Société Sucrière du Moso (SO-SUMO), in which the former director general, Alexis Ntaconzoba, jailed since 2010 for embezzlement of public funds, implicated in court the former Second Deputy-President and current president of the Senate of Burundi Gabriel Ntisezerana. Unfortunately, the anti-corruption court has no authority to prosecute officials who enjoy the privilege of jurisdiction. And the Supreme Court, according to Sindaye, would not pursue such officials due to mutual protection from prosecution afforded between higher authorities.

Ruhotora offered another example. “The director general of the Public Real Estate Company (SIP – Société Immobilière Publique) was convicted of two courts for corruption, sentenced respectively to 15 and 14 years in prison, but he was acquitted by the Supreme Court,” Ruhotora said. “It was unreasonable!”

The Supreme Court said the charges against the director general were unfounded, but Ruhotora said that the high-ranking authorities are used to protecting each other. He added that at the highest levels of the judiciary, the decisions emanate precisely from the executive because the members of the Senior Council of Magistrates include politicians, starting with the president of the republic, who leads the board.

Ruhotora’s ministry has just developed the “National Strategy for Good Governance and Fight against Corruption 2011-2015,” a proposal that all corruption be tried by the Anti-Corruption Court.

Ndikumana, from PARCEM, says that currently through the analysis of the Finance Act 2010, of Burundi’s total budget of BIF 1,026 billion (\$760 million), more than BIF 700 billion (\$518.5 million) are managed through the public procurement process by ministers and directors general.

“Most of the corruption that plagues Burundi’s public system is committed through the system of public procurement,” Ndikumana said. A 2011 PARCEM study found that between one-third and half of the budget allocated to public

procurement vanished.

“Hence these buildings growing as fast as mushrooms in Bujumbura (the capital and largest city in Burundi),” he said, referring to officials misusing money intended for public procurements instead to quickly build themselves villas – and doing so without fear of prosecution.

Diomède Ninteretse, lawyer and consultant with the Kenyan NGO Akiba Uhaki Foundation (Foundation for Peace Research), cited the lack of political will that hinders the anti-corruption fight and hampers prosecution of corruption cases in Burundi. He indicated that judges can sue officials accused of corruption who are otherwise covered by jurisdiction based on international conventions and laws that have been ratified by Burundi, and which do not provide any exception.

“The Burundian judge has the right to invoke a section of the United Nations Convention on Action against corruption adopted by the Council of the United Nations in 2003 and ratified by Burundi in November 2005,” he said.

He also mentioned the Commission of the African Union on the Convention on the Fight Against Corruption and related crimes adopted by the African Union in Maputo (Mozambique) in June 2003 and ratified by Burundi in November 2005: “A judge can refer to it,” Ninteretse said.

Sindaye, however, said that because the judiciary is not independent in Burundi, if a judge tried to prosecute an official on corruption charges using international conventions “surely he would then be dismissed.”

As Corruption Flourishes, More Stadiums Being Built

A 2011 study sponsored by Cabinet d’Etude, de Recherches et de Traitements Informatiques (Office of Study, Research and Processing – CERTI) in 2008 found that 78 percent of respondents complained about corruption and impunity. And respectively 60 percent and 65 percent of entrepreneurs and NGOs estimate that the process of awarding public market contracts is based on the payment of bribes. Also, 60 percent of civil

servants said they believe that not everyone is skilled enough for his position, and 50 percent of entrepreneurs interviewed said they frequently pay bribes to public service officials.

The study found that all the services of public administration are affected by corruption: customs, taxes, official justice and to some extent traditional justice and many other services customarily used by the population.

The Burundi professors who conducted the CERTI study, Nimubona (current minister of higher education and scientific research and former head of the Department of Good Governance at the Institute for Economic Development in Burundi and Sebudandi, also conducted another study, “The Phenomenon of Corruption in Burundi” for the Group for Research and Support to the Development of Democratic Initiatives (GRADIS) in May 2008.

The professors found that corruption violates fundamental principles of democracy such as transparency of decisions and equality before the law, employment, access to public resources and services. Nimubona and Sebudandi specified that on the socioeconomic level, corruption is the cause of lack of integrity of civil servants. It blocks or impedes the proper course of investment, prevents the development and implementation of better economic policy.

In addition, corruption prevents the state from collecting sufficient revenue to meet the needs of the population.

In July 2011, President Nkurunziza formally opened his stadium in Buye. “This is a good opportunity to let our honored guests among us and who have supported us through their sponsors know that they can become honorary members of our academy once they request it,” Nkurunziza said. “They will have free access to the stadium during matches or for their own exercising.”

He added, “Seven other stadiums of the same size as the one inaugurated at Buye are being built by Le Messenger Football Club in different parts of the country.”

Like the story of Nero who fiddled while Rome burned, Nkurunziza is building stadiums and has planted groves of avocado and other fruit trees instead of tackling the problems of corruption that pervade Burundi.

Meanwhile, as Nininahazwe of FORSC noted, corruption in Burundi is going “from bad to worse.”

** Claude Bitsure studied at the University of Burundi. He has a master's degree in journalism. He works for IWACU Press Group (www.iwacu-burundi.org) and has investigated many cases of corruption, embezzlement of public funds and privatization of public enterprises, and has reported on the banking and microfinance systems in Burundi.*

José Omar Monsalve/Prensa Fiscalía



Prosecutors charged former Bogotá mayor Samuel Moreno (wearing a red tie in the photo) with bribery, extortion and embezzlement in a public works scandal in which contracts were illegally handed to a construction conglomerate.

COLOMBIA

The ‘Carousel of Contracting’ Corruption

*By Carlos Eduardo Huertas**

Calle 26, in the heart of Bogotá, is a symbolic thoroughfare for Colombians. It connects the El Dorado international airport with the capital city’s downtown and as such is the front door to the country. For many years, it was considered the best city street in the country, with wide lanes and a generous bike path in the middle.

That perception changed when work began to adapt Calle 26 for the public transit system’s articulated buses. Today the street is at the center of one of the biggest cases of corruption in recent years.

The corruption investigation uncovered suspicious finan-

OVERALL SCORE: 80 ■ STRONG
LEGAL FRAMEWORK SCORE: 98 ■ VERY STRONG
ACTUAL IMPLEMENTATION SCORE: 67 ■ WEAK

Category I	Non-Governmental Organizations, Public Information and Media	69 ■
I-1	Anti-Corruption Non-Governmental Organizations	54 ■
I-2	Media's Ability to Report on Corruption	70 ■
I-3	Public Requests for Government Information	83 ■
Category II	Elections	84 ■
II-1	Voting and Party Formation	79 ■
II-2	Election Integrity	88 ■
II-3	Political Financing Transparency	85 ■
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	81 ■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	78 ■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	90 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	73 ■
III-4	Budget Process Oversight & Transparency	83 ■
Category IV	Public Administration and Professionalism	81 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	78 ■
IV-2	Whistle-blowing Protections	83 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	78 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	87 ■
Category V	Government Oversight and Controls	86 ■
V-1	National Ombudsman	89 ■
V-2	Supreme Audit Institution	94 ■
V-3	Taxes and Customs: Fairness and Capacity	79 ■
V-4	Oversight of State-Owned Enterprises	85 ■
V-5	Business Licensing and Regulation	84 ■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	80 ■
VI-1	Anti-Corruption Law	100 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	87 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	61 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	71 ■



cial practices by the contractors, possible kickbacks in return for the awarding of contracts, and shortcomings in the government's supervision and control. Among those caught up in an episode known as "the Carousel of Contracting (el carrusel de la contratación)" are the mayor of Bogotá, Samuel Moreno; his brother Iván Moreno, a senator; the Calle 26 contractors; the city's comptroller, Miguel Angel Moralesrussi; Liliana Pardo, former director of the city's Urban Development Institute (IDU – Instituto de Desarrollo Urbano), the IDU legal adviser; and Germán Olano Becerra, a former member of Congress.

The "Carousel of Contracting" story starts with the contractors, brothers Manuel and Miguel Nule, and their cousin Guido. Engineers in their 30s from families with political ties, they had business acumen and a lot of charisma. Their Nule Group, founded in 2006, began to win public works contracts hand over fist.

In a profile at the time, the Nules said that they were billing US\$200 million annually in contracts. But in just a few years, the Nule Group had left a trail of unfulfilled public works contracts worth more than US\$500 million, according to the Comptroller General's Office.

In late 2009, the media reported that the Nule Group showed signs of having liquidity problems, which they denied.

"It is not a sin to slow down a bit," Guido Nule said.

Calle 26 Project Among Those Delayed

One of the Nules' projects in trouble because of a lack of liquidity was Calle 26, a contract worth US\$175 million. Despite the delays, the penalties set forth in the contract were not applied, and instead the government added more work to the contracts.

In January 2010, the city's comptroller called the Nule Group a "corporate pyramid." By this he meant that the strategy for business growth was to use the company's advance payments to lobby for new business, and to pay debts.

City administrators announced plans to rescind the Nules' contract for Calle 26. If that happened, their companies would be slapped with a penalty that would prevent them from further public-sector contracts. Facing this ultimatum, the Nules

ceded the Calle 26 contract to Conalvías, a Colombian company. This appeared to solve all the problems for them, for the administration, and for the city.

But a recording leaked to the media rekindled the flames. In it, one of the Nules was heard talking to Germán Olano Becerra, a former congressman the Nules trusted, about the pressure to cede the contract, and he implied that at stake was the payment of millions in bribes. The recording also mentioned others who have business with the Nules.

What these allies of the Nules have in common is that they made their wealth in a short time, with public works contracts and bids for tenders in which if one company were not the winner, the other would be. One of these contractors, Emilio Tapia, was also notable for having supported Iván Moreno, brother of Mayor Samuel Moreno, in his bid for Congress. All of these suggestive relations forced the Attorney General's Office to take more serious action.

By that time, the Nules were behind in several of their projects around the country. This prompted a critical look at their infrastructure projects, bringing to light the deficiencies in planning, lack of control, corruption, or all of the above, which had caused them to fail to keep to the timetables.

The Nules' empire collapsed in 2010, after the Financial Superintendency intervened in the company. This led the Comptroller General's Office to do a detailed review of the public resources committed in the contracts. The picture was bleak. There was no money, the Nules were millions in debt, and the companies' accounting was excessively lax.

The Nules maintained that the state of their finances was not as critical as the authorities said, and that the funds that remained in the businesses that were taken over would be sufficient to cover their debts.

In several interviews the Nules insisted that they lost the contract for Calle 26 for not having paid a bribe of US\$3 million to the mayor. The ceding of that contract was the real reason for their bankruptcy, they claimed. The Nules also cited pressure caused by the claim that their company operated like a pyramid scheme, and the suggestions that the concessions made to the new contractor were proof that something was improper.

(The new contract included a new work order for US\$100 million, which is being investigated by the oversight agencies.)

Cutting Deals by Turning on Others

The Nules tried to broker a deal for cooperating with the justice system. By doing this, the accused may qualify for sentence reductions if they provide evidence about their accomplices and can demonstrate that these others bore greater responsibility for the crime.

The investigations by the Attorney General's Office led to charges against the Nules of conspiracy to commit crime, procedural fraud, misrepresentation, and embezzlement by appropriation. In mid-2011 they pleaded guilty to the last, which referred to the advance payment for the work on Calle 26; they confirmed that this money was diverted for purposes other than the roadwork project. This crime carries a sentence of seven years in prison, which is halved for confessing. They are awaiting trial on other charges.

Now the Attorney General's Office is investigating possible collaboration among the Nules and contractors in other parts of the country.

The Nules' businesses experienced impressive growth during the government of Alvaro Uribe, but their liquid assets dried up just like construction work on Calle 26 in Bogotá. The oversight agencies are pursuing investigations after setbacks in major projects, such as the Bogotá -Girardot road, in which the Nules also participated.

Tender Scandals Are Nothing New in Colombia

According to the latest Latinobarómetro survey, when Colombians were asked, "What does democracy in your country need to do?", 63 percent said, "Reduce corruption." That figure is well above the South American average of 48 percent.

Meanwhile, in the Calle 26 case, the Attorney General's Office has agreed to negotiate with the former legal adviser to the IDU, who acknowledged having favored the Nules in their

projects. In his testimony, he has suggested that both the mayor of Bogotá and his brother, the congressman, knew, authorized and were involved in shady arrangements.

This got the charge of extortion against him dropped, but he was convicted on charges of undue interest in contracts, signing contracts without following the legal procedures, and prevarication by omission. He faces a sentence of seven and a half years.

The businessmen mentioned in the recording, as well as the congressman who participated in that conversation, have also sought to strike deals with the justice system, revealing how these contracts were a reward for funding the mayor in his bid for office. The campaign doesn't show any contribution from them.

With this back story, in mid-September 2011 Bogotá Mayor Samuel Moreno stood before a supervisory judge to face accusations brought by the Attorney General's Office for the crimes of extortion, embezzlement by appropriation in favor of third parties, and undue interests in contracting. The mayor's defense at the hearing was that he was being framed, and that he was the victim of defamation by people who were seeking sentence reductions by testifying. If convicted, the mayor could be sentenced to 15 years in prison.

A Test of Colombia's Legal System

These tumultuous months have made it clear that contracting procedures have many weak spots. Despite bids being public, the bids themselves cannot be shielded from irregularities such as false financial information, or private agreements that end up skewing the decision to favor one or another of the participants. The Calle 26 case also raises questions about whether contract renegotiation and addition of more work open the door to corruption and how the lack of supervision and oversight of projects have become common.

And officials and contractors agreeing to help prosecutors in return for lighter sentences, part of 2004 changes to the Penal Code, is getting its first real test with the Nules and other recent major corruption cases in Colombia.

The challenge then for justice officials is whom do you believe – the accused trying to cut a deal or the ones who are being pointed at for alleged roles in a scheme?

According to criminal lawyer and former prosecutor Jesús Albeiro Yepes, “considerable hopes are pinned on the ability of the Attorney General’s Office to compare or verify these accounts” from those accused and looking for a lighter sentence “with other testimonial, documentary, or physical evidence.”

In a similar vein, former Attorney General Alfonso Gómez Méndez says he is concerned that combating one kind of impunity could give rise to another kind of impunity. “An evaluation of the adversarial criminal justice system would be worthwhile, to really understand its results,” Gómez said.

Meanwhile, now more than a year behind schedule, the people of Bogotá are waiting for their beloved Calle 26 to return to normalcy, and to regain the positive connotation it had until it was caught in the middle of the carousel of corruption.

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Nivell Rayda



At 33 years old, Muhammad Nazaruddin epitomizes a rising number of young corruptors in Indonesia. Once a member of Parliament and treasurer for the ruling party, he was charged with receiving kickbacks and rigging a tender for a government project.

INDONESIA






























A Young Generation Rigs Bids, Bribes Officials, Amasses Wealth

*By Nivell Rayda**

Sitting at the heart of Indonesia's capital, Jakarta, Sudirman Street has always been the city's economic center, adorned by high-rise buildings and overwhelmed by crippling traffic. But for a brief period in 1998, the street belonged to the student-led pro-democracy movements and all those who desired change, tired of 32 years of dictatorial rule under former president Suharto, whose reign had planted the seeds of corruption that penetrated and still remains in almost every aspect of life.

Although Indonesia did eventually oust Suharto, the country has failed to quash his legacy of rampant corruption, and the young generation of public servants is now as much a

OVERALL SCORE: 81  STRONG
LEGAL FRAMEWORK SCORE: 95  VERY STRONG
ACTUAL IMPLEMENTATION SCORE: 69  WEAK

Category I	Non-Governmental Organizations, Public Information and Media	83 
I-1	Anti-Corruption Non-Governmental Organizations	81 
I-2	Media's Ability to Report on Corruption	78 
I-3	Public Requests for Government Information	90 
Category II	Elections	84 
II-1	Voting and Party Formation	100 
II-2	Election Integrity	92 
II-3	Political Financing Transparency	60 
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	74 
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	67 
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	80 
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	80 
III-4	Budget Process Oversight & Transparency	69 
Category IV	Public Administration and Professionalism	79 
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	68 
IV-2	Whistle-blowing Protections	92 
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	90 
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	67 
Category V	Government Oversight and Controls	89 
V-1	National Ombudsman	95 
V-2	Supreme Audit Institution	97 
V-3	Taxes and Customs: Fairness and Capacity	83 
V-4	Oversight of State-Owned Enterprises	90 
V-5	Business Licensing and Regulation	81 
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	75 
VI-1	Anti-Corruption Law	78 
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	88 
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	58 
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	77 



part of the problem as its senior one.

In 2011, there were at least 14 corruption cases pending involving people under the age of 35, according to documents from the Attorney General's Office and the Corruption Eradication Commission (KPK). In 2010, there were only two.

"Corruptors seem to be getting younger by the day," said Constitutional Court chairman Mohammad Mahfud, M.D., in an interview in August.

Indeed, a new breed of scoundrels is emerging in Indonesia, one that is even greedier than before, more shameless – and younger.

Two people epitomize this rising number of young corruptors.

Gayus Tambunan, now 32, amassed more than 100 billion rupiah (US\$11.2 million) in wealth with his 9 million rupiah (US\$1,008) per month salary as a mid-ranking tax examiner. He was sentenced in January 2011 to seven years in prison after he was found guilty on four counts of corruption, including bribing law enforcers who in 2009 were trying to prosecute him for money laundering and giving false information about the source of money in his bank account.

In 2011, the Supreme Court upheld the verdict and increased his sentence to 12 years. He's also serving an extra two years for falsifying his passport after Court revoked his. Gayus is now on trial again, this time at the Jakarta Anti-Corruption Court for money laundering.

"Gayus must have set some kind of record for greed and corruption," his former boss, head of Tax Court Tjip Ismail, said. "Even during the Suharto days, [US\$12 million] is a lot of money, and you couldn't amass that kind of wealth without being heavily connected to power or attracting people's attention."

Then there's the case of Muhammad Nazaruddin, 33, once a member of the Indonesian parliament, a successful entrepreneur and a treasurer for Indonesia's ruling party. Arrested in August in Colombia after weeks on the run, he is accused of soliciting 28.8 billion rupiah (US\$3.2 million) in payoffs from two companies for whom he helped secure a lucrative government project. He also is allegedly involved in one case of rigging

a for the Southeast Asian games' athletes villages. The KPK has said it's probing 30 other cases. but no one has been charged.

His wife, Neneng Sri Wahyuni, 29, is now wanted in another tender-rigging case. His nephew Muhammad Syarifuddin, 28, has been detained for helping Nazaruddin during a 70-day escapade through Asia, Europe and Latin America.

Another Democratic Party lawmaker, Angelina Sondakh, 33, is also accused of receiving funds from the construction of an athlete's village for the Southeast Asian games.

'Bureaucratic Reform Efforts Have Failed'

Danang Widoyoko, chairman of Indonesia Corruption Watch, the country's most prominent anti-graft group, said the Gayus and Nazaruddin cases "serve as an example that the government's bureaucratic reform efforts have failed."

"For many institutions, reform means more money for officials, but at the same time oversight and transparency (are) virtually nonexistent," he said.

He added he believes that the key to the rise of this neo-corruption is the preservation of the same corrupt system.

"If the systems are unchanged then new recruits would eventually follow the same corrupt habits of their superiors," he said. "In fact their modus are even more sophisticated as they explore new ways and possibilities."

The Ministry of Finance, where Gayus worked, is one institution that has undergone massive changes in its remuneration system. Salaries for the highest levels have risen nearly 1,000 percent since 1998 (along with salaries in a few other entities), but with little internal oversight, public officials, like Gayus, still find ways to pile up ill-gotten wealth.

Since the fall of Suharto, Indonesia enacted the Law on Corruption in 1999 and established a dedicated agency to combat graft, the KPK in 2003.

The KPK, which has a very high conviction rate, has shown that no institution is free from graft, including judges, prosecutors, governors and district heads across the country.

In the House of Representatives, a total of 42 lawmakers have been imprisoned since 2007 in a number of cases ranging

from bribery to extortion.

The KPK has also worked on prevention, with an Anti-Corruption Initiative Assessment about public institutions and their progress or lack thereof in following up its recommendations on transparency and accountability. However, the government and in particular those heavily criticized in the assessments rarely act and get by by saying the recommendations are “valuable input.”

‘Corruption Now Has Many Faces’

The Reformasi movement that followed the ousting of Suharto paved the way for the decentralization of power, bringing greater independence for ministries and regional governments. It also brought more oversight power for the House of Representatives and its independent commissions.

However, Transparency International Indonesia Secretary General Teten Masduki said corruption has shifted from involving a few bureaucratic elites to being more widespread. “In the Suharto era, we knew who the players were: the cronies and the well-connected,” Teten said. “But now, everyone can directly involve themselves in the labyrinthine web of graft.

“Corruption now has many faces; it is less systematic but more widespread with a multitude of entry points, be it from the executives, the legislature or the judiciaries.”

Sofjan Wanandi, chairman of the Indonesian Employers Association (Apindo – Asosiasi Pengusaha Indonesia), said that the die-hard culture of corruption in Indonesia can be explained by the simple economic rule of supply and demand.

“For businesses it is simple. There is a demand for legal certainty, a demand for swift bureaucratic process, a demand to end discriminating treatments for the haves and the have-nots,” he said.

“If we can devise a system to meet these demands, the need for providing officials with payoffs will die out,” he said. “But to do that we need a stringent leadership, and that is what’s lacking in Indonesia.”

But President Susilo Bambang Yudhoyono said he believes Indonesia’s fight against corruption “is still on the right track.”

The Ministry of Finance showed a zero tolerance attitude toward graft, replacing nearly 3,000 officials since the Gayus scandal caught media attention. The ministry now also requires all taxation officials to declare their assets for further scrutiny.

But the ICW's Danang said that anti-corruption programs at other government agencies have been less effective and vague. "How do they expect to curb corruption by anti-corruption training and making officials sign an 'integrity pact' while doing little to ensure better transparency in public offices?" he said.

The KPK, conducting assessments in public offices, has found that officials are still reluctant to declare their wealth, report gifts which could affect their professionalism, act on indications of graft, or accommodate public demands for scrutiny.

An Age-Old Problem with New Players

Danang said that Indonesia's reform movement is unique as it fails to bring former president Suharto to justice as the Egyptians did immediately after Hosni Mubarak's regime toppled in 2011.

"Suharto behind bars would have sent a powerful message to corruptors," Danang said. "Instead his legacy remains embedded in the mentality of the bureaucrats who publicly say they are against graft but secretly long for the Suharto era."

Indonesia did try to prosecute Suharto shortly after he was removed from office, but because many of his supporters were still in power in the country's judiciaries and executives, the attempt failed.

The Suharto family and his cronies own hundreds of companies, including televisions, banks, hotels, mining and logging companies. According to a 2008 article by Worldpress.org, Suharto's alleged misappropriation has been estimated to be around \$73 billion during his reign. Transparency International in 2008 listed Suharto as "the world's most corrupt leader of all time."

After Suharto died in 2008, the case was not revived. In fact, today there are people in Indonesia who revere Suharto and support efforts to name him as a national hero.

Times change, but as the cases of Gayus or Nazaruddin show, corruption remains, and now some of it is being perpetrated by a younger generation.

At the start of December 2011, Indonesia's anti-money laundering agency the Financial Transactions Report and Analysis Center (PPATK) announced that they have discovered 10 young public officials with suspiciously large bank accounts amounting to billions of rupiah each.

"I thought the accounts were conspiring with their superiors, but no. They did it themselves. [Illicit funds] are being funneled to their wives' accounts, even one official's two year old daughter was insured for Rp 2 billion, one official had a Rp 5 billion insurance under his 5 year-old son's name," said PPATK deputy chairman Agus Santoso.

Back on Sudirman, a former student activist asked as he sipped some freshly brewed coffee at a café, "You don't suppose Gayus or Nazaruddin were among the students in the movement do you?"

"They couldn't have," he continued after a long awkward pause. "If they ever felt the sting of a rubber bullet or tasted a police baton, there is no way they could've done what they did."

** Nivell Rayda is an editor and reporter at the Jakarta Globe with years of experience covering legal, politics and human rights in Indonesia.*



President Bingu wa Mutharika passed in early 2011, in a time where the international community and civil society in Malawi were concerned over his rule becoming “ever more autocratic.” The photo shows a message from his 2009 campaign in Lilongwe.

MALAWI

Critics Silenced as President Piles on Wealth with \$13 Million Jet

*By Frank Phiri**

During a lecture at the University of Malawi’s Chancellor College, in February 2011, Associate Professor Blessings Chinsinga drew parallels between Malawi and the popular uprisings in Tunisia and Egypt during the Arab Spring.

It was enough for the Inspector General of Police, Peter Mukhitho, to summon the lecturer for questioning.

Chinsinga and three other professors were soon fired, which sparked protests from the students in support of academic freedom.

Other critics of the government have lost a lot more than their jobs. Across Malawi, at least 19 new graves have been

OVERALL SCORE: 73 ■ MODERATE
LEGAL FRAMEWORK SCORE: 86 ■ STRONG
ACTUAL IMPLEMENTATION SCORE: 61 ■ WEAK

Category I	Non-Governmental Organizations, Public Information and Media	77 ■
I-1	Anti-Corruption Non-Governmental Organizations	85 ■
I-2	Media's Ability to Report on Corruption	69 ■
I-3	Public Requests for Government Information	75 ■
Category II	Elections	62 ■
II-1	Voting and Party Formation	97 ■
II-2	Election Integrity	89 ■
II-3	Political Financing Transparency	1 ■
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	59 ■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	56 ■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	61 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	45 ■
III-4	Budget Process Oversight & Transparency	75 ■
Category IV	Public Administration and Professionalism	80 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	56 ■
IV-2	Whistle-blowing Protections	94 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	90 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	82 ■
Category V	Government Oversight and Controls	77 ■
V-1	National Ombudsman	81 ■
V-2	Supreme Audit Institution	90 ■
V-3	Taxes and Customs: Fairness and Capacity	83 ■
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Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	84 ■
VI-1	Anti-Corruption Law	100 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	85 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	83 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	69 ■



filled since the July 2011 crackdown on anti-government protesters by armed forces.

Not even diplomats escape the wrath of the regime. In April 2011, the British envoy to Malawi, Fergus Cochraine-Dyet, accused President Bingu wa Mutharika of becoming “ever more autocratic and intolerant of criticism,” according to a story in *The Weekend Nation*, a local newspaper, about a leaked diplomatic memo.

Cochraine-Dyet was immediately expelled, and the United Kingdom subsequently expelled the acting Malawi High Commissioner to the U.K., Flossie Gomile Chidyaonga. The diplomatic spat was soon followed by the U.K.’s decision in July to suspend, indefinitely, all budget aid to Malawi.

Other donors had already withdrawn their support, citing Malawi’s poor economic management and a deteriorating governance situation characterized by abuses of human rights and press freedoms.

“The donors are still concerned about threats to press freedom and the ‘shrinking political space,’” said World Bank Country Manager Sandra Bloemekamp, chair of the Common Approach to Budgetary Support (CABS), the consortium of donors currently withholding aid to Malawi.

The more than US\$400 million being withheld by different donors is severely affecting the economy of Malawi, a southern African country of more than 13 million people that relies largely on agriculture.

Shortages are widespread – including fuel, drugs, electricity, water and even soft drinks.

“Malawi’s grave economic crisis can only be tackled if the government works with the international donor community,” the U.K.’s Foreign Affairs Secretary William Hague said in a press statement. “If this doesn’t happen, the economic and social progress made in recent years will be lost.”

President Is Intolerant and Autocratic

The withdrawal of foreign donor aid and Malawi’s current economic struggles are reflected in the public’s discontent with Mutharika and his administration. Mutharika has been in

power since 2004 and is nearing the end of his constitutionally limited two terms.

In a petition to the president in July, a group of civil society organizations (CSOs) accused the current regime of poor economic and democratic governance, corruption, abuse of power, disrespect for the rule of law, political intolerance and violence.

The petition was discussed in the context of a United Nations-mediated dialogue between CSOs, church leaders and a team representing the president.

In the 193-seat Malawi Parliament, Mutharika's ruling Democratic Progressive Party (DPP) is accused of abusing its majority representation to orchestrate repressive and retributive laws. These include Section 46 of the Penal Code that allows the Minister of Information to arbitrarily ban newspapers; the Injunctions Bill, which denies supplicants the right to instant relief when their rights are under threat by any government agency or officer; the Police Act, which gives police the power to conduct searches without a written warrant; and constitutional amendments providing for postponement of long-awaited local government elections.

The government twice thwarted attempts by critics to mobilize mass protests in August and September. "If you dare go back to the streets, I'll smoke you out," the president said during a police graduation ceremony in July.

In July, gangs of machete-wielding pro-government youths took to the streets of Blantyre, Malawi's commercial capital, a day ahead of planned protests against Mutharika, who is accused of autocracy and mishandling the economy.

The government subsequently unleashed a reign of terror on anti-government targets, with properties belonging to civil society leaders systematically torched.

And yet, the public hasn't been dissuaded from asking questions about the Mutharika's sudden turnaround in fortunes.

The President's Unexplained Prosperity

Soon after Mutharika's election in 2004, the former deputy governor of the Reserve Bank of Malawi and economic plan-

ning minister declared wealth of less than US\$1 million, according to documents filed in Parliament. Today, the president's personal assets include a sultan-styled mansion, unofficially valued at US\$1.8 million, in his home district of Thyolo.

Civil society groups, among them Malawi Watch, the Institute for Policy Interaction, Malawi Law Society and Malawi Health Equity Network, have sought explanations about the source of funding for the property. Surrounded by grass-thatched hamlets, the mansion presents a stark rags-and-riches contrast. The groups also question the prudence of the government buying a presidential jet valued at US\$13 million – the equivalent of the annual salaries of 5,000 nurses or 11,500 primary school teachers, according to data from the national budget.

“In 2010, the president secretly authorized the purchase of a private jet costing US\$13 million – equivalent to half the budgetary support that Malawi's major donor (Britain) contributed,” the civil society petition stated. “The purchase went on regardless of condemnation from different stakeholders within Malawi and beyond. The infamous presidential jet remains a sore point, since it appears to have no place in an impoverished country like Malawi.”

The president also gifted his wife, Callista Mutharika, with a position as National Coordinator of Maternal, Infant and Child Health, HIV/Nutrition/Malaria and Tuberculosis. Similar functions were previously performed by the vice president, Joyce Banda, who was expelled from the ruling party after a falling out with the president.

Analysts say the first lady's new job amounts to a de-facto Ministry of Health. “All the tasks the first lady has been delegated constitute the real issues any serious health minister in Africa deals with routinely,” said an economist working with the United Nations who asked not to be named.

The president's wife was included in the Cabinet after she had already assumed her duties, sparking public outcry.

In April, seven opposition parties demanded Callista Mutharika refund her over US\$7,000 a month salary for doing “charity work.” In response, the government challenged them to go to court.

The Makings of a Mutharika Dynasty?

Mutharika is constitutionally barred from a third-term of office in the next election in May 2014. But in a move reminiscent of his former political mentor turned nemesis Bakili Muluzi, who hand-picked Mutharika as the former ruling party's (Democratic Front) candidate in 2004, Mutharika has thrust his younger brother Peter – a former U.S. university professor – onto the DPP president's seat.

Peter Mutharika is guaranteed a seat in his elder brother's Cabinet as the current Foreign Affairs Minister (previously, he was Minister of Education and Minister of Justice and Constitutional Affairs). Although his candidacy is subject to a vote at the DPP's first convention, he faces little or any hurdle.

As a clear sign that he is being groomed for the presidency, since 2010 “Mutharika II” has been escorted by a motorcade of nearly the same size as his brother's, and accompanied by banners proclaiming “Peter Mutharika, 2014 Boma!” (Peter Mutharika, 2014 President!).

Meanwhile, controversy has swirled around the president's inner circle as a number of high-ranking Cabinet ministers, who double as senior ruling party officials, have been questioned in wide-ranging cases of alleged corruption.

In August, The Daily Times newspaper exposed a scheme involving Trade and Commerce Minister John Bande, the Supreme Court of Appeals Judge Jane Ansah, the ruling party's Regional Governor (South) Noel Masangwi, and two officials working for state-owned Malawi Housing Corporation (MHC). They and Peter Mutharika were investigated for allegedly using their positions to influence the purchase of state-owned houses at lower than market values, resulting in a loss of nearly US\$700,000 for the state.

The scandal did not deter the president from reinstating his young brother and Bande in the Cabinet.

In October, the Anti-Corruption Bureau (ACB) cleared Bande, Ansah, Masangwi and Peter Mutharika of wrongdoing. “They are innocent purchasers,” said ACB Director Alexius Nampota. The bureau did arrest two MHC officials on “two counts of nondisclosure of interest by public officers and two

counts of misuse of public office.”

The ACB also has been investigating current Energy, Information and Sports Ministers Goodall Gondwe, Patricia Kaliati and Vuwa Kaunda in different alleged corruption cases. As the time of this writing, the ministers, who deny the corruption allegations, continue to be part of Mutharika’s situation room.

“Investigations on these ministers are still under way. They have not been completed yet,” said the ACB’s senior spokeswoman Egrita Ndala.

She refuted a long-standing criticism, including by donors such as Britain’s Department for International Development, that the ACB is often patronizing when it comes to dealing with alleged corruption by the ruling political class. “The bureau handles cases on merit,” she said. “It does not look at the political inclination of any subject.”

Donors Apply Pressure and Malawi’s Economy Suffers

Riled by the decline in respect for the rule of law, human rights abuses and a poor economic governance record, international donors have cut or stalled aid for Malawi. Among these donors who have withheld aid are Britain, the World Bank, Germany, Norway and the European Union. Together they account for more than US\$400 million that has been frozen.

For its part, the United States suspended a US\$350 million package that was aimed at repairing Malawi’s aging electricity generation plant, and the country is no longer eligible to receive Millennium Challenge Corporation (MCC) aid.

More cuts may be on the way and could slow anti-corruption efforts.

“Donors give us half of our funding, and Britain is the largest donor,” the ACB’s Nampota said in *The Nation* newspaper. “Should they pull out, it’d mean we have to cut our operations in half. It’d be a sad day.”

Billy Banda, executive director of Malawi Watch, a local government watchdog, expressed concerns on the future of the anti-corruption fight and good governance in the absence of

donor aid.

“The war for good governance and a corrupt-free society will be long and hard without donor aid in Malawi,” Banda said. “The ACB and other state-funded governance institutions like the Human Rights Commission, Law Commission and Ombudsman will suffer greatly as their budgets will be lowered.”

The cutbacks in aid are aimed at forcing change in Malawi, and they seem to be having an impact.

President Mutharika has apologized for expelling the U.K.’s diplomat and asked the British to send him back or name a new appointee. The president also reinstated the four Chancellor College lecturers, including Chinsinga, who had been fired. The University of Malawi constituent college, which had been shut down for eight months, reopened in November.

Chinsinga, now back at work teaching, said, “My colleagues and I feel vindicated for having stood for the truth and justice.

“However,” Chinsinga added, “I do not consider the battle for academic freedom to have been fully won, but we have made significant strides in that direction.”

** Frank Phiri is an award-winning Malawian business journalist and founder of Finance Today Magazine. He is the Reuters correspondent in Blantyre, and he previously worked as a business editor for The Daily Times and a business news analyst for The Nation, Malawi’s two daily newspapers. He also serves as the technical adviser to the Association of Business Journalists (ABJ) in Malawi.*

В. Byamba-Ochir (INET.MN)



Despite having an anti-corruption body with the highest paid staff in the country, Mongolia has yet to see any “big fish” go to court. Several suspects haven found shelter in Parliament, which refuses to suspend its members’ immunity.

MONGOLIA

Mongolia’s Parliament – A Shelter for the Corrupt

*By Ch. Sumiyabazar**

For the first time since Mongolia adopted an anti-corruption law, in July 2011 a court sentenced a man to three years in jail for attempting to bribe a police officer. The man was convicted of offering the officer 100,000 tugrik (around US\$80) to let him go after he was found logging illegally in a forest near the Mongolian capital of Ulaanbaatar.

This is the first conviction under Mongolia’s anti-corruption law, but it has fallen short of the multibillion-tugrik corruption deals that Mongolians regularly hear and talk about but are kept away from the courts.

The Independent Authority Against Corruption (IAAC),

OVERALL SCORE: 60 ■ WEAK
LEGAL FRAMEWORK SCORE: 79 ■ MODERATE
ACTUAL IMPLEMENTATION SCORE: 42 ■ VERY WEAK

Category I	Non-Governmental Organizations, Public Information and Media	72	■
I-1	Anti-Corruption Non-Governmental Organizations	82	■
I-2	Media's Ability to Report on Corruption	70	■
I-3	Public Requests for Government Information	63	■
Category II	Elections	58	■
II-1	Voting and Party Formation	81	■
II-2	Election Integrity	63	■
II-3	Political Financing Transparency	31	■
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	49	■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	36	■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	47	■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	37	■
III-4	Budget Process Oversight & Transparency	75	■
Category IV	Public Administration and Professionalism	52	■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	70	■
IV-2	Whistle-blowing Protections	54	■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	58	■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	27	■
Category V	Government Oversight and Controls	59	■
V-1	National Ombudsman	64	■
V-2	Supreme Audit Institution	88	■
V-3	Taxes and Customs: Fairness and Capacity	71	■
V-4	Oversight of State-Owned Enterprises	53	■
V-5	Business Licensing and Regulation	21	■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	70	■
VI-1	Anti-Corruption Law	100	■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	55	■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	59	■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	67	■



the country's anti-corruption body, is harshly criticized by the media for dealing only with the "small fish." Big fish, those with strong political backing, are more likely to walk away free under an amnesty law, or their cases are simply dropped during judicial or investigative procedures that may last for years.

Corruption Inside

Mongolia's IAAC was born in 2007 after a strong recommendation from the United Nations and carrying great expectations from the public that it would hunt down the "billionaires born from the state."

Today the agency, with the highest paid staff in Mongolia and an annual budget of over 5 billion tugrik (US\$3.9 million), has little to show in anti-corruption cases, arrests or convictions.

According to an IAAC report, on the first half of 2011, the agency investigated 84 criminal cases of abuse of power, corruption, and a small number of misuse of public funds (2.3%). A total of 117 people were taken to court, about half businessmen and half public officials. At the time of writing, only five cases had been resolved in court, resulting in eight people found guilty, of which three were sentenced to jail, four were fined, and one suspended.

"The number of corruption cases going to court is increasing, including cases involving government agency-level officers. But no corruption charge has ever been filed against a high-profile official because that's a challenging job that requires strong opposition and public pressure. It's a matter of political will," said Oyun Sanjaasuren, chairwoman of the Civil Will Party.

"As a one of the initiators of the anti-corruption law, I don't think corruption will be eliminated like taking out a thorn by establishing this agency, and we were realistic about that when we created the law. The key is turning corruption from a low-risk, high-profit business into a high-risk, low-profit one," she added.

However, the IAAC's heads so far haven't come close to

reaching that tipping point.

The second chief commissar, Ch. Sangaragchaa, was sentenced to two years of imprisonment in March 2011 for misuse of public funds and wiretapping lower-level officers. Sangaragchaa's trial was not open to the media, and he was released from prison in October 2011 after the Supreme Court suspended his sentence.

Sangaragchaa has said in news reports that he was sentenced for no reason, while the press has speculated that he might be a "big fish" caught on corruption charges. Two of his colleagues were also arrested and later released on the wiretapping inquiry.

The IAAC's first chief commissar, B. Dangaasuren, was found dead in strange circumstances in a bathroom of his colleague's relatives' home in Australia when he attended an international corruption conference in October 2007. Relatives have claimed a political assassination, while Australian and Mongolian authorities claim he died of an illness but differ on what the illness was.

Parliament Protects Its Own

There are a number of ongoing corruption investigations involving politicians in Parliament, but the State IkhHural (Parliament) refuses to suspend the immunity of its members, which is required to check those lawmakers' bank accounts and property records.

On December 30, 2010, the Parliament took a step further and amended the law to say that immunity can be removed only if the member is caught in the act of committing a crime, arrested at the crime scene with certain evidence or proof, and the General Prosecutor's Office (GPO) has sent the request to the Parliament asking for removal of the member's immunity.

Minister of Parliament Dondog Doltson, who has been elected to Parliament three times since 2000 and is a former vice chairman of the faction of the Mongolian People's Party (Mongol Ardyn Nam, the new name of old Mongolian People's Revolutionary Party or Mongol Ardyn Khuvisgalt Nam),

was repeatedly questioned after allegedly collecting a donation of more than 150 million tugrik (around US\$115,000) from a private construction company.

Doltson allegedly used the money for his party's election campaign in 2008. He acknowledged to the press that he received the money and used it in his campaign, but he said it was a loan from his administrative assistant that he has since paid back.

According to media reports, the General Prosecutor's Office has compiled enough evidence against him and in early 2011 requested three times that Parliament suspend Doltson's immunity. Each time, Parliament's standing committee on justice refused to do so, claiming that Doltson was not arrested at the crime scene with evidence against him.

The GPO has also compiled evidence against two other parliamentarians of same political party, MP Saikhansambuu Shinensambuu, owner of Narantuul market, the largest outdoor market in Ulaanbaatar, and MP Chuluunbat Ochirbat, a former governor of the Bank of Mongolia (Mongolia's central bank).

However, the GPO never asked Parliament to waive immunity for Shinensambuu or Ochirbat, because it wasn't able to meet the new requirements Parliament demands.

Shinensambuu was questioned by IAAC investigators after he was quoted in the Morning News newspaper on March 14, 2011, saying that he "sits together (in Parliament) with politicians that he used to give bribes to." When interrogated by the IAAC, he refused to name any of the politicians to whom he paid bribes.

According to the law, a member of Parliament can never be held responsible for what he or she said in the Parliament hall, but what Shinensambuu said was to a reporter.

"By using immunity, unfortunately, laws are broken to protect private interests. Thanks to the legal status of members of Parliament, guilty people go unprosecuted and no punishments are imposed. I think (the) question of examination should be open, and members of Parliament should be examined on a voluntarily basis, if they really believe that they did not commit a crime," said Altantsol Tsesenjav, a lawyer and

member of Association of Mongolian Advocates.

Amnesty Law Amended to Further Shield Officials

Another way that officials use Parliament to get shelter is amnesty. Since 2000, three amnesty laws have been approved by the Parliament at the “order” of political parties.

The ex-communist Mongolian People’s Party (Mongol Ardyn Nam – MPP), which ruled the country for more than 70 years until the early 1990s, was the predominant ruling party of Mongolia, while the Democratic Party (Ardchilsan Nam) was in power from 1996 to 2000.

In July 2009, Mongolia’s Parliament expanded its amnesty law to free scores of white-collar criminals convicted of multibillion-tugrik thefts from the state.

The amnesty law was originally designed to free underage teenagers who were arrested after the July 1, 2008, riot protesting Parliament election results. Around 2,400 first-time offenders, among them minors, women with a young child or pregnant, disabled people (those who have lost over 70 percent of their labor capacity); men over age 60; and women over age 55 were freed.

But the law then turned into a political deal between two ruling parties (the ex-communist party and democratic party) and became widely applicable to about 4,000 additional people, including a number of high-ranking public officials who had been found guilty of misuse of public funding and abuse of power.

The effects of the amnesty continue to this day. On Sept. 29, 2011, the Khan-Uul District Court of the Capital City sentenced a former chief commissar of the National Emergency Management Agency, Gen. P. Dash, together with high-ranking public official L. Altangerel, a chief officer of the State Reserve Fund, to four years in prison for misuse of public funding and abuse of power.

After a closed-door trial that lasted six hours, the court judges reversed their decision and granted Dash and Altangerel amnesty because the case occurred in 2007, which was covered under the 2009 Amnesty Law.

As officials such as Dash, Altangerel and Sangaragchaa and Parliament member Doltson (among other lawmakers) continue to dodge charges of corruption and prison sentences, the man caught illegally logging remains behind bars.

“Everyone should have equal rights before law, but the law is not applied to certain people, people who have money and power. For the people who live from bread to bread, Mongolian law is brutal, ruthless and unmerciful,” Tsesenjav said.

After the IAAC’s second chief commissar, Ch. Sangaragchaa, was convicted, new leadership took over the agency. One of its first actions was to set up a special joint working group with the State Investigative Board to examine former President Nambaryn on a number of allegations of corruption and abuse of power.

Whether he’ll be the first high-profile politician to face the law remains an open question.

“In June 2012, Parliament elections will be held, and I hope a strong opposition is formed, capable of changing this situation. Because in the last two elections, the two major political forces kept power with a coalition government and they have proved to have no political will to fight corruption,” Sanjaasuren said.

** Ch. Sumiyabazar is publisher and editor of Newswire.mn, based in Ulaanbaatar, Mongolia. He previously worked for more than 10 years as editor-in-chief for The UB Post, Mongolia’s only independent English weekly newspaper.*

El Nuevo Diario



In a country where most people survive on US\$2 a day, Nicaragua's chief electoral judge, Roberto Rivas, enjoys a vast fortune that includes prime properties in Costa Rica and Nicaragua, a fleet of private jets, a yacht and a resort.

NICARAGUA

Private Jets and Mansions on US\$5,000 a Month

*By Luis Galeano**

With mansions, a fleet of private jets and the ear of the Nicaragua's president, Roberto Rivas Reyes fits the profile of a corporate chief. He is not. Rivas, a coffee farmer, is Nicaragua's chief electoral judge in this overwhelmingly poor nation where most people survive on US\$2 a day.

Rivas is just one example of the disparity of wealth between the haves and have-nots in one of the poorest Latin American nations, where corruption is chronic. Rivas' ties to Ortega, which helped the president to void the Nicaragua Constitution's two-term limit to win re-election, are just one example of the patronage system that plagues the country.

OVERALL SCORE: 57 ■ VERY WEAK
LEGAL FRAMEWORK SCORE: 80 ■ STRONG
ACTUAL IMPLEMENTATION SCORE: 32 ■ VERY WEAK

Category I	Non-Governmental Organizations, Public Information and Media	68 ■
I-1	Anti-Corruption Non-Governmental Organizations	72 ■
I-2	Media's Ability to Report on Corruption	70 ■
I-3	Public Requests for Government Information	60 ■
Category II	Elections	41 ■
II-1	Voting and Party Formation	70 ■
II-2	Election Integrity	52 ■
II-3	Political Financing Transparency	3 ■
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	43 ■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	38 ■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	51 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	30 ■
III-4	Budget Process Oversight & Transparency	54 ■
Category IV	Public Administration and Professionalism	68 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	46 ■
IV-2	Whistle-blowing Protections	48 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	89 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	88 ■
Category V	Government Oversight and Controls	60 ■
V-1	National Ombudsman	47 ■
V-2	Supreme Audit Institution	69 ■
V-3	Taxes and Customs: Fairness and Capacity	63 ■
V-4	Oversight of State-Owned Enterprises	48 ■
V-5	Business Licensing and Regulation	75 ■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	61 ■
VI-1	Anti-Corruption Law	100 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	46 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	47 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	50 ■



“The media have shown Rivas’ questionable wealth, but authorities don’t care,” said Alberto Novoa, former attorney general.

Rivas’ salary as head of the Supreme Electoral Council (Consejo Supremo Electoral -- CSE) is US\$5,000 a month, but his vast fortune includes prime properties in Nicaragua and Costa Rica, private jets, a yacht and a resort.

In San Jose, Costa Rica, he owns a four-home residential property that would be priced between US\$900,000 and up to US\$3 million. According to public records, the four homes are registered in the names of different corporations, all belonging to Chibilú West S.A., a company Rivas created in January 2005. His wife and daughter are also owners.

According to Costa Rican newspaper *La Nación*, Ortega’s children live part time in one of the homes on the property, when they attend school in Costa Rica.

Rivas also owns three luxury vehicles totaling nearly US\$500,000 (a 2009 Mercedes Benz S500, a 2009 BMW M3, and a 2008 Porsche 911).

In Managua, the capital of Nicaragua, Rivas’ properties include coffee farms in the north, at least two luxury homes on the Pacific Ocean, and an exclusive resort in San Juan del Sur (140 miles from the capital).

Rivas’ 21-year-old daughter owns three jets in the United States, which his family has used to travel to Costa Rica, Mexico and the Dominican Republic.

The jets were documented in a lawsuit filed against Rivas in July 2011 in the 11th U.S. Circuit Court in Miami (case number 11-21377 CA04). The lawsuit was filed by Nordlund Randall, a lawyer for two former suppliers to Nicaragua’s Electoral Tribunal, who say they lent the money to buy one of the planes and claim Rivas refused to pay them back.

“He’s an icon of corruption and impunity in Nicaragua,” Gustavo Garcia Prado, a member of the monitoring group American Convention Against Corruption, said of Rivas. Garcia Prado added Rivas’ wealth represents “acts of illicit enrichment without anything being done about it.”

Coffee Cited as Source of His Wealth

Rivas avoids talking about accusations against him (his asset statements are secret per Nicaragua's laws) and claims that his wealth belongs to his "private life."

In the only interview in which he allowed questions about the issue, he told reporters from *El Nuevo Diario* that his properties don't come from his US\$60,000 annual salary but from his coffee export business.

"Maybe I'm rich for love to my country," Rivas said. "I'm no different than any other Nicaraguan producer. I've been a coffee producer in the north of the country for many years, for all my life. Logically, that generates revenue."

But Roberto Bendaña, one of the most recognized coffee producers in the country, said it's very difficult to achieve the luxurious life that Rivas has based on coffee sales.

"We have many years of being producers and it has never crossed our minds to have mansions in and out of Nicaragua, and definitely not private jets," he said.

Rivas told *El Nuevo Diario*, "The jets are not as expensive as the media want to portray them. I mean, it's nothing out of the ordinary. My family is like any other, nothing more than a regular Nicaraguan family."

Nicaragua is one of the poorest countries in Latin America, and three-quarters of the population survive on less than \$2 a day, according to the United Nations' World Food Program.

Rivas insists the investigations and accusations against him are part of a "dirty campaign" because of "my good relationship with the government of President Ortega."

"That's why the media attack me," Rivas said. "Everything is a smear campaign that's never been proved."

Investigations Were Never Carried Out

Indeed, the Public Ministry of Nicaragua has rejected three complaints of illicit enrichment filed against Rivas by a group known as the "Organization of Democratic Lawyers."

Prosecutor Manuel Reyes, in charge of the case, said Rivas couldn't be investigated because the Office of Accounts

(Contraloría General de la República) decided not to conduct the audits to determine if CSE funds were embezzled.

The Office of Accounts is controlled by judges sympathetic to Ortega. Only one of four judges was in favor of reviewing the case.

“Unfortunately, my colleagues didn’t want to review that case and we can’t do anything,” said Guillermo Arguello Poessy, president of the Comptroller, one of 25 high-ranking officials who remains in his job because of a presidential decree.

According to an investigation by *El Nuevo Diario*, one of the top newspapers in the country, an audit would have found that false documents were used. The purchases totaled about 407 million córdobas (US\$20 million) between 2004 and 2008.

Rivas has been close to Ortega since 2002, and that relationship has proved key to Ortega’s political aspirations.

Rivas’ Power and Ortega’s Re-election

Nicaragua’s constitution includes a two-term limit for the presidency.

Ortega failed to get enough votes in Congress to overturn the constitutional restriction, but in 2009 the FSLN-dominated Supreme Court, of which Rivas is the head, ruled that restriction was unconstitutional.

With the constitutional obstacle removed, Ortega was re-elected by a landslide for a third term in November 2011. Rivas was in charge of supervising the purity of the vote.

Rivas is controversial not only because of his wealth but because he’s close to Ortega. Rivas serves as president of the CSE in violation of the constitution and the Electoral Law of Nicaragua.

According to the law, the CSE president should remain in that position for only five years.

But in January 2010, Ortega issued a presidential decree allowing Rivas – and 24 other high-ranking state officials whose terms were to expire in mid-2010 – to remain in office.

The constitution says those 25 key positions should be elected by a “qualified majority” (56 of the 92 votes in Parlia-

ment), not kept in their positions indefinitely by a presidential decree.

More than half of 25 officials whose terms in office were extended by Ortega are members of this political party Frente Sandinista de Liberación Nacional (FSLN).

Rivas' actions as chief of the electoral tribunal have long been questioned. Opposition parties and civil society organizations accuse him of fraud in the 2008 municipal elections in which Ortega's FSLN won in more municipalities.

If elections were rigged, it would be no surprise. Nicaragua regularly finishes near the top of rankings for corruption.

'Very Close to a Failed State'

The Index of Corruption Perception 2010, which measures the level of transparency in 178 countries worldwide, found that Nicaragua has remained at 2.5 percentage points and ranks 127th. Ten points represents a government with little or no corruption.

According to the annual report, the result shows Nicaragua "is at a stalemate in the government's efforts to combat corruption."

The 2008 the Global Integrity Report found that Nicaragua's government is plagued by political influence and poor accountability across all branches. The report cited weak anti-corruption efforts.

"What these results show is that Nicaragua is very close to being a failed state in the fight against corruption," said Roberto Courtney, executive director of Transparency International in Nicaragua.

This, Courtney said, results in the loss of quality of life of Nicaraguan citizens who are affected by the rising levels of inequality. An estimated 48 percent of Nicaragua's population of 5.6 million live in extreme poverty on less than \$1 a day; an additional 28 percent live in poverty on less than \$2 per day.

Novoa said corruption and impunity in Nicaragua have soared during the Ortega administration.

"We are witnessing one of the most corrupt governments in Nicaragua's history, surpassing even that of (Arnold)

Alemán,” said Novoa. Alemán was sentenced in 2003 to 20 years in prison for money laundering, embezzlement and corruption. In 2009, Nicaragua’s Supreme Court overturned Alemán’s sentence.

Novoa said the president and the various social circles “control the judiciary and other institutions that are supposed to fight corruption” in Nicaragua.

Since Ortega, leader of the ruling Sandinista Front, took power in January 2007, no top-level official has been prosecuted for abuse of public funds.

“The strongest thing we have seen when they have detected corruption is a dismissal,” Novoa said.

During the past 10 years, none of the three governments, led by Alemán, a disgraced former president once jailed for rampant corruption, Enrique Bolaños and Ortega, has changed the perception of high levels of corruption in Nicaragua.

How can Nicaraguans so quickly pardon the sins of their leaders?

Jaime Morales, Nicaragua’s vice president, told the Los Angeles Times in a 2010 interview, “This country has the memory of a mosquito.”

** Luis Galeano is a journalist with 12 years of experience, most of them engaged in investigative journalism in newspapers. He has been recognized with national awards and recognition abroad, for work related to corruption in the three governments that Nicaragua has had since 1998. In the past four years he was the editor of the Research Unit at the newspaper El Nuevo Diario and from May 2011 has been Managing Editor of the same organization.*

Official Website of the President of Tajikistan



Nepotism is hard to eradicate in Tajikistan, where president Rahmon is seen as the embodiment of a system of family ties and patronage. In the photo, he delivers housing benefits to public officials. (The image has no direct relation to corruption cases.)

TAJIKISTAN

Where Running the Country Is the Family Business – For Now

*By Sarvinoz Shukuri**

In a move to tighten regulations against nepotism, Tajikistan's Parliament passed new restrictions in October 2011 to broaden the number of relatives that officials are forbidden to hire.

With the new measure, spouses of children of high-ranking officials are also regarded as close relatives. Under the 2007 Law on Corruption, only spouses, parents, brothers, sisters, children and fiancées were barred.

The reform was an initiative by Parliament Member Saodat Amirshoeva, from the ruling People's Democratic Party, who intended the new rule to apply not only to future hires but also

OVERALL SCORE: 67 ■ WEAK
LEGAL FRAMEWORK SCORE: 79 ■ MODERATE
ACTUAL IMPLEMENTATION SCORE: 55 ■ VERY WEAK

Category I	Non-Governmental Organizations, Public Information and Media	69 ■
I-1	Anti-Corruption Non-Governmental Organizations	77 ■
I-2	Media's Ability to Report on Corruption	52 ■
I-3	Public Requests for Government Information	79 ■
Category II	Elections	72 ■
II-1	Voting and Party Formation	83 ■
II-2	Election Integrity	80 ■
II-3	Political Financing Transparency	51 ■
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to officials who currently have their relatives working for them.

“As soon as amendments enter into force (in early 2012), all civil servants will have to say goodbye to their sons-in-law and relatives (also holding high government offices),” she said.

That may be too optimistic. This is not the first time a law has targeted nepotism. To find examples of nepotism one need only start with the president of the country, Emomali Rahmon, who is seen as the embodiment of a system that relies on family ties and patronage.

In the Hands of the Family

Over the last decade, Rahmon has concentrated political and economic power in the hands of his family. The president’s 24-year-old son, Rustam Emomali, heads the State Customs Service’s smuggling-busting department and serves as deputy head of the Youth Union. Despite his young age, Rustam has already headed a department in the State Investments Committee and served as a member of the Dushanbe City Council. Rustam’s speedy “career” has generated speculation that Rahmon is grooming his son to succeed him in office.

Another of Rahmon’s nine children, Ozoda Rahmonova, serves as the country’s deputy foreign minister. Her husband, Jamoliddin Nuraliyev, works as deputy finance minister. Rahmon’s oldest daughter, Firuza, owns several shops in central Dushanbe. She is married to Amonullo Hukumatullo, who heads the state-owned Tajik Railway Company and is linked to Tajik-oilproducts, an agency in charge of oil imports to the country. Rahmon’s third daughter, Tahmina, controls a nationwide television channel (TV Safina) and previously a large bank (Bonki Rushdi Tojikiston).

The most powerful of Rahmon’s relatives is his brother-in-law, Hasan Asadullozoda. He controls several major companies, including the country’s largest private bank (Orienbank), an airline (Somon Air), and Talco, a firm that supplies bauxite for Tajikistan’s state-owned aluminum company, the largest source of revenue for the country. Asadullozoda also has major stakes in the country’s cotton, insurance, investment, restaurant, retail, hotel and telecommunications markets.

Another prominent relative of the Tajik president is the country's Minister of Energy and Industry, Sherali Gul (his son is married to the daughter of the head of state).

Dodojon Atovulloev, a political refugee who edits the oppositional newspaper *Charogi Ruz* from Russia and Germany, sketched out the president's family tree and the various offices the branches hold and business ventures they control. "This is the situation everywhere! It is just the top of the iceberg," he said.

The extent to which Rahmon's family has monopolized political decision-making in the country and extended its power into business is not a secret in Tajikistan. Moreover, there have been attempts to legitimize this "family rule" system.

In April 2011, the head of the government-affiliated Strategic Research Center, Suhrob Sharipov, claimed that the Tajik president had the right to appoint his relatives to senior government positions if he was confident in their professional abilities.

"Family links have always been used in Tajikistan," he said. "This is our mentality. ... No matter who is in power in our country, they will always rely on family links."

Examples of high and midlevel managers who keep hiring relatives abound, but it doesn't discourage Amirshoeva. "Rome wasn't built overnight," she said.

"We live as an independent state for just 20 years. Probably another 20 years will be needed to ensure that people are implementing the laws."

Corruption Cuts a Wide Swath Across Country

Studies and surveys show that corruption in Tajikistan is immense, and experts say that corruption has become an obstacle for economic development and increasing the standard of living.

On Transparency International's 2011 Corruption Index, Tajikistan ranked 152nd out of 183 countries, with 2.3 out of a possible 10 points.

These findings are echoed by a public opinion survey conducted in 2011 by the Strategic Research Center for the Tajik president and the U.N. Development Program. According to the survey, all authority structures on different levels and all state

sectors are prone to corruption.

Three thousand respondents 18 years and older from rural and urban areas were questioned. According to the survey's findings, 33.1 percent said bribes were initiated by officials, 47.8 percent said they don't feel guilty in paying bribes, and law enforcement bodies (police, tax authorities, customs services) were given the highest rating of corruption (15.5 percent).

The survey also found that respondents consider the present level of corruption and embezzlement of state property much higher – 82.6 percent – than during the Soviet period – 9.7 percent. The survey noted, "Taking into account that 77 percent of respondents represent the age groups that grew up and were brought up during the Soviet period, their opinion is reliable."

The survey also found that respondents believe people take jobs in civil service only to become richer, and 49.6 percent said they believe corruption among officials is widespread.

According to the survey, the average bribe in the country is US\$200, more than the average monthly salary. Atovulloev said he thinks one of the main reasons people believe corruption is so widespread is because Tajik society is subdivided into a privileged group and all the others.

"Privileges are provided to the ruling elite, who neglect laws and rules," he said. "For the same reason, there are no rich businessmen in the country. The richest people are officials. Their salaries are not more than US\$200-\$300 per month, nevertheless they have the most expensive houses with servants, brand new cars, and three or four women."

The U.S. State Department 2010 report on the human rights situation in Tajikistan noted that the law prescribes criminal penalties for corruption in the workplace, but that the law is not being applied effectively. Officials were often engaged in corruption without any sanctions. The report found that corruption, nepotism and recruitment on the basis of regional affiliation are widespread on all the levels of government.

Experts Are Split on Impact of Nepotism Rules

In 1991, the Soviet Union collapsed, Tajikistan declared its independence and almost immediately fell into civil war. The 1992-

1997 war in Tajikistan was followed by a rough 1998-2000 reconstruction period in which corruption and nepotism were rampant. In 2005, the government began to conduct its first research on corruption. Nepotism wasn't publicly addressed until the 2007 Law on Corruption.

Amirshoeva said she believes "the proposed amendments will be able to decrease the corruption level in state institutions, ministries and agencies."

Abdulahadi Kurboniyon, head of staff at the Agency of State Financial Supervision and Combat Against Corruption, said the new amendments will decrease corruption in the country and especially in certain ministries and agencies.

Kurboniyon said the agency had 18 instances in the first nine months of 2011 of officials who appointed their brothers and sisters to positions under their direct supervision. "Currently, violators are striving to end the violations at once and are eager to settle the problem peacefully and silently," he said.

"Some people say there are plenty of close relatives to a minister or a manager, but why don't they refer the cases to us using the anonymous hotline?" he lamented. "Our citizens are very passive; there is no anti-corruption movement in the society."

Others are skeptical about the anti-nepotism reforms.

Atovulloev said he thinks the amendments won't make much difference. "Everything will be registered on third persons and the same officials will rule," he said.

Independent political scientist Parviz Mulodjonov expressed a similar view. "Our officials will find a way to sidestep the introduced amendments," he said. "In other words, they will initiate mutual exchange of relatives in agencies, and thus the potential positive impact of these amendments will be reduced."

He said everything depends on implementation. "In many developed countries nepotism is unacceptable. There are strict measures and controls," he said. "As to our country, much depends upon whether implementation has strict or superficial controls."

* *Sarvinoz Shukuri is a reporter based in Dushanbe.*

Part III

Small Town, Big Hell: Local-Level Corruption

“The 2005-2025 master plan for Pahalgam (...) was to balance the interests of residents and developers in planning infrastructure improvements while protecting the already fragile environment. Instead, a group of residents is now challenging the master plan, and state investigators confirm it was prepared to produce personal gain for the planners.”

— *From the Reporter’s Notebook on India*

Roberto Tietzmann



Ministers in Brazil were dismissed at a rate of one minister every two months in 2011, due to corruption allegations. But, despite the federal emphasis on oversight, “nothing” happens with corruption in states and municipalities.

BRAZIL

Call to Curb Federal Corruption Goes Unheard at Local Level

*By Fabiano Angelico**

Brazil’s President Dilma Rousseff dismissed Tourism Minister Pedro Novais in September 2011. Minister of Sport Orlando Silva left the government under a swirl of allegations in October. Minister of Labour Carlos Lupi resigned in December amid allegations that he profited from kickbacks offered by nongovernment organizations holding government contracts. Novais was the fourth minister, Silva the fifth and Lupi the sixth to exit because of allegations of corruption, a rate of one minister every two months.

Novais’ dismissal followed revelations in the *Folha de São Paulo* newspaper that the minister had paid his chauff-

feur and maid with public money. He argued that they were his aides at the Parliament, but many people consulted by the press told journalists that both maid and chauffeur never went to the House and provided personal work for Novais' at his apartment.

This news was the coup de grâce; voluminous press coverage had previously brought to light dozens of officials in the Ministry of Tourism involved in kickback schemes, the result of investigations by the Federal Auditor General (TCU – Tribunal de Contas da União) and the Comptroller General (CGU – Controladoria-Geral da União).

Silva, the minister in charge of both the 2014 World Cup and the 2016 Olympic Games in Rio de Janeiro, allegedly embezzled around \$23 million from ministry coffers over eight years through contracts with nongovernmental organizations. Silva denied the allegations, saying that he was the victim of a “public lynching.”

Lupi's resignation came after an investigation by *Veja* magazine, upon which the Presidential Ethics Committee unanimously recommended that the minister be dismissed from his post. He vigorously denied the allegations.

Despite the numerous corruption scandals of the Rousseff administration, experts claim that the recent scandals may not be indicative of more corruption, but rather a greater emphasis on oversight.

“Oversight has improved and there is greater citizen concern surrounding corruption,” said political scientist Fernando Abrúcio, head of graduate studies in public administration at the Fundação Getúlio Vargas, in São Paulo.

In the first quarter of 2011 alone, around 200 mayors or former mayors were convicted by the Federal Auditor General. The politicians were either fined or forbidden from being appointed to positions for a period of time within the public administration.

However, Claudio Weber Abramo, executive director of Transparency Brazil (*Transparência Brasil*), noted that while there has been a crackdown on corruption at the national level, “Nothing is happening in terms of enforcement in the states and municipalities.”

According to a study from the National Association of Audit Prosecutors (AMPCON – Associação Nacional do Ministério Público de Contas) a total of 47 “conselheiros” (councilors), who form the elite of the main oversight organ in state level (the TCE – Tribunal de Contas do Estado) are being investigated after accusations of corruption. They work in 17 different states.

Why Local Prosecution Isn't Working

In Brazil, there is a Federal Audit General (Tribunal de Contas da União), and 27 State Audit General Offices (TCE) – one for each Brazilian state and one in the Federal District. The vast majorities of the councilors in TCEs are political appointees. A recent study by the United Nations Office on Drugs and Crime (UNODC) and the CGU showed that 15 TCEs disrespect the constitutional rule that a TCE must have at least two experts amongst the councilors.

“State Auditor Generals are too well connected to governors. The vast majority of them are institutions that, as Getúlio Vargas, a former Brazilian governor and president used to say, serve ‘as quarters to keep friends,’” noted Fernando Abrúcio, author of the book “The Barons of the Federation – the Power of Governors in Post-Authoritarian Brazil” (“Os barões da Federação – o poder dos governadores no Brasil pós-autoritário”).

Former Tourism Minister Novais began his political career in Maranhão, one of the poorest states in Brazil with a per capita GDP of US \$3,300 – about the same as the South Pacific nation of Tonga. In Maranhão, Novais was the Secretary of State (1975-1978 and 1988-1990) as well as a state deputy (legislator).

Before Novais' dismissal, three ministers had resigned due to allegations of corruption: Antonio Palocci (Finance), Alfredo Nascimento (Transportation), and Wagner Rossi (Agriculture).

Nascimento had at one time been the mayor of Manaus, the capital of the state of Amazonas, as well as the state's governor. The state has a per capita GDP of US\$7,600 – about equal with the Mauritius Islands. By contrast to Novais and Nascimento, Palocci and Rossi developed their political careers in the state that produced about a third of the Brazilian GDP,

São Paulo.

Novais, Nascimento, Palocci and Rossi had all been appointed to their respective ministries following a stint in the National Congress, either as deputies or senators.

“Similar to what occurs in the U.S. Congress or the German parliament, the foundation of the Brazilian Congress lies in regional arrangements,” Abrúcio explained. “It is important to look at how the political classes control the mechanisms of production and reproduction at the regional level. Political agents attempt to reproduce on the federal level the *modus operandi* of the states and the municipalities. This is dangerous, very dangerous.”

Regional Autonomy, Financial Dependence

Brazil is a federation of 26 states and a Federal District. Spread across these 27 units are 5,564 municipalities that are autonomous subnational units, according to the Brazilian Constitution.

Since democratization and the drafting of a new Constitution in 1988 (Brazil was under a military dictatorship between 1964 and 1985), Brazil experienced an extensive decentralization process. The idea was to put government closer to the people.

The political and administrative autonomy of the states and municipalities, however, is incongruent with their fiscal autonomy and economic backwardness. According to the National Treasury (STN – Secretaria do Tesouro Nacional), more than 80 percent of revenues administered by local governments are not generated locally; they are almost exclusively transfers from the states and the federal government.

“In these cities there is very little economic activity. In short, there are no businesses and no jobs,” said Transparency Brazil’s Weber Abramo. “What’s more, there’s no press – the press sustains itself on advertising, and without businesses, there are no ads.”

The Constitution envisioned municipal enforcement mechanisms as participative councils that would help oversee the allocation of resources. There are councils for education, health, childhood and youth, among others.

“But these councils do not function in practice because the whole city depends on the mayor and, in turn, nobody wants to upset him or her,” Weber Abramo said.

“In a situation that combines, on the one hand, considerable political and administrative autonomy, and on the other, the absence of well-managed and accountable institutions, it is a given that oversight will be minimal, and corruption ubiquitous,” said Abrúcio, a researcher on federalism, public administration, and compliance systems.

“The majority of states find themselves in a better situation than the municipalities, but in terms of accountability it is still bad,” Abrúcio said.

In some states there have been some initial movements on the creation of oversight systems, emulating the federal initiatives, Abrúcio said. But the Brazilian states lag the federal government in policing corruption.

A Lot of Noise But Little Action

In 2010, the newspaper *O Estado de Minas* published a series of reports on funds diverted from the public purse by deputies of State Legislatures in the state of Minas Gerais. The newspaper detailed various abuses, including payments made to phantom (non-existent) businesses or companies that had closed, fake receipts with inflated prices, and personal expenses. The accusations involved 51 of the 77 state deputies.

Voters, however, did not punish the deputies: Despite these revelations, the majority of deputies were reelected in October 2010.

The state attorney general, who is in charge for prosecuting and suing state political agents, did not take the case to court. Instead, the attorney general’s most decisive action in the case was to send a three-page document of recommendations to the Legislative Assembly of Minas Gerais.

At the beginning of 2011, new reports in the media indicated that at the beginning of the previous year, the then-president of the Legislative Assembly – now Vice Governor Albert Pinto Coelho, had made personal use of funds reserved for official duties during vacation. The vice governor has not

responded to media questions about the allegations.

Questioned by the local media as to whether he would open an investigation about the vice governor, State Attorney General Alceu Torres Marques responded that he didn't see any reason for an inquiry because the limit of monthly expenditures was not exceeded. He added that and the president of the legislature must sometimes incur high expenditures.

"In my opinion, the attorney general failed to do its job," insisted Thiago Herdy, the journalist who wrote the stories.

The author of this Global Integrity Report also attempted to contact the public prosecutor of Minas Gerais by telephone and email, but did not receive a response.

Phantom Public Servants

Corruption allegations are not isolated to Minas Gerais. In Paraná, the fifth richest state in Brazil, the media denounced members of the State Legislative Assembly (Assembleia Legislativa) for alleged corruption. In a series of reports beginning in March 2010, the *Gazeta do Povo* newspaper revealed a multimillion-dollar scheme to contract phantom public employees. After the revelations, the number of public employees in the House dropped from 2,400 to 1,800 (a monthly savings of 10 million reais – around US\$5.7 million).

In contrast to what happened in Minas Gerais, more than 30 public officials were imprisoned and many more were dismissed in Paraná – although as of September 2011, only one public official remained in jail. Legal actions are ongoing.

"Given the scope of the scheme, I think the public prosecutor could do better," said the *Gazeta do Povo's* Katia Brembatti, who covered the case. "I think there ought to be more people under investigation by the public prosecutor. We only revealed the tip of the iceberg."

Brembatti cited research from the Federal University of Paraná, which suggests that when one reaches the core of the Legislative Assembly, it's hard not to get reelected because politicians have a lot of power in the city governments, and they have a lot of supporters across the state. This also suggests that elections may sometimes be labeled as free, but not fair.

Abrúcio said he sees reason for hope, but accountability – especially below the federal level – will be critical. “There is a reformist wave taking place in terms of administration, which has reached about half of Brazil’s states and has proven a reasonable success,” he said, citing innovative public education programs in the state of Pernambuco, and management reforms in Minas Gerais. “But today accountability is not a key question in Brazil’s states.”

**Fabiano Angélico, a journalist, researcher on transparency and issues of anti-corruption, and former coordinator of Transparência Brasil, is currently completing a master’s in public administration and government at the Fundação Getúlio Vargas in São Paulo.*

Feng Guangmei



Baihutou villagers protest outside Beihai court using umbrellas with the words 'government' and 'court' written in black (associated with greed and crime in China). Most of Baihutou was demolished in 2009 and 2010 to make way for a tourist development.

CHINA A Fishing Village Vanishes as Corruption Flourishes

By David Eimer*

Until four years ago, the people of Baihutou enjoyed a prosperous life. A seaside village in southern China's Guangxi Province, Baihutou is blessed with a white sand beach. The villagers could make money through both fishing and offering services to tourists.

"The villagers who ran motor boat trips could earn 70,000-100,000 Yuan (US\$11,000-\$15,700) a year. Even people who rented out beach umbrellas could make 20,000 Yuan (US\$3,140) easily," said Feng Guangmei, the wife of Baihutou's former village chief.

Now, Baihutou exists in name only. Most of it was forc-

OVERALL SCORE: 64 ■ WEAK
LEGAL FRAMEWORK SCORE: 77 ■ MODERATE
ACTUAL IMPLEMENTATION SCORE: 50 ■ VERY WEAK

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VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	69	■



ibly demolished in 2009 and 2010 to make way for a tourist development backed by the local government. The vast majority of its residents face an uncertain future, having been unwillingly relocated from the sea which provided them and their ancestors with an income for generations. Six villagers, including Feng Guangmei's husband Xu Kun, are in prison, victims of what they insist were malicious prosecutions in revenge for their protests against Baihutou's destruction.

The demise of Baihutou is not a unique event in China. Selling land is the largest single source of income for local governments, and land developers, local officials and courts collude frequently to acquire it cheaply and in violation of the country's laws. So commonplace are illegal land confiscations that they have become an obvious example of the corruption inherent in the Chinese political system.

"Land is central to lives in China. It determines your living standard and your long-term prospects. People can't survive without their home, (and) farmers can't make a living if they lose their land, or if they don't receive reasonable compensation for it," said Zheng Jianwei, a Chongqing-based lawyer known for defending property rights cases. He is currently representing Baihutou's jailed chief Xu.

"Land development involves a big number of local government departments, and they can work together as a team to protect each other and try and hide corruption," he said.

'Corruption Is Systematic in China'

Graft is endemic amongst the officials of the ruling Chinese Communist Party (CCP). Transparency International, a civil society organization that measures public sector corruption around the world in its annual Corruption Perception Index, ranked China 78th out of 178 countries in its 2010 survey, 77 positions below the least-corrupt nation.

Nor is it just local officials lining their pockets. Liu Zhi-jun, China's minister for railways, was dismissed from his post in February 2011 for what the state press described as "severe disciplinary violations." It is alleged he amassed a fortune of 800 million Yuan (US\$126 million) from bribes during his time

as minister for railways.

In 2010 alone, 139,621 corruption-related cases were handled by the CCP's Central Commission for Discipline Inspection, which is responsible for rooting out graft. According to the Xinhua news agency, 2,723 officials at or above county level were investigated for corruption in the same year.

"Corruption is systemic in China, rather than a case of individuals like in Europe or the U.S.," said Professor Steve Tsang, the director of the China Policy Institute at Nottingham University in the United Kingdom. "The whole political system doesn't allow corruption to be stamped out."

Instead Beijing, which ratified the United Nations Convention against Corruption in January 2006, periodically launches anti-corruption crackdowns which net the most blatant offenders, but leave many untouched.

Penalties for corruption offenses vary widely. In a few high-profile cases, senior officials have been executed. In July 2011, the vice-mayors of Hangzhou and Suzhou were put to death on the same day for embezzlement and taking bribes worth a combined US\$46 million. Other government figures who have been executed for corruption in recent years include the former head of the State Food and Drug Administration. China's use of the death penalty in such cases has raised international concerns with some countries, such as Canada, being reluctant to allow corrupt officials who have fled overseas to be extradited if they face a death sentence.

"When it comes to corruption, the CCP is like a smoker who wants to give up but can't," Tsang said. "Every year they say they are going to have a campaign to stop corruption, but without an independent judiciary, or a return to the totalitarianism of the Mao era, it won't be stamped out."

Sale of Village Land Puts Lives in Limbo

No one knows that better than the people of Baihutou. Their nightmare began in April 2006 when the former village chief secretly signed a document authorizing the sale of their land to the government of Beihai City, under whose jurisdiction Baihutou falls, in return for compensation far below the real value

of the land. It was only in May 2007, when the local authorities posted a requisition notice in Baihutou that the villagers realized their land no longer belonged to them.

“I am sure that the original sale of the land was illegal. The village chief did not tell the other villagers, and the price paid for the land was never made public at the time,” Zheng said.

Having acquired the land cheaply, Beihai’s government was now free to sell it to the companies intent on redeveloping the beach as a high-end tourist destination. That it was a dubious transaction is clear from the fact that the Beihai officials did not register the project with the State Council in Beijing, as they were required to do by law. That failure alone reveals the huge disconnect between central and local government, which is one of the reasons why corruption flourishes in China’s one-party system.

“Relatively speaking, the central government is a little powerless when it comes to checking the activities of local authorities,” said Professor Zhang Ming, a professor of political science at Renmin University in Beijing and an expert in rural politics. “I think central government does care about local governments that break the law, but there are so many cases that the situation is out of control.”

With minimal compensation being offered to them for the loss of their land, the Baihutou villagers decided to fight back. In China, the position of village chief, the equivalent of a mayor, is the only one in the political system that people can vote for. In 2008, Baihutou’s villagers elected Xu Kun as their chief and began filing a series of lawsuits in Beihai’s courts.

None succeeded.

“In China, the CCP is always the highest authority,” Zhang said. “How can you expect judges who are all CCP members to use their power to find against their own organization?”

According to Professor Tsang, the lack of an independent judiciary is the single most important reason why corruption remains such an insidious force in China.

“To stop corruption you need an independent and completely credible legal system to deal with it. So prosecutions are decided by an independent senior law officer regardless of the

politics. That's how you deal with corruption in a normal political system, but in China you don't have a normal political system," he said.

Court Action, Arrests and a Loss of Faith

As the bulldozers moved into Baihutou to start demolishing the village, Xu and other locals discovered that, far from being impartial, Beihai's courts were gunning for them.

In June 2010, three villagers who had clashed with the armed police sent to enforce the first stage of the demolition of Baihutou in October 2009 were sentenced to prison terms for "obstructing official business."

In April 2011, Xu and two other Baihutou men were jailed for "illegally operating a business," a parking lot near the beach which was on land the local government had zoned to provide employment for the villagers in 1994.

"The judge sentenced Xu Kun to four years on the grounds that he held a meeting to discuss how to use the land and because the judge thought he had made 150,000 Yuan (US\$23,500) from running the parking lot," Zheng said. "But it was his job as village chief to discuss things with the villagers, and there was no evidence that he ever profited from the parking lot."

Xu's final appeal against his sentence was turned down by a Beihai court in August 2011.

For his wife, Feng Guangmei, the verdict has shattered her faith in the legal system.

"I said when he was sentenced in April that there was no law for us common people," she said. "The government speaks a lot of beautiful slogans about the law, but what has happened to us shows the truth."

Nor can the victims of illegal land confiscations or other forms of corruption count on the media to hold either central or local governments accountable. The traditional press is state-controlled and, although social media such as Weibo – the Chinese version of Twitter – spreads news much more quickly than before, it can only do so much.

"The Internet and Weibo are effective to a certain extent

in forcing the government to be more transparent. But Weibo doesn't make up for the lack of an independent press," Tsang said.

Containing Corruption Instead of Rooting it Out

Often, it is until anger at the loss of land or blatant corruption boils over into serious violence that officials take action.

"The CCP's approach to corruption is one of containment rather than eradication," Tsang said. "As long as corruption is being contained at a level that doesn't cause social, political or economic instability, then it is acceptable. But if it does cause instability, then they will act."

That happened in September 2011 in Lufeng in southern Guangdong Province, when protests over illegal land sales led to days of rioting and a swift promise from the authorities of an official investigation.

Few experts are confident that corruption will diminish in the near future. "There are no powers for ordinary people to oversee how government acts, no way for the media to do so, and the government won't change the structure of the legal system, so I think the number of corruption cases will increase," said Professor Zhang.

For Feng Guangmei, who is one of the few villagers still living in Baihutou, the future too is bleak. "The government took away our land and our licenses to work at the beach," she said. "I don't have any hope anymore."

**David Eimer is a Beijing-based journalist who covers all aspects of Chinese politics and society for a number of newspapers in the U.K. and Hong Kong. In seven years in China, he has covered such stories as the 2008 Sichuan earthquake, the Beijing Olympics and the Urumqi riots of 2009. His first book, "The Emperor Far Away: Travels At The Edge of China," will be published in 2013.*

Temo Bardzimashevili



Many in the mountainous regions of Georgia own property by traditional oral rules. Khabuk Chartolani's family was no exception, until one day in 2010 the son of a Member of Parliament started building a resort on the land they had owned for almost a century.

GEORGIA

David vs. Goliath, or Traditional Land Rules vs. Political Influence

*By Nana Naskidashvili**

It is difficult for 78-year-old Khabuk Chartolani to talk about the land he lost in Mestia, the mountain resort in the Republic of Georgia, where his family has owned 7,200 square meters of grassland for almost a century. But in spring 2010 the Georgian Parliament Member from Mestia, Kandid Kvitsiani, built the Hatsvali Hotel on it.

When Chartolani heard there was a construction in process on his land, he headed there only to find tractors and other cars working. He tried to stand against the building process, all in vain. The building process continued.

Khabuk Chartolani's son, Fridon Chartolani, says his

OVERALL SCORE: 76 ■ MODERATE
LEGAL FRAMEWORK SCORE: 89 ■ STRONG
ACTUAL IMPLEMENTATION SCORE: 61 ■ WEAK

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family used to feed cows with the grass from that land. After the hotel was built, and with no other place to get the grass, the Chartolanis had to sell a few of their cows.

Chartolani's attempts to register his family's land were unsuccessful until June 2011, when the Public Registry registered it under his name. According to him, later in August a government official told him he needed to sign one more document as part of the registration.

When in September 2011 a transfer of money was made to his bank account, Chartolani assumed the funds were an attempt by Kvitsiani to buy him out of the land, and he has kept the money intact.

But that same month Chartolani's land changed hands, and it is now listed as state property. Chartolani only learned of the state property listing in December 2011, when asked by this reporter about the change.

"It is not registered in our name? How?" he said.

Shown documents signed by him, selling the land, he said he was never told that a sale was at stake and that he was signing registration documents. He said he signed without reading all the documents.

People in many mountainous regions of Georgia own property by traditional rules of inheritance (oral agreements), and their plots have never been formally registered. A 2011 Transparency International report noted that, as interest in these lands grow, artificial barriers set up by state agencies have hindered registration. "Land plots in possession of the local population are being massively dissected and decimated due to various construction works," the Transparency International report found.

The person who registered Chartolani's land on behalf of the state is the same person who transferred money to the Chartolani's bank account, Zauri Afshinashvili. According to the land registry's documents, he is a representative of the Ministry of Regional Development and Infrastructure of Georgia.

Several attempts were made to obtain comments from a ministry representative, but the Roads Department of Georgia refused to arrange an interview with Afshinashvili. In response to written questions, the Department said in a letter: "The

amount of money that was defined by the deed of purchase was transferred in August 2011 to the bank account appointed by Khabuk Chartolani. The Roads Department of Georgia has not received any claim and complaint from citizen Khabuk Chartolani during the five months after money transfer. Therefore your pretension about the subject is unclear for the Roads Department of Georgia”.

No response was given to questions about violations reported on the property.

The Hatsvali Hotel is now fully functional and officially registered under the name of Kvitsiani's son. In a telephone conversation, Kvitsiani denied the existence of a hotel, saying that no complex was built there.

Despite the denial, there are official registry documents and photos certifying the existence of Hatsvali Hotel, which seems to be operating as usual. Its contact person happily informs callers of the different prices of hotel rooms.

When asked how he obtained permission to use the land for the hotel, Kvitsiani hung up the phone.

In 2011, a company in which Kvitsiani has a share received 6,393,800 laris (US\$3,900,000) from the government for building the road leading up to the hotel.

Kvitsiani's Business Booms, Wins Government Contracts

In the entrance of the Mestia Municipality Council, an inviting advertisement of the town includes a photo of the Hatsvali Hotel. The governor, Shmagi Nakani, who has to pass by the advertisement every day, said he is unaware of Chartolani's case.

“The government has nothing to do with the problems of that land,” he said. “The negotiations have been held between private persons.”

The Georgian government spends millions of laris from the national budget and from international donors on the rehabilitation of the Svaneti region, where Mestia is located. It hopes to make it attractive for tourism. President Mikheil Saa-

kashvili promotes Mestia with his frequent visits, which usually are widely covered by TV stations.

From the windows of the municipal offices, the dusty center of the town can be seen. It is under reconstruction. Big trucks with navy blue stickers bear the name of the construction company doing the work – Enguri 2006. Kvitsiani, a member of the ruling political party – Unified National Movement for Victorious Georgia (Ertiani Natsionaluri Mozraoba Gamarjvebuli Saqartvelostvis) – owns 50 percent of the shares of Enguri 2006.

Georgia law allows officials to have shares in companies, and those companies are allowed to compete for government contracts. “But no one checks whether PMs (members of Parliament) are really just shareholders or run the companies themselves,” said Erekle Urushadze, senior analyst and program manager at the nongovernmental organization Transparency International Georgia (TIG).

Enguri 2006 won all six bids in which it participated in 2011, sometimes as the only bidder.

For the Svaneti rehabilitation project alone during 2010-2011, Enguri 2006 received about 41,530,000 laris (US\$25,956,000).

The company has received work without tenders under 2010 special decrees.

In 2010, Enguri 2006 received 8,440,000 laris (US\$5,275,000) for building an aerodrome and runway in Mestia.

After a 2011 legal reform, regular tenders are published online by the State Procurement Agency, but this agency has no relation to government decrees, which the government uses to directly grant contracts to a company or person without listing them online.

According to Georgian law, decrees that aren’t declared secret must be made public, but in 2010 the government released another decree, No. 418, and the Chancellery of the Government didn’t publish it. Furthermore, it refused to provide a copy of the decree to the nongovernmental organization Green Alternative, which requested it twice. No evidence (oral or written) proving that the decree is secret has been presented

to the NGO.

Green Alternative is currently suing the Chancellery, demanding access to the decrees. Asked about the case, the legal department of the Chancellery said they won't make any comments on the subject until the court hearings are over.

An inside source, however, managed to get a copy of a few pages of decree No. 418. "Three million laris (US\$1,875,000) should be given to Mestia's Municipality for the town's development and rehabilitation," the document reads.

With this money, Mestia's local government decided to build a ski lift on one of the mountains and a road toward it.

According to Mestia's governor, the work was given without tender to companies chosen by the government. Again Enguri 2006 was among those lucky few.

Kvitsiani said there is an explanation why Enguri 2006 was chosen so many times to conduct the work in the region he represents in Parliament.

"You know, this is Mestia. Other companies shirk to work here because it is not profitable," Kvitsiani said. "There was no road, and transport was breaking. It was expensive to work here. That's why the government had to use this '2006' (Enguri 2006)."

Big Donors to the Ruling Party

Government contracts in Georgia are immersed in a larger context of political contributions and corporations where authorities own shares.

During the local self-government election campaign in 2010, Enguri 2006 made donations of 100,000 laris (US\$62,500) to the ruling national party, the maximum donation allowed under Georgian law. But it's worth noting that most of the companies that have worked on Mestia's projects also have given the maximum donation to the parties. Zimo gave the ruling party 100,000 laris; Mtkvari gave 100,000 laris; and Arqeopolisi gave 100,000 laris.

In fact, 400 companies with contracts in different areas of the country donated various amounts to the ruling party in the election campaign in 2010, according to records from

Georgia's Central Election Commission.

"Another interesting trend is that the ruling party's campaign financing has been from seven times (during 2010 local elections) to 26 times (during the 2008 presidential elections) larger than the total funding of all other election contestants," Transparency International Georgia TIG (Saertashoriso Gamchirvaloba Saqartvelo) wrote in its Political Party Finance Report 2011. "With a few exceptions, opposition parties have received donations from only physical persons, while businesses have been providing funding for the campaign of the ruling party and its candidates."

"It is not a violation of the law to donate to political parties," said Ekaterine Bokuchava, a lawyer at TIG. "But the problem is that most businessmen in Georgia have the opportunity to lead their business normally only if they support the ruling national party and transfer money to it."

In the last days of December 2011, a new political finance law was passed, but the International Society for Fair Elections and Democracy (ISFED), TI and other groups are urging the president to veto it, as it would decrease electoral competitiveness. The legislation, among other things, bans corporate donations to political parties, a measure that would impact four opposition parties aligned with billionaire Bidzina Ivanishvili.

Besides Enguri 2006, there are other companies where authorities have shares. One of them is LTD "Acharganateba." Batumi City Council member from the ruling party, Tamaz Tofuridze, owns a 52 percent share of this company. His son is its director. According to Georgian law, a City Council member is not forbidden to have a business, and such a person is not even called an official. Simultaneously, City Council members can participate in the ruling process of the local government, despite the creation of potential conflicts of interest as it would allow them to approve or lobby for projects that would benefit their business.

If City Hall decides to build a road, it must apply to the City Council for the approval of the plan. If the City Council will not give an approval, the road won't be built. The City Council itself, independently from City Hall, can also make its own decisions and suggest the idea to City Hall. In terms of

granting and signing contracts, the City Council can only sign contracts for minor things, such as paper, boxes for keeping documents, etc.

LTD “Acharganateba” participated in 15 tenders in 2010 in that local government and won 14 of them.

The Only Participant

The nongovernmental organization Georgia’s Young Lawyers Association (GYLA) -- part of an effort by four major NGOs in Georgia known as “Protection of Property Rights in New Touristic Zones of Georgia” -- studied the tender documentation and found that in most cases LTD “Acharganateba” was the only participant and concluded that the conditions required by the official structures created administrative barriers for all competitors except LTD “Acharganateba,” which perfectly matched all requirements.

“For example, one of such qualification demand was the following:

a) The tender participant should have conducted a work of the same kind and content for the last three years (each year separately 2007, 2008, 2009)”, reads GYLA’s report.

“If other companies will not be given a chance to do this kind of work, there will always remain this only company that will fit the tender,” says Giorgi Khimshiashvili, a lawyer at GYLA’s Batumi city department who studied the tenders’ documentation.

“The final and important part of the tender purchase is judgment of the participants’ suggestions, appraising and announcing the winner. According to the tender regulating law, a member of the tender commission is obliged to expose (its) conclusion in a written form that contains detailed information about circumstances according to which the priority was given to the winner. In none of the tender purchases we have studied (did) the commission members (write) such a conclusion. During the process of making the decision, they were making only the oral statements and were just fixing their decision in a report. That is the brutal violation of the law,” reads GYLA’s report.

In addition, information about tenders with large budgets should be advertised internationally. But Batumi City Hall was breaking the law and was not spreading such information. As a result, international companies were not even given a chance to become interested in the projects. These are the reasons why LTD “Acharganateba” was the only bidder.

Asked about using oral statements instead of written explanations for the decisions, Avtandil Darchia, deputy chairman of the tender commission and deputy mayor of Batumi city at the time, said the documents “should exist” but wasn’t able to verify their existence.

“It is the first time I hear about such an obligation,” he said about the lack of advertising for the tenders.

“It was the tender commission’s responsibility, and it should have taken control of information being published internationally. The law obliged them to do it. What an excuse is that he did not know about this?!” says Tamar Kordzaia, lawyer at GYLA.

Tamaz Tofuridze, the City Council member and a shareholder of LTD “Acharganateba,” rejected any possibility of Batumi’s local government adapting tenders to his company.

In 2010, the Ministry of Finance’s Investigation Service in Adjara and Guria’s Division started an investigation about Acharganateba and in September 2011 it sent the case to the ministry’s Investigation Department. An official letter obtained for this report through a lawyer says the investigation relates to “Article 210 (of the Criminal Code of Georgia). Making, selling or using false credit card or payment bill Paragraph 1. Making false credit card or payment bill or any other tax document or property ownership certifying document and selling it or making it on a purpose of sell or use,” reads the law article.

As investigation is not finished and presumption of innocence operates, so LTD is not forbidden from participation in tenders.

The President’s View

Erekle Urushadze, senior analyst and program manager at

TIG, says that since the Rose Revolution in 2003 the government's work against low-level corruption has increased. But now power is concentrated within a small group of high officials, and the institutions to keep them accountable aren't strong enough.

"The gaps in the law and the lack of pluralism in the executive make the danger of corruption only too real," he said.

But the executive seems to be satisfied with the current state of affairs.

In February 2011, Guram Chakhvadze, a Parliament member from the ruling National Democratic Party (*Erovnul-Demokratiuli Partia*), addressed President Saakashvili during his annual report to Parliament. He told Saakashvili that elite corruption is the number one enemy of Georgia and directly blamed the government for its existence.

"The main aim of our reform was to overcome corruption and to make the state organizations which had been collecting money to work without it. This promise – Georgia without corruption – has been fulfilled," Saakashvili said.

Chartolani, who lost his land to a hotel, would disagree.

Chartolani has tried to stand up for his rights. "But I've been told I would be arrested," says Chartolani, who has been receiving special heart treatment since the land problems began. Now his relatives are being forced to accept the compensation of 3 laris (US\$1.50) per square meter that was transferred to their bank account in September 2011.

His is hardly an isolated case. The land for the hotel was similarly taken away from neighbor Edison Japaridze's family. "They even tried to make us believe that the house that was being built there belonged to the president," Japaridze said. "They also sent a relative of mine to tell me to stop fighting for my land, otherwise I would be arrested."

On a visit Japaridze made to the site where the hotel was being built, he says the workers were surprised to learn he had not authorized the work. They told Japaridze that Kvitsiani had told them that Japaridze gave permission.

"I demanded them to tell me the truth – to whom the hotel belonged," Japaridze said. One of the men there told him that the hotel belonged to Kvitsiani. "I got nearly mad when I

was told that,” Japaridze said. He added, “During the Soviet time the collective farm took our land away. After the collapse of the Soviet Union we got it back, and this time we are losing it forever.”

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Shahnawaz Khan



In picturesque Pahalgam, a former town planner is accused of acquiring tracts of land through proxies and reclassifying them to increase its value. The adjoining villages, where people have been living for centuries, were classified as green zones.

INDIA

Architects of an Evil Design

*By Shahnawaz Khan**

The picturesque Pahalgam, a hill resort community in the India-administered Kashmir Valley, is known for its gushing brooks, lush forests and crackling glaciers. It is also a major base station for the annual Hindu pilgrimage to the cave shrine Amarnath, which draws half a million pilgrims in summer.

But Pahalgam is perhaps not as well-known as the center of a major corruption inquiry in which a former town planner is accused of acquiring tracts of land through proxies, and then reclassifying the land in the master plan to increase its value as sites for hotels and other development.

As part of the scheme, the adjoining villages, where people

OVERALL SCORE: 70 ■ WEAK
LEGAL FRAMEWORK SCORE: 87 ■ STRONG
ACTUAL IMPLEMENTATION SCORE: 55 ■ VERY WEAK

Category I Non-Governmental Organizations, Public Information and Media		70 ■
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I-2	Media's Ability to Report on Corruption	65 ■
I-3	Public Requests for Government Information	90 ■
Category II Elections		71 ■
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II-2	Election Integrity	92 ■
II-3	Political Financing Transparency	28 ■
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III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	61 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	45 ■
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have been living for centuries, were classified as green zones, and any kind of construction is now illegal.

Literally meaning the “village of shepherds,” Pahalgam is made up of more than a dozen villages where generation after generation has been born and raised, but given the area’s appeal to tourists, hotels and guest houses have sprung up, putting strains on the environment.

The 2005-2025 master plan for Pahalgam, prepared by a committee headed by then Kashmir Chief Town Planner Mir Naseem Ahmad, was to balance the interests of residents and developers in planning infrastructure improvements while protecting the already fragile environment. Instead, a group of residents is now challenging the master plan, and state investigators confirm it was prepared to produce personal gain for the planners.

The case was discovered in 2007, when an inspector visited the area to process the application of a business group seeking to build tourist huts. “I visited the spot and could not understand how hut constructions were allowed, while the village downhill was designated as green zone,” the official, who asked that he not be named, told *Global Integrity*.

Sensing a fraud, the official managed to cancel the hotel’s application for construction. “I was not aware of the extent of the scam then,” he said.

Naseem has denied the residents’ accusations in the case filed by the residents and has since retired. He has yet to reply to the charge sheet filed by the State Vigilance Organization in a different court.

In Jammu and Kashmir, state officials’ misusing their position for personal profits are not unusual. In its “India Corruption Study – 2005,” Transparency International ranked Jammu and Kashmir as the second-most-corrupt state in India behind Bihar.

India faces a menacing problem of corruption in the public and corporate sectors, which ranges from the inevitability of bribes in delivery of basic services to huge scams, involving top rung public officials and corporations. The country has recently been in the news for high-profile scams involving swindles by officials in the Commonwealth Games hosted by New Delhi in

2010, and a telecom scandal involving underselling of mobile-phone licenses for kickbacks.

Also recently emerged are news of a housing scam in Mumbai – in which politicians, bureaucrats and military officials are accused of grabbing plush apartments meant for Kargil war widows – and a mining license scam in the state of Karnataka, which forced the state chief minister to resign under pressure.

The 2010 Corruption Perceptions Index of Transparency International ranks India 87 among 178 countries. The country has a poor record of prosecuting top public officials for corruption, and the latest scams have generated a lot of public pressure and cost many ministers and officials their berths. Some of the accused ministers and officials of the current government are behind bars pending trial.

But, even through it all, LoReyaz Ahmad Lone, the secretary of Pahalgam People's Welfare Organization, says the Pahalgam case may be unprecedented, "as not only have the planners manipulated things to make huge profits, but dispossessed the local people at the same time."

Residents say the 2005-2025 master plan for Pahalgam designates their age-old villages as green zones and bans all construction – while tracts acquired by planners and other influential people have been designated as commercial sites.

'Misrepresentation, Manipulation and Distortions'

In July 2011, Jammu and Kashmir's State Vigilance Organization, a government anti-corruption body, filed a charge sheet against Naseem and other town planning officials who prepared the master plan.

A State Vigilance Organization spokesman said in July that the accused officials resorted to "misrepresentation, manipulation and distortions" to designate specific zones, where they had purchased land "for construction of hutments and other facilities."

"This was aimed at achieving the mischievous design for personal gain of the accused public servant Mir Naseem Ahmad to induce a sharp increase in cost of land." Naseem has acquired bail and has yet to reply to the accusations against him.

For example, the villages of Renzpal and Bradhanji were classified as a green zone prohibiting any new construction, while Chanhaji, which is inaccessible, was designated as an area open for construction and development, the spokesman said.

Lone, of the Pahalgam People's Welfare Organization, says that the master plan deprives most of the original inhabitants of Pahalgam their basic rights to shelter, while influential hoteliers and bureaucrats try to acquire properties and designate them as commercial, even if they fall in clear forest zones.

The Pahalgam People's Welfare Organization approached the Jammu and Kashmir High Court in 2008 seeking a moratorium on unbridled commercial construction in the area. By 2010 the Pahalgam residents' group was seeking abrogation of the Pahalgam master plan.

The residents' attorney, Parvez Imroz, said they told the court of their dismay at the "wanton concretization of Pahalgam," despite tourism officials' estimates that the town has enough hotel rooms for tourists. "Later, we realized that the whole master plan was a fraud committed on the people of Pahalgam," Imroz said.

Despite a complaint registered with the State Vigilance Organization in 2008, "the investigation was not heading anywhere," Lone said. The residents then pleaded with the court to follow up the case and the judges finally directed the State Vigilance Organization to speed up its investigation.

Case Details, Denials and Confessions

The Public Interest Litigation filed in the High Court by Pahalgam residents alleges that Naseem, one of this relatives, and some of his colleagues acquired large tracts of land during the years the master plan was being prepared. These tracts, then green zones, were opened for construction and development in the new master plan.

In court, Naseem again has continued to deny the accusations.

So far, the State Vigilance Organization investigation seems to corroborate the allegations against Naseem and as-

sistant town planners. However, the investigation was confined only to a specific tract of land – Chanhanji. Naseem has yet to reply to the accusations.

The Public Interest Litigation lists at least five instances where tracts of land in forest or wildlife zones have been designated as commercial construction sites, and that this land was acquired by planners, their relatives or other influential people.

The master plan opened up for construction the Chanhanji tracts, and the State Vigilance Organization's charge sheet alleges that Naseem bought and sold the land in the names of his two subordinate employees. These two employees have confessed to having been the proxies.

The State Vigilance Organization also found that the draft master plan displayed to the public for feedback differed greatly from the final plan. The vagueness of the draft plan "prevented the detection of the fraud," the State Vigilance Organization found.

Villages Stuck in a 'No Build' Holding Pattern

Gul Muhammad Khan, a resident of Bradhanji, which is closest to Chanhanji and also lacks road access, laments that his village has been designated as a green zone, barring any new construction.

"We have a small house, the family is growing," Khan said. "My sons cannot build houses, as the officials don't allow us (because of the court-ordered moratorium)."

Chanhanji is farther uphill from Bradhanji. Even the village of Renzpal, which is downhill and close to the road, has been designated as a green zone.

In Laripora village, which is also in the area, more than half of the population falls under the designated green zone. From there, residents point to a hotel and a guesthouse standing adjacent to each other but, according to the master plan, located in different zones.

"The hotel is owned by an influential man related to a high-ranking bureaucrat. The guesthouse is owned by a local resident," Muhammad Yousuf, a resident of the village, said. "The hotel site has been designated as permissible, the guest-

house as green zone.

“It was the same tract of land owned by two brothers. One sold the land to the hotelier, another built a guesthouse,” he added, trying to explain the disparity and possible favoritism in property classifications.

Residents right to obtain key information that could have helped them when the master plan was being orchestrated is not as easy to exercise in Jammu and Kashmere as in the rest of the country.

The Right to Information (RTI) Act of 2005 enacted by the Indian government has contributed to the increase in transparency in recent years, as it made it imperative for government offices to divulge information about any specific matter sought by a citizen. The information thus sought has helped to bring to light corruption in public dealings, which would otherwise remain beyond public access. However, the state of Jammu and Kashmir has a different version of the RTI Act, considered weaker than the national act.

A civil society movement started by India Against Corruption, which generated a huge public movement of people this year, is demanding a tougher Lokpal bill – aimed to set up an independent official body monitoring corruption. India Against Corruption says the draft Lokpal bill proposed by the government does not give enough powers to the proposed Lokpal.

Court Action and Construction Inaction

For now, acting on the complaints, the High Court in May 2011 formed an expert committee to examine the Pahalgam master plan. The committee has yet to produce its final report, but a preliminary one endorses most of the allegations and says the master plan has many flaws, including violation of the Wildlife Act and the Forest Act and lack of topographic and environmental considerations.

The report also advocates the right to adequate shelter of the inhabitants of Pahalgam as enshrined under the Indian constitution. “Any deprivation would be tantamount to reducing the residents to conditions of bare animal existence,” the report remarks.

In December 2010, the High Court halted all construction (new building and repairs to existing structures) in Pahalgam while the case was being heard. The court order disallowed even minor repairs to residential houses, but residents say that influential people has somehow managed to carry on commercial construction.

In August 2011, the court fined a leading hotel group for violating the ban on construction.

Meanwhile, in Ganeshbal, a major village of the area, the green zones of the master plan and the court-ordered construction ban have lives on hold.

“The families have grown, there are 10 to 15 members crouched in one house. They cannot think of expansion, as long as their lands continue to be designated as green,” Mush-taq Pahalgami, a local resident, said.

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Magnus Black



Farmer Nguyen Van Toan, 62, lost his land when the government made way for an industrial park. His attempts to obtain fair compensation have failed in part because authorities have ample discretionary powers on the approval resettlement plans.

VIETNAM

Ground Rules: Farmers Work the Land, Government Controls It

*By Magnus Black**

It has been more than 10 years since farmer Nguyen Van Toan, 62, lost his land to make way for an industrial park. But even today he cannot tell his story without crying.

In October 2011, Toan was in Hanoi for the seventh time in nine years seeking restitution for what he claims was unfair compensation.

Toan said he is desperate. He has no land and relies on a friend who offers him and his wife free board. He said he can find work only as a casual laborer and he owes a loan shark 60 million Vietnamese dong (about US\$3,000) which he borrowed to pay for his seven flights to Hanoi from his hometown

OVERALL SCORE: 42 ■ VERY WEAK
LEGAL FRAMEWORK SCORE: 50 ■ VERY WEAK
ACTUAL IMPLEMENTATION SCORE: 31 ■ VERY WEAK

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III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	21 ■
III-4	Budget Process Oversight & Transparency	56 ■
Category IV	Public Administration and Professionalism	48 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	11 ■
IV-2	Whistle-blowing Protections	48 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	72 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	62 ■
Category V	Government Oversight and Controls	63 ■
V-1	National Ombudsman	42 ■
V-2	Supreme Audit Institution	80 ■
V-3	Taxes and Customs: Fairness and Capacity	81 ■
V-4	Oversight of State-Owned Enterprises	52 ■
V-5	Business Licensing and Regulation	60 ■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	63 ■
VI-1	Anti-Corruption Law	89 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	60 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	62 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	42 ■



1,500 kilometers away in An Giang Province. If his mission to get justice fails, he says, he will set himself on fire outside the government buildings in protest.

In 2002, the People's Committee in Vinh Long Province in southern Vietnam told 660 families in Binh Long commune, Chau Phu district, that they had to move to make way for a new industrial park. Under Vietnam's Land Law, although people have the right to use land, the state has control over it. This means as long as a land use certificate can be produced, authorities have to provide compensation according to how the land is used.

People can apply for a land certificate from the local government, but the procedures are very complicated and – as with most bureaucratic procedures in Vietnam – involve bribery.

Toan says he used 4,000 square meters of land, one quarter of which was residential. However, authorities only offered him compensation for residential land worth a fraction of that (260 square meters). Toan, along with 20 other households, refused to take the money, saying that in 2001 authorities had allocated them each 1,000 square meters to use for living purposes. However, the documents authorities gave Toan at the time only certify his use of the land for agricultural purposes and make no reference to residential use.

“The decision to compensate us was not in line with the law,” Toan said. “Local authorities abused the fact the certificate included no details about the amount of land used as residential land.”

The district authority is responsible for issuing first-time land use rights certificates while the district authority is responsible for issuing, reissuing and modifying land use right transfer certificates.

Toan said authorities took his land in 2002, knocked down his house in 2005 and started building the zone. Nearly 10 years later, the industrial park is almost finished.

Land Corruption is the “Biggest Problem”

Vietnam is riddled with corruption. In 2010, the country rated

116th in Transparency International's Worldwide Corruption Perceptions Index. Corruption exists in many forms – from “facilitation” payments to bribing judges at court – some of which are more harmful than others.

According to the report “Recognizing and Reducing Corruption Risks in Land,” published in January 2011 by the Danish and Swedish embassies in Hanoi and the World Bank, compensation and resettlement plans are potentially risky areas for corruption due to the ample discretionary powers in the approval of compensation plans.

This can lead to two kinds of corruption. The first is that people who lose land to expropriation projects bribe officials to receive compensation that is higher than market value. The second is that some of the compensation may be taken by district officials and not the affected land-users.

In Toan's case, the amount of compensation depended on how the land was being used as decided by land surveyors. Toan's story illustrates one of the risk factors outlined in the report by the embassies of Sweden and Denmark and the World Bank: that “land surveyors' ample discretionary powers in the approval of compensation plans and the recording of land inventories.”

According to government-stipulated compensation levels, land for farming vegetables is worth 40,000 dong (US\$20) per square meter. Residential land is 100,000 dong (US\$50) per square meter. However, Toan was offered compensation for only 260 square meters of residential land.

Le Duc Hien, 80, is one of the country's most high profile anti-corruption champions. She won Transparency International's Integrity Award in 2007. Duc receives 30-40 letters each week about cases of corruption. The vast majority, she said, are related to land.

“Land corruption is the biggest problem for the whole country,” she said. Hundreds of people have contacted her for help, but she says no case has yet been fully resolved.

The number of formal complaints related to land issues sent to the Ministry of Natural Resources and Environment rose from 4,000 cases in 2004 to 12,000 in 2007, according to the Vietnam Development Report 2010 on Modern

Institutions.

The report attributes the rise in complaints to increasing industrialization. “As a rapidly growing country in the process of shifting from a primarily agricultural to a primarily industrial system, it is inevitable that land will be reallocated.”

The report includes an analysis of land-related complaints published which shows that insufficient compensation for land recovered is the leading cause for complaints.

Neither Le Duc Hien nor this reporter has been able to get in contact with the local authorities to discuss Toan’s case.

Individual Gain and Grand Corruption

The land corruption issue has also been identified by some foreign diplomats as a “good example” of graft on both petty and grand levels. One corporate lawyer in Hanoi, who didn’t want to be named, described two kinds of corruption involved in land management.

The first is “individual gain,” which involves bribing officials to get paperwork done quicker. “There’s no way to do business in Vietnam without giving bribes,” he says.

The report by the Danish and Swedish embassies says corruption in gaining a land use certificate occurs when the application system is not clear, forcing many people to resort to middlemen or leaving them vulnerable to corrupt officials who claim extra money from them.

The second area is described as “grand corruption.” It occurs when state officials allocate land to investors for large sums of money. Corruption between officials and investors takes place on many levels, including bribing officials to get information on other investors’ plans, identifying the location for an investment and setting the price of land rental. Companies often have to give bribes to develop the land.

“If investors want to transfer a project to another company, they have to bribe officials because ownership of land belongs to the state,” the lawyer says.

Vietnam has laid in place legislation aimed at fighting corruption, including the Anti Corruption Law of 2005 and National Corruption Strategy Toward 2020 which make it a

criminal offense to bribe government officials. This is a positive step because it has opened doors for dialogue with foreign donors, said Jairo Acuna-Alfaro, policy adviser for the United Nations Development Program.

However, at the heart of the issue is a lack of transparency and accountability.

“We did a survey, asking whether respondents were aware of communal land use plans. Only 24 percent nationwide seemed to be aware,” he says. “The highest was in Da Nang, only 43 percent. In the poorest province in Vietnam, Kon Tum, only 6 percent were aware.”

One problem is a lack of political will in actually implementing this legislation, especially if people in positions of power are benefiting from corruption. One senior Vietnamese official, who requested anonymity, says he believes nearly all construction deals in Industrial Zones provided illicit profits to powerful state officials. He says he believes punishments did put people off committing grand corruption, but providing proof in order to implement punishments is very difficult.

When asked if there was political will to crack down on corruption when top officials profited from it, he says: “Sometimes you don’t want to cut off your own arm even if it is very diseased and threatens to kill you.”

Greater Press Freedom Seen as Combating Corruption

One of the recommendations made in the report is greater press freedom to ensure accountability. This is going to be tough for Vietnam, a country which rated 165th in the Reporters Without Borders Press Freedom Index in 2010.

According to one local journalist, newspaper editors have to meet weekly with the government’s Propaganda Department to discuss stories. Many issues like corruption are simply not on the agenda. The journalist says if editors are allowed to report cases, it is to serve political rivalry. A member of the government will suggest publishing a specific case while informally guaranteeing protection for the editor involved.

Since the imprisonment of two prominent journalists in the aftermath of the Project Management Unit 18 (PMU18) scandal in 2006, new legislation and self-censorship have stopped many journalists reporting new cases, says Lis Rosenholm, deputy head of mission at the Danish Embassy in Hanoi.

PMU 18 is an agency within the Ministry of Transport in charge of road construction and other infrastructure projects whose budget includes funds from overseas donors. In 2005, the agency was investigated after officials were accused of embezzling state money and using it for prostitutes and betting. The scandal led to the resignation of the Minister of Transport Dao Dinh Binh and the convictions of nine people, including government officials.

The media were encouraged to report on the scandal as the government stepped up a campaign against graft. However, in the run-up to the Party Congress in 2008, two journalists who closely covered the case were arrested and taken to court for “abusing democratic freedoms to infringe upon the interests of the state.” One was sentenced to two years in jail and the other received a two-year custodial sentence.

“The pending revision of the Press Law is a huge problem,” she said. “The obligation to disclose sources to the authorities is a main obstacle in terms of maintaining the media’s active role in ensuring accountability in the context of corruption. That is why coverage of cases of corruption has been significantly reduced over the last year.”

Rosenholm said there had been positive development in increasing press freedom up to the end of the decade but the situation has taken a turn for the worse since then.

“It was often given as an explanation that we would have to wait for the Party Congress and the new government and then we should see less self-imposed restrictions. But I haven’t seen those being observed yet,” she said.

Land Law Revision in Works, and Farmer’s Fight Continues

In 2013, the National Assembly is set to discuss a revision to

the Land Law (the original 1993 Land Law gave land titles to many farmers for a maximum of 20 years, so they will expire in 2013, creating a vacuum under which to legislate these land titles). Acuna-Alfaro says he hopes it will give more certainty to title holders and more predictability in terms of how the state can retrieve land use rights certificates in a more accountable way.

Meanwhile, Toan isn't alone in fighting the government. Another 660 other households were affected by the development project. Only 20 families refused the compensation (none of whom have received anything); the rest accepted the compensation they were offered.

Toan said, "Everyone faced the same problems but only I had enough money to go to Hanoi to petition the government."

Eventually the People's Committee told him the decision was in line with the law. After that he sought help from the highest level of government whom Vietnamese nationals can appeal to over matters of compensation, the Government Inspectorate. His last visit was in September.

"I asked officials to resolve my case and they told security staff to remove me. They threw me out of the room like a pig," he said.

** Magnus Black is a reporter based in Hanoi.*

Part IV

Sex for Grades and Other Ways of Preying on the Weak

“I’ve heard teachers asking for love many times just because of grades,” said 17-year-old Anthony Sewah. “The students can’t make grades so teachers ask them for love. It’s wrong because our parents sent us to learn, not to love with teachers.”

When Anthony talks about love, he is talking about sex.”

— *From the Reporter’s Notebook on Liberia*

Shahin Abbasov



The road police is considered one of the most corrupt institutions in Azerbaijan. In an attempt to discourage bribery, authorities have started allocating 25% of drivers' fines to a general fund used to pay traffic police monthly wages.

AZERBAIJAN

Swimming in a Sea of Bribes, Despite an Anti-Corruption Tide

*By Shahin Abbasov**

Farhad G., 50, of Baku, Azerbaijan, has been trying to privatize his dacha, or country house, for more than two years.

“First I applied to the State Real-Estate Registry Service (SRERS – Da inmaz mlakın Dövl t Reyestri Xidm ti) with a request concerning dacha privatization,” Farhad said. “They sent two engineers who drafted a drawing of my dacha. For this ‘service’ I had to pay 50 manat (US\$61) to each of them.”

The payment for service was a bribe. It wasn't the first and it won't be the last, if he wants to finally have the land registered to his name and not the government's.

Farhad had to register his dacha at the Executive power of

OVERALL SCORE: 63 ■ WEAK
LEGAL FRAMEWORK SCORE: 89 ■ STRONG
ACTUAL IMPLEMENTATION SCORE: 38 ■ VERY WEAK

Category I	Non-Governmental Organizations, Public Information and Media	65 ■
I-1	Anti-Corruption Non-Governmental Organizations	65 ■
I-2	Media's Ability to Report on Corruption	58 ■
I-3	Public Requests for Government Information	73 ■
Category II	Elections	59 ■
II-1	Voting and Party Formation	69 ■
II-2	Election Integrity	65 ■
II-3	Political Financing Transparency	43 ■
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	50 ■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	49 ■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	53 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	47 ■
III-4	Budget Process Oversight & Transparency	52 ■
Category IV	Public Administration and Professionalism	61 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	35 ■
IV-2	Whistle-blowing Protections	60 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	77 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	71 ■
Category V	Government Oversight and Controls	75 ■
V-1	National Ombudsman	82 ■
V-2	Supreme Audit Institution	82 ■
V-3	Taxes and Customs: Fairness and Capacity	77 ■
V-4	Oversight of State-Owned Enterprises	70 ■
V-5	Business Licensing and Regulation	63 ■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	70 ■
VI-1	Anti-Corruption Law	100 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	65 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	64 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	52 ■



the Sabunchu region of Baku, where he needed to get approval of the house design. Of course, the process did not go without bribes – he paid 5 manat (US\$6) for each square meter of the house (a total area of 80 square meters).

“Another 50-100 manat (US\$61-125) I had to pay for the respective approvals at the State Sanitation Service, Ministry of Emergencies and the regional housing department,” he said.

Combating bribery is at the heart of President Ilham Aliyev’s January 14, 2011, declaration to fight corruption and subsequent changes at the judiciary and other government offices, but the actions seem to be providing little relief for citizens such as Farhad.

Furthermore, watchdog groups note that the anti-corruption campaign is being applied unevenly, snaring only low- and mid-level government officials.

The Untouchables

The president issued an order on February 14, 2011, to curb widespread corruption at the Interior Ministry’s Traffic-Patrol Service. To deter bribery by the traffic police, 25 percent of fines paid by drivers would be added to the general fund used to pay traffic police monthly wages. Also to minimize bribery, the president ordered that fines be paid only via banks and credit cards. The following month, a similar program was instituted with employees of the State Customs Committee.

To eliminate unjustified inspections of businesses, the president ordered on February 15, 2011, the creation of a common database for registry of businesses’ inspections by the law-enforcement and tax agencies.

And on May 23, 2011, a presidential decree ordered that the Ministry of Communication and Information Technologies (MC T – Rəbət və İnformasiya Texnologiyaları Nazirliyi) create a system of “e-signatures” and “e-government” for use by citizens and government agencies.

Alimamed Nuriyev, coordinator of the Baku-based Anti-Corruption Network of Non-Governmental Organizations (ACN NGO – QHT-lerin Anti-Korrupsiya şəbəkəsi), said he believes that the “e-signatures” and “e-government” measures

are important and will help to minimize “face-to-face contact between citizens and bureaucrats and thus diminish possibilities for bribery.”

Nuriyev also pointed to changes in the judiciary system that are aimed at reducing bribes paid to judges for favorable rulings, which he said was one of the most serious and endemic problems facing Azerbaijan.

“Creation of the administrative-economic courts in 2011 improved the situation. With these courts, rulings are in favor of citizens in 55 to 70 percent of cases,” Nuriyev said. Before the establishment of the new courts, the percentage of rulings in favor of citizens was less than 10 percent.

Despite some early results of the anti-corruption campaign, there are still serious problems, and the most visible is that officials at the top seem to remain untouchable.

Nuriyev emphasized that nepotism, the practice of the head of a government agency to appoint his or her relatives to various positions, continues to be widespread. He also believes “nontransparency of the management of the civil service system inherited from the USSR” hasn’t been addressed and continues to feed Azerbaijan’s culture of corruption.

“Sectors such as transport, property ownership registration, activity of the local executive authorities and the government procurement system remain among those where the corruption level is still high because there is not enough transparency in these areas,” he said.

Top government officials admit that corruption remains a serious problem but point at other actors as the culprits. At a meeting of the State Commission on Fighting Against Corruption (SCFAC – *Korrupsiyaya Qarşı Mübariz Üzr Dövlət Komissiyası*) on January 27, 2011, its chairman, Ramiz Mehdiyev, agreed that “serious and consistent measures should be applied in fighting corruption and bribery.” In his view, special attention should be paid to elimination of artificial monopolies in the economy, ensuring free competition and fighting against tax evasion.

The government has added workers and expanded the role of some agencies. In 2011, the number of personnel at the prosecutor general office’s anti-corruption department (*Korrupsiya*

il Mübariz Departamenti) increased 2.5 times to 100 employees. The department also was granted additional authority to conduct investigations and search operations concerning corruption crimes.

From January to August 2011, the department opened 133 criminal cases, and 88 of them -- against 147 people -- were sent to court. The cases are mostly about bribes, abuse of power and money-laundering and allowed individuals and legal entities to recover 3.965 million manat (US\$5.05 million).

High-Ranking Government Officials Left Untouched

However, according to the department's official statistics, those arrested for corruption and bribery in 2011 are only low and mid-level government employees. These include heads of regional education departments, regional labor and social protection departments, teachers, doctors, chairmen of small municipalities and mid-level employees of the Ministry of Defense, Interior Ministry, etc.

Kamran Aliyev, head of the Department on Fight Against Corruption under the Prosecutor General Office, says all government employees who accept a bribe are to be punished regardless of the position they hold. "The Prosecutor General Office's measures against corruption are based on facts and fully comply with legislation. Media often publish bias and unconfirmed information and that cannot be a reason for investigation by law-enforcement agencies," he said.

But reasons to investigate high-ranking officials seem to abound.

"For example, the son of Transport minister Ziya Mammadov, Anar, owns Transgate, which controls the lion's share of passenger transportation in Baku. This cries out as a conflict of interest," said Azer Mehdiyev, chairman of the Center for Assistance to Economic Initiatives (CAEI – qıtisadi T büsl r Yardım M rk zi), a Baku-based nongovernmental think tank.

According to Mehdiyev, Anar Mammadov owns 81 percent of the shares of the Bank of Azerbaijan, a large private commercial bank that has most of the businesses operating in the transport sector among its clients. He's is also chairman

of the supervisory board of the large private holding company ZQAN, which has a large market share in the transport sector and has received important government contracts.

The Ministry of Transport does not deny the fact that his son owns the company. Answering media questions on the issue in 2010, the ministry's press office said: "Anar Mammadov is a private entrepreneur and can work in any sector of the economy."

"The government does not even bother itself to explain to the public recent well-sourced publications in foreign media (The Washington Post) about ownership by the president's family members of multimillion-dollar villas in Dubai, acquisitions of large shares in local banks, and one of the three cellphone operators Azerfone," Azer Mehdiyev said.

WikiLeaks also disclosed information about alleged illegal revenue, real estate and business of Aliyev's family and other high-ranking officials.

"The government did not refute these disclosures. However, law-enforcement agencies did not investigate even a single case," he said. In his opinion, this clearly shows "a lack of the authorities' political will for a real anti-corruption fight."

Azer Mehdiyev believes that the anti-corruption campaign in Azerbaijan is only for show. "Corruption in Azerbaijan is not just endemic; it informally turned into a management tool," he said.

The government has a different perspective. "The fight against corruption is not a campaign but consistent government policy. It is serious policy, and no one has immunity here," said Ali Hasanov, head of the political department of the Presidential Administration (Prezident Administrasiyasının Siyasi öb sinin müdiri).

According to him, opposition and media outlets wrongly criticize the government's policy and by doing so decrease the public effect of anti-corruption efforts. "The fight against corruption is being done not only with administrative ways. The government also applies economic tools, such as increasing transparency, amendments of legislation and others," Hasanov said.

One thing everyone seems to agree with is that curbing

corruption will require continued long-term efforts.

Much Work to Be Done

Mirvari Gahramanly, coordinator of anti-corruption commission of the pro-opposition “Public Chamber” civic movement for democracy (PC – “ctimaiPalata” Demokratiya U runda V t nda H r katı) said authorities’ true will to fight corruption is being tested.

“As early as 2005, the president ordered the government to define rules so bureaucrats start filing income statements. Six years later, nothing has been introduced,” Gahramanly said.

PC is now initiating activity to generate international pressure for further transparency reforms.

Leyla Yunus, an Azerbaijani human rights activist and director of the Peace and Democracy Institute (PDI – Sülhv Demokratiya nstitutı), thinks lack of transparency may have even increased in the last years.

As an example, she pointed at the recent demolition of houses in Baku under the flag of land improvement, an area vulnerable to corruption in Azerbaijan. “Citizens receive low financial compensation for the violation of their ownership rights. The process is not transparent at all – we do not know how the amount of compensation is calculated.

“People are offered amounts two to three times lower than a market process of demolished houses and apartments; those who disagree are evicted forcefully,” she said.

Yunus herself became a victim of such action on August 11, 2011, when the PDI office-building in downtown Baku was demolished.

Isa Gambar, leader of the opposition Musavat Party, believes that “corruption reaches scale when it threatens Azerbaijan’s statehood.”

“It is the result of a regime that wants to waste the country’s resources without any control,” Gambar said.

For some experts, the problem requires serious and comprehensive reforms to the country’s political system. “The country needs timely replacement of high-ranking officials, genuine separation of powers, and civil society control over the

government, including free media,” said Mehdiyev.

In Azerbaijan, the prime minister and most of the ministers have been in their positions for the last six to 15 years, while the Prosecutor General has been the same for 10 years.

Regarding media, local and international watchdog organizations say there is no truly independent TV or radio. A Freedom House report indicates more than 80 percent of newspapers are state-owned or controlled by government officials.

Laws Come and Go, Bribes Continue

Despite the anti-corruption decrees and orders, everyday citizens continue to face the demand for bribes as the normal course of doing business.

Farhad’s dacha still hasn’t been privatized. And he is still paying – or being asked to pay – bribes, including 50 manat to the State Land Committee (SLC – Dövlət Torpaq Komitəsi) “to speed up the process,” he said. “Nevertheless, I had to wait longer than a month until the committee’s officials came to my dacha.

“Another 50-100 manat (US\$61-125) I had to pay for respective approvals at the State Sanitation Service, Ministry of Emergencies and the regional housing department,” he said.

And Farhad learned after all of this that his dacha area is larger than allowed for gratuitous privatization. “Now the SRERS officials demand a 7,000 manat (US\$8,900) bribe for legalization of the spare territory,” Farhad said.

** Shahin Abbasov is Baku-based journalist who currently works as freelance reporter of Eurasianet (www.eurasianet.org) in Azerbaijan. He has more than 17 years experience in print media in Azerbaijan. From 1999-2004 he worked as the Deputy Editor-in-Chief of Zerkalo and then Echo daily newspapers in Baku.*

Tamasin Ford



Years of civil war have left Liberia with literacy rates below 32% and, despite the government's efforts to build new schools, children often go to class only to find teachers demanding bribes or sex in exchange for good grades.

LIBERIA

Free Education that Isn't: Sex and Cash for Grades in Liberia

*By Tamasin Ford**

“Education has been and remains the highest priority on my personal agenda,” said President Ellen Johnson Sirleaf in her 2011 annual message to the people of Liberia. The first female president in Africa spoke powerfully of the achievements her government has made in the education sector in the last six years since she came to power – hundreds of new schools and free primary education for everyone.

The “Iron Lady” of Africa, Sirleaf was elected in 2005 after years of brutal civil war had ripped Liberia apart. Years of education had been stolen from the Liberian people: Schools were destroyed, and people with little or no education replaced

OVERALL SCORE: 71 ■ MODERATE
LEGAL FRAMEWORK SCORE: 86 ■ STRONG
ACTUAL IMPLEMENTATION SCORE: 60 ■ VERY WEAK

Category I	Non-Governmental Organizations, Public Information and Media	85 ■
I-1	Anti-Corruption Non-Governmental Organizations	90 ■
I-2	Media's Ability to Report on Corruption	85 ■
I-3	Public Requests for Government Information	79 ■
Category II	Elections	82 ■
II-1	Voting and Party Formation	100 ■
II-2	Election Integrity	97 ■
II-3	Political Financing Transparency	49 ■
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	67 ■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	69 ■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	57 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	65 ■
III-4	Budget Process Oversight & Transparency	75 ■
Category IV	Public Administration and Professionalism	37 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	46 ■
IV-2	Whistle-blowing Protections	8 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	73 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	20 ■
Category V	Government Oversight and Controls	77 ■
V-1	National Ombudsman	65 ■
V-2	Supreme Audit Institution	97 ■
V-3	Taxes and Customs: Fairness and Capacity	83 ■
V-4	Oversight of State-Owned Enterprises	58 ■
V-5	Business Licensing and Regulation	83 ■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	81 ■
VI-1	Anti-Corruption Law	100 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	71 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	87 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	65 ■



many of the teachers who fled the country. As a result, literacy rates fell below 32 percent, according to the Liberian Development Foundation (the U.S.State Department estimated 25% during the Taylor years, and in 2003 the government of Liberia claimed it was 35%).

People in the rural areas, particularly women, were the hardest hit. According to the 2007 Liberian demographic Health Survey, less than three out of 10 women can read and write, compared to six out of 10 men. In urban areas, the numbers increase to six out of 10 for women and nine in 10 for men.

Sirleaf pledged to change that. She declared corruption as “public enemy number one.” She secured nearly US\$5 billion in debt relief, enabling Liberia to borrow again, and foreign investment has started flowing to the country. The development of this small West African nation is acutely visible – new roads, new schools and new hospitals.

However, the issue of corruption in the education sector is also acutely visible.

“When the teacher comes to class and asks for money, I feel so angry,” said 13-year-old Kwame Marfo with anger and fear in his eyes. “I’ve been asked for money and I gave him money because I didn’t want to fail.”

The seventh-grade student sat huddled with his friends at the back of the classroom at their school in Doula in the capital, Monrovia.

Not one of his friends seemed surprised by this revelation.

“The teacher told me if I didn’t give him money he’ll fail me,” said another student, 13-year-old Menekah Sheriff.

The young students are talking about sums of money in the range of 50-150 Liberian dollars (US\$1-2). For some of the poorer children, that could be their food and transport money for the week.

Every one of the seventh-grade students had a story to tell. But it is not only money that changes hands in some schools in Liberia.

“I’ve heard teachers asking for love many times just because of grades,” said 17-year-old Anthony Sewah. “The students can’t make grades so teachers ask them for love. It’s

wrong because our parents sent us to learn, not to love with teachers.”

When Anthony talks about love, he is talking about sex.

“He Said He Wanted to Make Love with Me”

These practices in Liberia’s education system are known to everyone, from students to officials at the Ministry of Education. Whether they involve a bribe to pass the university entrance exam, or a sexual favor to graduate from high school, everyone knows someone who has been involved.

In November 2011, Actionaid International released a report examining the gender impact of violence and urbanization across five countries. In Liberia, Actionaid’s report focused on female university students at three campuses in Monrovia and Gbarnga, a town farther north in Bong County. Actionaid found transactional sex, or “sex for grades,” and sexual intimidation from faculty was a major theme across all the universities.

The report found most students did not report the incidents because “they felt nothing would be done – particularly when a male faculty member in a position of power is involved.”

Weade Kobbeh, head of the Mass Communication department at the University of Liberia, said, “One person came out with the complaint to me, but when I tried to investigate it I didn’t get too much out of her. A lot of people just don’t want to report it. Until they come forward, it’s hard to tackle it.”

The country director of Actionaid Liberia, Korto Williams, said part of the problem is that some girls don’t necessarily see themselves as a victim. “They grow up in a society where a teacher asks for a sexual favor, the girl is seen as beautiful and connected, and some parents are proud. They even encourage marriage,” she said. “The student gets her grade, the teacher gets what he wants, so the idea of seeing yourself as a victim is not going to come up.”

Williams has been advocating a national set of rules on how to handle gender issues, highlighting that the problem exists, training teachers, and encouraging students to report

incidents as a way to stamp out cash and sex for grades in the education system. “It is imperative that our national system on women’s rights make use of strategic documents,” she said. “This action will ensure safety, protection and realization of rights for university students and all women in Liberia.”

But to date not much seems to have been accomplished.

Mercy Seton left her spot at a market in Monrovia for an hour to explain what happened to her when she was in school. “I was in my junior high year when I had problems with one of my teachers – my math teacher. He told me he wanted me, and I told him no because of my age,” she said “I was 13. He said he wanted to make love with me and I said no.”

Mercy took her complaint to the principal of the school, but it was her word against the teacher’s, and nothing was done. “He said we should just forget about it,” she said.

But the harassment continued. “He always used to tell me during recess when I was sitting alone he would fail me and tell one or two teachers to fail me too if I didn’t do what he said,” Mercy said.

Mercy was so scared that at the end of the year she left the school. “I felt bad, very, very bad,” she said. “For a teacher to look at a student, especially a little girl, to tell them that they want them, I felt discouraged.”

In 2006, Sirleaf introduced free and universal primary education, with a special focus on encouraging girls to go to school. It meant first- to sixth-grade students could go to a government school free of charge.

Sirleaf did as she had promised – she made education a priority. But the reality is very different for some Liberian schools.

The Ganta Child Friendly School, built by UNICEF in August 2010, is the first of its kind in Liberia. With more than 450 students enrolled at the school, solar panels enable 24-hour electricity. The ergonomic design is innovative and fresh. There is a specially designed playground, a fully stocked computer room and all of it is free for students.

However, the Ministry of Education failed to put all the staff on the payroll in time for the start of its first school year in September 2010, claiming the process takes a long time but

saying it is “trying.” That meant not all of the teachers and support staff were getting salaries.

Grades Are Held Hostage

The Parents and Teachers Association in turn decided to ask the students for “small, small money” to help fund the staff who weren’t getting paid. The Ganta Child Friendly School was no longer free. The IT teacher couldn’t afford to stay on without pay, so the computer room was never used. The fields and playground were being overrun by weeds because there was no one to manage them.

The situation got so bad, teachers said they wouldn’t let the students graduate until they got their salaries. It took a team of Liberian journalists to report on the situation in July 2011 before anything was done. The Ministry of Education gave every member of the staff who hadn’t received a salary a lump sum of US\$660, not everything they were owed but a start.

The education minister, Othello Gongar, admitted in an interview for this report that cash and sex for grades in Liberia in general was an issue but also said it was a thing of the past. “Before some standards were put into place, it was a big problem,” he said.

The Education Reform Act was passed in September 2011 with the aim of decentralizing education and establishing county school boards. “Sex for grades and cash for grades are issues the county school boards can control,” he said. “They can make sure those teachers involved in those habits are disgraced and thrown out of the schools. They will not tolerate it.”

Teacher salaries were also increased depending on their qualifications, with the idea that better salaries would stamp out these bad practices.

“Firstly the teachers were underpaid, so they looked for means to enrich themselves with more money,” Gongar said. “So they thought, ‘OK, I can get money from the parents and kids.’ They thought no one was going to catch them so they would do it,” he said.

But there are reports of many teachers still going without pay altogether. The unpaid teachers and support staff at the Ganta school in Nimba County are still waiting for their salaries. And there are many other “free” government schools where, for one reason or another, for bribes or simply to help support the school, students are still being made to pay to attend.

Marcus Teah, 18, finished school in the sixth grade because of the civil war. He now drives a motorbike taxi for a living. “I shouldn’t be sitting on this pen pen [motorbike]. I should be sitting in school,” he said. In September 2011, Sirleaf increased the free education policy up to ninth grade. So when asked why Marcus doesn’t go back to school, he said he still couldn’t afford it.

“Even the government schools, they want small, small money,” he said. “I have no mother or father, so I pay for everything myself. I don’t have the money for rent, food and then some for school.”

The “small, small money” Marcus spoke about can range from 50-70 Liberian dollars (US\$1) to 700 Liberian dollars (US\$10) for unofficial school fees or one-time payments to pass exams.

The Ministry of Education has never been too far away from allegations of corruption. The previous education minister, Dr. Joseph Korto, was dismissed in May 2010 after a series of audit reports accused him of misusing close to half a million U.S. dollars. However, the reasons for his departure were never disclosed by the government and he later said he was sacked because he refused to join the ruling Unity Party.

Liberia’s General Auditing Commission also discovered the government was losing well over US\$3.6 million annually on the Ministry of Education payroll. Thousands of “ghost” names were found – people who were receiving salaries who didn’t actually exist. There were reports of dubious scholarship schemes and budgets for new schools that were never finished.

Achievements and Challenges Ahead

A report published in August 2011 by the International Crisis

Group, an independent nongovernmental organization working to prevent conflict, cited many of Sirleaf's achievements but it also pointed to two of her failures – stamping out corruption and addressing impunity.

Sirleaf herself says if she could have done anything differently, it would have been how she tackled corruption. “I would have probably been quicker and more forceful on those who abuse the public trust,” she said during a recent radio interview. “When you inherit a system that has lost all its morality, a system where the value system has been so destroyed over the years and you're trying to build it but at the same time build the systems and build the capacity to carry out your operation – it has been a tough thing.”

After years of rebuilding Liberia's educational system, literacy rates for children – one way of measuring progress – are unknown.

Sirleaf recognizes how crucial the education sector is in the development of Liberia. In her message to Liberians on International Corruption Day, Dec. 9, 2011, she declared, “Teachers can act by refusing to demand and students can act by refusing to offer money and sex for grades.”

However, to achieve her goal of having every child reading and writing by 2022 as she cited in her 2011 annual message, a much tougher arm needs to be laid down on those people abusing the system. The ICG report in August claimed Sirleaf needs to show a “more convincing fight against corruption,” something the president herself is aware she has yet to do. “I am still trying to find a way to balance it [the fight against corruption],” she said.

** Tamasin Ford worked as a journalist for the BBC for 10 years, covering stories from around Europe for radio, online and television news, before moving to Liberia. She now works as a freelance journalist and has written for The Guardian, BBC's Focus on Africa magazine and continues to report for the BBC.*

Silas Gbandia



In Sierra Leone, patients pay bribes to see a doctor, drug procurement is routinely abused, and medicines disappear from the ports. In the photo, patients line in King Harman Road Satellite Clinic in Freetown. (The image has no direct relation to corruption cases.)

SIERRA LEONE

Saving Lives with Free Drugs – If They Get to the Patients

*By Silas Gbandia**

Prior to President Ernest Bai Koroma's 2010 initiative of free health care for Sierra Leone's pregnant women, nursing mothers and children under the age of 5, one in 77 pregnant women died during childbirth and two of seven babies never lived to celebrate their fifth birthdays. This made the West African nation the worst place in the world to have a child.

A year later, the president said mortality rates for mothers and children have been reduced by more than half. But corruption in the country's health care system remains – from vital drugs that are held hostage at ports, to doctors and nurses who steal medicine to stock their own private pharmacies, to bu-

OVERALL SCORE: 61 ■ WEAK
LEGAL FRAMEWORK SCORE: 74 ■ MODERATE
ACTUAL IMPLEMENTATION SCORE: 50 ■ VERY WEAK

Category I Non-Governmental Organizations, Public Information and Media		50 ■
I-1	Anti-Corruption Non-Governmental Organizations	77 ■
I-2	Media's Ability to Report on Corruption	74 ■
I-3	Public Requests for Government Information	0 ■
Category II Elections		59 ■
II-1	Voting and Party Formation	90 ■
II-2	Election Integrity	78 ■
II-3	Political Financing Transparency	8 ■
Category III Government Conflicts of Interest Safeguards & Checks and Balances		52 ■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	58 ■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	26 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	54 ■
III-4	Budget Process Oversight & Transparency	69 ■
Category IV Public Administration and Professionalism		60 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	43 ■
IV-2	Whistle-blowing Protections	48 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	66 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	83 ■
Category V Government Oversight and Controls		70 ■
V-1	National Ombudsman	79 ■
V-2	Supreme Audit Institution	70 ■
V-3	Taxes and Customs: Fairness and Capacity	81 ■
V-4	Oversight of State-Owned Enterprises	67 ■
V-5	Business Licensing and Regulation	53 ■
Category VI Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism		73 ■
VI-1	Anti-Corruption Law	67 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	95 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	72 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	58 ■



reacrats who abuse their office to steer contracts to favored companies.

Koroma, in an October 2011 speech before Parliament, declared, “To those who steal the drugs we provide for our mothers, pregnant women and children, we today declare you public enemies.”

Little wonder that the Sierra Leone Anti-Corruption Commission (ACC) had a billboard with a photo of a child lying on a hospital cot with the inscription that the baby could not get proper health care because of corruption.

Sierra Leoneans living on less than a dollar a day who cannot afford the high costs demanded by corrupt health care workers seek the assistance of traditional healers and birth attendants and label hospitals as the place for the wealthy.

For Sale: Stolen Drugs and Bed Nets

The ACC is investigating numerous allegations of nurses, doctors and other health workers demanding bribes be paid for free health care initiative drugs.

Salamatu (a pseudonym) and her 2-year-old daughter were arrested in August 2011 and kept in a police cell for two days before Salamatu was charged with assaulting a nurse at a government-owned hospital in Freetown. Salamatu claimed that the nurse physically attacked her after she refused to pay the bribe the nurse demanded before the child was treated with the free health care drugs. Both parties agreed to an out-of-court settlement.

Doctors and nurses received about a 300 percent increase in salaries with the pronouncement of the Free Healthcare Initiative, but this has not stopped corruption in hospitals. Esther Maseray Conteh, a State Community Health Nurse (SECHN) in Leicester, on the outskirts of Freetown, the capital, was arrested in June 2011 on charges of unlawful possession of free drugs and insecticide-treated bed nets.

The pharmacist and storekeeper of the district medical store in Pujehun were each sentenced in 2011 to three years in prison for carting away drugs meant for distribution to all the health centers in the district.

In June 2011, a combined operation including the police, Health for All Coalition and the ACC intercepted a fully loaded boat bearing a consignment of drugs stamped with the logo of the United Nations Children's Fund (UNICEF) heading for Conakry Guinea from the Susan's Bay Outlet. No specific quantities were disclosed by authorities.

Drugs for tuberculosis patients from the Global Drugs Facility flown into the country have also been discovered.

Insecticide-treated bed nets meant for free distribution have been found for sale in marketplaces across the country.

UNICEF reported that about six percent of free drugs disappear in the health system.

An ACC survey in 2010 found that government hospitals rank fourth among the six institutions where corruption is most prevalent and likely to happen, after the police, the National Revenue Authority and government offices. This supports the many public accusations against health workers in state-owned hospitals, where doctors and nurses are among the highest-paid government workers in the country.

Drug Procurement Contracts Ripe for Abuse

Another area of corruption in the health care sector centers on awarding of contracts for drug procurement.

Former health minister Sheiku Tejan Koroma was convicted in March 2010 on three counts for blatantly overturning the decision of the Evaluation Committee and the Procurement Committee and awarding a contract to Cardinal Investment Limited for the supply of laboratory reagents. He was sentenced to five years in prison and fined 50,000,000 Leones (US\$11,236) for each charge. His appeal is pending.

The Ministry of Health had a 2011 budget of 118.9 billion Leones (US\$26.72 million), or 8.2 percent of the national budget, with 68.7 billion Leones (US\$15.44 million) coming from the government and 50.2 billion Leones (US\$11.28 million) from donors. Seemingly, the higher the budgetary allocation to the Ministry of Health, the more projects can be funded and more contracts can be awarded – leading to the opportunity for more kickbacks.

As a result, some doctors over the years have abandoned the stethoscope to take up administrative positions in the ministry to work in various programs and projects. Today the ratio per doctor is 50,000 people, and specialists, such as neurosurgeons and psychiatrists, are completely absent in the health sector.

Of the ministry's total 2011 budget, 30 billion Leones (US\$6.74 million) was allocated to the various district councils across the country.

In 2011, the 12 district councils were facing questions in Parliament after a report from the Auditor General's Office found that the councils could not account for how some of the money allocated to them, including funds from the health ministry, was spent. Dr. Ibrahim Bundu, the medical superintendent of the Makeni Government Hospital in the northern part of Sierra Leone, and Allieu Brima Sannoh, the hospital secretary, are standing trial on charges of misappropriating money earmarked for paying the backlog salary of the hospital's nurses.

At the Freetown terminal, port workers adopt a snail's-pace approach to press home their demand for a bribe or create an opportunity to steal from containers, said an assistant logistics officer with an international organization who requested anonymity. In June 2011, the Health for All Coalition and Save the Children UK urged the government to take immediate action to speed the release of 43 containers of free drugs held up at the Freeport port terminal. Some of the containers containing arrived in 2010. The resulting media attention succeeded in getting the drugs cleared from the port.

In July 2011, 356 cartons of drugs for the free health care program, stolen from two containers at the Freetown Terminal, were intercepted by Sierra Leone's navy. The drugs were paid for and supplied by UNICEF and the Department for International Development. Twenty-seven people, including a UNICEF representative, were arrested.

The Ministry of Health has set a joint monitoring team that includes the police, the Office of National Security, the ACC and civil society groups to check the distribution and management of the drugs from the central medical stores to the

peripheral health units. Time will tell how successful this will be in combating corruption in the sector.

A Government Watchdog in Need of Sharper Teeth

Sierra Leone's ACC was established in 2000 by an act of Parliament but could only prosecute through the Office of the Attorney General. An amendment of the act in 2008 gave the commission the right to prosecute all corruption cases and lists 27 offenses instead of the original nine. The former health minister Sheiku Tejan Koroma was charged for breach of procurement rules under the amended act.

The commission has been using a three-pronged approach in fighting corruption — public education, systems review and prosecution. The commission has been engaging health workers in hospitals on the relevance of curbing corruption in the health sector as a preventive strategy. The commission also signed an agreement with the media in 2011 to help fight corruption.

The ACC has the right to prosecute but seems unable to persuade the judges of the severity of the crimes. Since 2010, about 15 cases, including that of Sheiku Tejan Koroma, have been filed but judgment has been delivered in only one case. Except for Koroma, who received a jail sentence, in these cases the High Court either acquitted the accused persons or those found guilty were given alternative sentences, leaving them with a choice of buying their way out instead of spending time in jail.

As the commission has intensified its public education campaign, the British Department for International Development has cut its funding to the ACC from 2 million pounds for two years to 480,000 pounds (US\$750,000) for four years, citing other higher priority areas.

Sierra Leone's health sector is grossly understaffed with one doctor per 50,000 people, so prosecution could make a difficult health care situation worse.

The struggle for health care for every Sierra Leonean already has a policy base with the Free Healthcare Initiative, the program that provides free treatment and drugs to for pregnant women, nursing mothers and children under the age of 5, and the drugs are available at cost for all Sierra Leoneans at govern-

ment-run health facilities.

But much work remains to speed and safeguard drugs to those in need and to rid the corruption of bribe-taking doctors and nurses at hospitals and bureaucrats who steer contracts to favored companies.

The end goal, though, Koroma told Parliament: “We cannot sit by and let our mothers die because of lack of money, we cannot stand by and let pregnant women suffer for lack of a few thousand leones, and we cannot allow tears of death to replace the tears of joy at the birth of a child.”

** Silas Gbandia is a stringer for Bloomberg News in Sierra Leone. He is a radio producer and presenter for Citizen Radio east of Freetown and also the Deputy Editor of the Freetown-based The Punch Newspaper. He is interested in corruption, political, economic and financial news.*

David Mulder



Corruption in Zimbabwe is so widespread that bribes are needed for everything from getting a driver's license to giving birth or sending children to school. Not surprisingly, lawmakers from all parties in the government coalition have been accused of corruption.

ZIMBABWE

Bribes to Get a Driver's License and Care for Expectant Mothers

*By Njabulo Ncube**

John Nyashanu, a news editor with Zimbabwe's largest independent daily newspaper, NewsDay, has a story or two to tell about how to acquire a driver's license. Nyashanu, who recently spent several days at the Vehicle Inspectorate Department (VID) posing as a driver desperately seeking a provisional license, learned that all it takes is a bribe.

For US\$120, a Zimbabwean can obtain a provisional or learner license without fear of failing the written test. After payment, the examiner disregarded whatever one scored on the test (missing three or more of the 25 questions should disqualify the applicant) and issued the learner's permit.

OVERALL SCORE: 56 ■ VERY WEAK
LEGAL FRAMEWORK SCORE: 75 ■ MODERATE
ACTUAL IMPLEMENTATION SCORE: 36 ■ VERY WEAK

Category I	Non-Governmental Organizations, Public Information and Media	63 ■
I-1	Anti-Corruption Non-Governmental Organizations	69 ■
I-2	Media's Ability to Report on Corruption	59 ■
I-3	Public Requests for Government Information	60 ■
Category II	Elections	44 ■
II-1	Voting and Party Formation	69 ■
II-2	Election Integrity	63 ■
II-3	Political Financing Transparency	0 ■
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	40 ■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	30 ■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	33 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	22 ■
III-4	Budget Process Oversight & Transparency	73 ■
Category IV	Public Administration and Professionalism	52 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	39 ■
IV-2	Whistle-blowing Protections	65 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	57 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	46 ■
Category V	Government Oversight and Controls	71 ■
V-1	National Ombudsman	56 ■
V-2	Supreme Audit Institution	70 ■
V-3	Taxes and Customs: Fairness and Capacity	92 ■
V-4	Oversight of State-Owned Enterprises	75 ■
V-5	Business Licensing and Regulation	60 ■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	69 ■
VI-1	Anti-Corruption Law	100 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	56 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	63 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	56 ■



A full driver's license can be had for a bribe of US\$150, with the licensing inspector turning a blind eye to any shortcomings of the applicant, Nyashanu found.

Nyashanu also uncovered how some desperate Zimbabweans bought fake licenses from unscrupulous backyard dealers who, with modern technology, produce licenses with striking similarities to the ones issued by the VID.

A fake driver's license delivered within five days costs the aspiring driver US\$500 (more than three times the average monthly wage of US\$150 in Zimbabwe). This \$500 is shared among the "facilitators," including private driving instructors and the middleman who introduces the aspiring driver to the government vehicle license inspector at the VID.

Around Zimbabwe, VID officials have been arrested for corruptly issuing drivers' licenses.

"Besides the societal moral decay that the scam has visited upon the people of this country, consequences of the rot at these offices, especially the VID, include the loss of life," Nyashanu said. "The carnage on Zimbabwe's roads has been attributed mostly to people that go behind the wheel without driving qualifications.

Cracking Down on Fake License Syndicates

"Police statistics of people that have been caught driving without driver's licenses are staggering, and the number of deaths that have been caused by unlicensed drivers is equally shocking," he said.

Twenty-two people died and 250 others were injured in accidents between August 4 and 9, 2011, public holidays in Zimbabwe. In the week before these public holidays, 35 people perished in road accidents blamed on reckless driving, some of it attributed to corruption in the issuance of licenses.

In Zimbabwe, 3,500 lives are lost annually due to road accidents in a country where the bulk of the 13 million people are pedestrians.

Fake license scams have taken Zimbabwe by storm, increasing recently when thousands of Zimbabweans based in South Africa stampeded to acquire personal documents in a

bid to beat the August 31, 2011, deadline set by that country to legalize their stay there.

In August 2010, police in Masvingo broke up a syndicate believed to be charging prospective drivers large sums of cash for licenses and recovered 30 fake Class II driver's licenses and VID date stamps. Four members of the syndicate were arrested.

National Traffic Police spokesman Inspector Tigere Chigome said authorities were taking the license scam seriously.

"We are thoroughly investigating this fake license syndicate which we suspect involves thousands of motorists on our roads," Chigome said. "We have intensified our checks in a bid to rid the roads of holders of fake driver's licenses."

Expectant Mothers Must Pay – or Be Detained

Corruption in Zimbabwe is not only limited to the VID. Other abuses occur in the health and education sector. For instance, expectant mothers are forced to pay US\$50 to medical staff. Some women who are unable to pay have been chased out of maternity wards, while others have resorted to using the services of traditional midwives.

However, no receipts are given when they make the payments, leaving many with the sensation that they just paid a bribe.

And some women who are unable to pay their hospital bills have been detained by hospital security personnel and are only released upon payment. These women are also charged interest on their debt until it is settled – a clear exploitation of expectant mothers.

In the education sector, the right of education for all children in Zimbabwe has been under threat as schools and teachers charge students weekly attendance fees, over and above any tuition and fees. This arrangement has increasingly hampered poor parents' ability to send their children to school. This has also increased absenteeism as pupils miss school when their parents fail to pay the required weekly fees.

In the passports section of the Registrar General's Office, the corruption is similar to that of the VID. Zimbabweans must bribe officials to acquire documents such as birth and death

certificates, passports and national identity cards. Newspapers have reported how officials charge desperate citizens seeking to acquire public documents; and some officials have reportedly made riches overnight, buying expensive cars and other properties with the ill-gotten funds.

It costs nothing to get a national identity document, but officials charge US\$50 to replace a lost metallic or plastic document. If one does not pay, it would take days if not weeks to get the document. The common saying here is that money talks and bribes speak to officials because the sought-after document is speedily processed.

While it costs US\$380 to legally acquire a genuine passport within five days, it is common practice for Zimbabweans to pay officials at the passport section between US\$50 and US\$100 as “oiling” fees, money used to fund their extravagant lifestyles.

The bulk of officials charged with processing national documents here earn less than US\$400 a month, but some of them drive Mercedes-Benzes and BMWs, cars only afforded by well-established business people and politically connected individuals who are beneficiaries of President Robert Mugabe’s patronage system.

Politics, Diamond Contracts and Missing Revenue

Experts believe Mugabe and his ZANU-PF (Zimbabwe African National Union – Patriotic Front) side of the coalition government have used the patronage system to reward sycophants and other agents provocateur with lucrative government contracts.

Mugabe remains in power under a government of national unity with Prime Minister Morgan Tsvangirai despite Tsvangirai having outpolled Mugabe in the 2008 presidential election. The military, which was complicit in state-sponsored violence, helped Mugabe to stay in power.

The Financial Gazette reported in November 2011 on how Mugabe’s government has parceled out lucrative diamond concessions, often to Chinese firms or the Zimbabwe military, in the controversial diamond mining fields of Marange in the eastern region of Manicaland. Media reports have shown how

these contracts have benefited Mugabe's party, ZANU-PF and the military's top brass.

The Zimbabwean army – in charge of the Marange diamond fields – is accused of human rights abuses and smuggling of diamonds to neighboring Mozambique. According to Tendai Biti, Zimbabwe's minister of finance and a member of Tsvangirai's Movement for Democratic Change (MDC), diamonds in the Marange fields are being fleeced to benefit a few elites in ZANU-PF and top army brass.

The army has set joint ventures with Chinese and South African firms to mine gems.

Both Tsvangirai and Biti have fought for transparency and accountability over diamond revenue. Biti estimates that at least US\$1 billion in diamond-related revenue to the national treasury remains unaccounted for.

Biti, presenting his 2011-2012 budget review on July 25, 2011, said it was worrying that while Zimbabwe had exported 716,958 diamond carats to outside markets since the beginning of 2011, only US\$103 million was received in revenue for the government.

He said this was happening at a time when diamond carat prices hitting lows of US\$1,300 per carat and highs of US\$5,000 per carat.

"Mr. Speaker, sir, it is worrying to note that there is no connection whatsoever between diamond exports made by Zimbabwe and the revenues realized thereof," Biti said in a visit to Parliament.

"We need to put in place proper mechanisms to monitor the movement of the diamonds from the point of mining, marketing, export and trade," Biti said. "What this means is that there is need for measures to be put in place to ensure there are no leakages in the whole process."

Lawmakers – and Lawbreakers?

Lawmakers from all three parties in the coalition government have been accused of corruption.

In June 2011 there was a huge debate in the media over the administration of Constituency Development Funds (CDF)

for the building of preschools, clinics and other projects in the lawmakers' territories.

Eric Matinenga, the minister of constitutional and parliamentary affairs, who is responsible for the distribution of US\$50,000 to each of the 210 legislators for community development projects, said there was gross abuse of the monies. Even though they are accountable for the use of the cash, some lawmakers convert the funds to their personal use, he said.

Matinenga said he will report irregularities to the police so due course of the law takes place, but many fear that selective application of the law would mean only anti-ZANU-PF legislators may be prosecuted.

But so far, no legislators have been charged.

Corruption is so widespread in Zimbabwe, it even includes sports. The nation's sports administration body was hit by a corruption scandal after it was discovered that some senior executives of the Zimbabwe Football Association (ZIFA) and national team players had made fortunes for participating in match-fixing activities at the expense of the country's soccer development.

Dubbed "Asiagate" by the Zimbabwe media, the Zimbabwe national team was paid to lose matches after being richly rewarded by match-fixing syndicates in Asia. The issue has been subject of a FIFA investigation.

While President Mugabe in August 2011 appointed a new-look Anti-Corruption Commission (ACC), there are doubts the commission will expedite a host of investigations into corrupt activities of officials, particularly ZANU-PF ministers in the coalition government.

The Advocacy Legal Advice Centre (ALAC), a Transparency International Zimbabwe (TI-Z) project, in a report released on September 1, 2011, detailing the state of corruption in the country between April and August 2011, said graft remained one of the stumbling blocks to the realization of efficient governance in the country.

"There has been observably a lack of political will from most quarters of the economic and political societies in the country to deliberately tackle the scourge to date," the ALAC report says.

**Njabulo Ncube is the assistant editor of The Financial Gazette based in Harare, Zimbabwe, and is the national vice chairperson of the Media Institute of Southern African Zimbabwe Chapter. He is a former vice president of the Zimbabwe Union of Journalists and has assisted in the establishment of an association of investigative journalists in Zimbabwe in collaboration with Transparency International Zimbabwe Chapter.*

Part V

How Corruption's Invisible Hand Moves State-Owned Companies

ECG estimators are officials dispatched to inspect the premises where power is to be supplied after a customer registers his forms (...) and usually demand a fee at the end of the job. The investigation revealed that failure to bribe them can lead to estimators either finding flimsy excuses for which the premises are not fit to be supplied with power, or they may discard the customer's forms. This happened in the course of the undercover investigation.

— *From the Reporter's Notebook on Ghana*

Kalkali Elhadi



In one of the biggest corruption scandals in Algeria in recent times, the chief executive and most of the senior managers at state-owned energy company Sonatrach were replaced in 2010 on suspicion of irregular awarding of contracts.

ALGERIA

Many of President's Pals Painted with Brush of Corruption

*By Kalkali El-Hadi**

Algeria has been rocked by a corruption scandal at the state-owned energy company Sonatrach. And it is just one of several corruption scandals to touch ministers – and oftentimes close friends of Algeria's president Abdelaziz Bouteflika.

The various scandals beg the question of whether the tainted ministers reflect Bouteflika's efforts to crack down on corruption, political rivalries within the government, the prevalence of corruption in Algeria – or all of the above.

In January 2010, Sonatrach's chief executive Mohamed Meziane and most of the state-owned energy company's senior managers were replaced after they were named as suspects in

OVERALL SCORE: 54 ■ VERY WEAK
LEGAL FRAMEWORK SCORE: 68 ■ WEAK
ACTUAL IMPLEMENTATION SCORE: 38 ■ VERY WEAK

Category I Non-Governmental Organizations, Public Information and Media		46 ■
I-1	Anti-Corruption Non-Governmental Organizations	73 ■
I-2	Media's Ability to Report on Corruption	65 ■
I-3	Public Requests for Government Information	0 ■
Category II Elections		45 ■
II-1	Voting and Party Formation	83 ■
II-2	Election Integrity	18 ■
II-3	Political Financing Transparency	33 ■
Category III Government Conflicts of Interest Safeguards & Checks and Balances		50 ■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	48 ■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	44 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	45 ■
III-4	Budget Process Oversight & Transparency	65 ■
Category IV Public Administration and Professionalism		55 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	47 ■
IV-2	Whistle-blowing Protections	25 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	73 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	76 ■
Category V Government Oversight and Controls		54 ■
V-1	National Ombudsman	0 ■
V-2	Supreme Audit Institution	47 ■
V-3	Taxes and Customs: Fairness and Capacity	88 ■
V-4	Oversight of State-Owned Enterprises	72 ■
V-5	Business Licensing and Regulation	65 ■
Category VI Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism		53 ■
VI-1	Anti-Corruption Law	100 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	48 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	75 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	60 ■



a judicial investigation into irregularities in awarding contracts to suppliers.

Among the accused are two of Meziane's sons, one a Sonatrach executive who benefited from 650,000 euros (US\$884,585) from a German company that later received the tender for security services at a Sonatrach facility in south Algeria. Meziane's wife allegedly was the beneficiary of the Paris villa, bought for 537,000 euros (US\$730,749), which investigators also linked to the German company.

Investigators also found that Meziane's sons bought a villa valued at 65 million Algerian dinars (US\$896,922) and a house valued at 33 million dinars (US\$455,000), both in the capital, Algiers, after collecting money from Sonatrach contractors Kontal Holding and Knutal Algeria.

Corruption 'Ravaged' Algeria's Leadership Ranks

Djilali Hadjadj, a representative of Transparency International in Algeria, said Sonatrach represents "the financial corruption that has ravaged the Algerian administration, which in turn led to the loss of public confidence in state bodies."

Transparency International's Corruption Index ranked Algeria 105 out of 178 countries.

In January 2011, large crowds in Algiers protested rising prices, high unemployment and government corruption. The protests were organized by the National Co-ordination for Change and Democracy (CNCD), an umbrella group of opposition parties, civil society movements and unofficial unions inspired by the mass protests in Tunisia and Egypt.

Amnesty International, the London-based rights group, said in a statement, "Algerians must be allowed to express themselves freely and hold peaceful protests in Algiers and elsewhere. We urge the Algerian authorities not to respond to these demands by using excessive force. "

Cables released by WikiLeaks showed the United States ambassador's unease with corruption in Algeria. In February 2010, Ambassador David D. Pearce noted that eight of the directors of Sonatrach were under investigation for corruption.

In a cable, he wrote: "This scandal is the latest in a dra-

matically escalating series of investigations and prosecutions that we have seen since last year involving Algerian government ministries and public enterprises. Significantly, many of the ministries affected are headed by ministers considered close to Algerian President Bouteflika.”

That certainly is the case with Algeria’s ousted oil minister Chakib Khelil, who was primarily responsible for oil and energy in the country, and who the public blamed for the Sonatrach scandals. Khelil rejected all accusations related to Sonatrach, but Bouteflika replaced Khelil in May 2010.

Saleh Lounis, a lawyer and professor of commercial law at Khemis-Miliana University, said, however, “The lack of investigation of ex-oil minister Chakib Khelil in the Sonatrach scandal reaffirms the lack of independence of the Algerian judiciary and also confirms that the fight against corruption launched by the Algerian government remains merely ink on paper.”

Bribes, the Key to Speeding Business

The Sonatrach scandal aside, the U.S. State Department’s 2011 report on Algeria’s investment climate notes that corruption “is not as blatant a problem in Algeria as it is in many developing countries, although there were a number of arrests in 2009 and 2010 of high-ranking Algerian government officials in a variety of ministries and state-owned enterprises. ”

“Foreign companies do not complain of requests for bribes or lost contracts due to failure to pay bribes,” the report notes.

“Many Algerian citizens believe that corruption is a problem within the upper reaches of government,” the report said. “Some evidence suggests that bribes are usually paid to bypass Algerian bureaucracy or to avoid government interference.”

The 2011 Index of Economic Freedom found that in more than half of the 10 economic freedoms tracked, Algeria performs below world averages. “Persistent problems include an underdeveloped financial sector, corruption and political interference in the judiciary. ”

Lounis also cited the dominance of executive power (the president and the Council of Ministers) over judicial might in Algeria. He said this is one reason “most judgments are politi-

cal judgments par excellence. ”

Sonatrach Case Shows a ‘Tragic Reality’

In September 2011, the investigating judge in the Sonatrach case decided to reduce the felony charges against accused company officials to misdemeanors. As a result, if convicted, the corporate chiefs would face one to five years in prison.

Hamidoush Mohammed, the Algerian analyst and economic expert at the World Bank, said the corruption at Sonatrach shows loopholes in Algeria’s laws that result from having an economic system that is not transparent.

“The Sonatrach scandal reflects, in fact, a tragic reality experienced by Algerian justice” – judges’ authority stops with their decisions, not in their implementation. “This has encouraged a lot of spoilers in Algeria who loot people’s money without punishment or deterrence,” Mohammed said.

He blamed weak laws covering business conduct that “led to the exploitation of financial resources illegally,” and the lack of a tax system that reflects the property of individuals, especially managers of economic institutions.

“The process of amending these laws conflicts with the interests of a number of persons in the wheels of power,” Mohammed said.

Bouteflika formed a committee to tackle corruption after his election in 1999. And he pledged to fight corruption when he was re-elected to a second term in 2005.

A February 2006 Algerian law targeting corruption confirms Algeria’s commitment to the United Nations Convention against Corruption. But the law does not protect people who stand up to corrupt practices, nor does it grant independence to a government agency established in November 2006 that is still awaiting implementation.

The Revolving Door of Leaders at Sonatrach

In November 2011, Bouteflika fired the head of Sonatrach. Nouredine Cherouati was appointed in May 2010 to take over

after Meziane.

Cherouati was replaced by Abdelhamid Zerguine, a former Sonatrach vice president for pipelines, Algeria Press Service reported. In his first public interview since the shake-up, Zerguine, the fourth Sonatrach CEO named in two years, noted that internal controls had improved and that the company was going through a significant evolution in its internal organization and surveillance mechanisms.

“The change could be necessary, but it also could destabilize a big company like Sonatrach,” Salah Mouhoubi, an Algerian academic and specialist on the economy, told Reuters.

“I think Sonatrach needs stability, and changing CEOs once every year is not good. I am also wondering about how international companies will read the change ... I am afraid that it could isolate Sonatrach and Algeria’s oil sector.”

** Kalkali Elhadi is an Algerian journalist who has worked in media since 1996 with local and foreign organizations. He has investigated corruption in Algeria over four years with GI organizations and other press revue. He is currently the General Manager of the Algerian Economic News Network (AENN) in Algeria.*

Edik Baghdasaryan



Even on quiet Sept. 21, 2011 -when Armenia celebrates its independence- a team of reporters was able to watch unidentified men fell and transport trees away, without surveillance by the Jiliza Forestry Branch of Hayantar.

ARMENIA

Logging: The Thin Line Between Business and Organized Crime

*By Edik Baghdasaryan**

Trucks with no license plates. Loggers not carrying permits, as required by law. The buzz of chainsaws despite the fog and light rain. Lori, one of the most heavily forested regions in Armenia, is rife with illegal logging.

Even on Sept. 21, 2011, a quiet day when Armenia celebrates its independence, a team of reporters was able to watch trees being felled and transported away without surveillance by the Jiliza Forestry Branch of Hayantar, a state organization charged with protecting forests.

The only sight of a forest warden happened in the town of Alaverdi, where the reporters parked their car earlier that day.

OVERALL SCORE: 62 ■ WEAK
LEGAL FRAMEWORK SCORE: 86 ■ STRONG
ACTUAL IMPLEMENTATION SCORE: 39 ■ VERY WEAK

Category I	Non-Governmental Organizations, Public Information and Media	73	■
I-1	Anti-Corruption Non-Governmental Organizations	74	■
I-2	Media's Ability to Report on Corruption	63	■
I-3	Public Requests for Government Information	81	■
Category II	Elections	61	■
II-1	Voting and Party Formation	74	■
II-2	Election Integrity	66	■
II-3	Political Financing Transparency	44	■
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	59	■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	57	■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	64	■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	44	■
III-4	Budget Process Oversight & Transparency	71	■
Category IV	Public Administration and Professionalism	57	■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	48	■
IV-2	Whistle-blowing Protections	50	■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	76	■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	54	■
Category V	Government Oversight and Controls	71	■
V-1	National Ombudsman	91	■
V-2	Supreme Audit Institution	74	■
V-3	Taxes and Customs: Fairness and Capacity	67	■
V-4	Oversight of State-Owned Enterprises	57	■
V-5	Business Licensing and Regulation	66	■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	53	■
VI-1	Anti-Corruption Law	67	■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	34	■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	51	■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	60	■



Upon the reporters' return, they were surprised to find warden Henrik Mosinyan next to their vehicle waiting for them.

He offered to talk and they arranged an interview for the next day. Together with Mosinyan and Aram Baroyan, director of the Jiliza Forest Branch, the reporters visited the spot where the logging had happened.

This time there was no rain, and no chainsaw buzz. Baroyan said the logging the reporters had witnessed was legal and that it had been allowed because larger trees were preventing the growth of smaller ones.

Around him, the remains of smaller trees smashed when the large trees were chopped down the day before seemed to belie his explanation.

Asked to show the permits, he said he didn't have them handy. "I can show them to you later," he offered, but the documents were never disclosed.

Asked why unlicensed trucks were allowed to carry away wood, he said he is "not responsible" for the trucks. He did say "it's out of the question" that any trees could be transported out of that forest without his knowledge.

Illegal logging, whether carried out entirely without a permit or in quantities larger than those allowed, is periodically covered by the Armenian press, but also periodically denied by Hayantar, the agency attached to the Ministry of Agriculture.

Business or Organized Crime?

Hayantar's duties not only include conservation but also harvesting timber, processing it at lumber mills and selling it at lumberyards or exporting it. This dual role is also seen in some Hayantar employees, who are involved in the lumber business.

Kamo Shahnazaryan, director of the Lalvar Forestry Branch, owns Karast Ltd., his own private lumber mill and lumber business.

Police investigations revealed in 2011 a number of abuses allegedly carried out by Karast Ltd., after the company was hired by the mining firm Teghut Ltd. to clear away the forest for the start of a mine. About 5.6 million Armenian Dram (US\$14,000) worth of felled trees disappeared.

Members of the army, military police and local councils are frequently among those who own sawmills.

Transporting illegally obtained wood, usually in covered vehicles, is not too difficult. A driver of a truck selling wood in Yerevan confessed, on condition of anonymity, that he buys a permit to log 30 cubic meters of wood from the forestry enterprise and uses it to log twice and sometimes three times as much.

“If it is 7,200 AMD (US\$19) with a permit, we pay 5,000 AMD (US\$13) up front to the warden for a cubic meter of fuel wood. I pay another 4,000 AMD (US\$11) to the woodcutters. On average, I spend 10,000 AMD (US\$27) for every cubic meter of wood from the forest,” he said. “Here in Yerevan I sell a cubic meter for 16,000 AMD (US\$43). In a word, it’s pretty good.”

The driver added he also pays another 20,000 (US\$53) to bribe the highway police.

During a discussion in the “Stable Forestry Regulation” seminar in 2011, Gagik Amiryan, Chief Forestry Warden at the Gougark Forestry Enterprise, said, “This is not a forestry business, but an organized crime.”

A 2011 study by the International Union for Conservation of Nature (IUCN) and the International Center for Agribusiness Research and Education (ICARE) about the impact of illegal logging, found evidence that permits granted by Hayantar are routinely abused for multiple loggings.

It also determined that gaining entry to the forest has become easier and that there are significantly more loggers than in 2003.

Widespread small-level logging also seems to be on the rise. Eighty percent of Armenia’s population heats their homes with natural gas, but residents in rural areas say that for the monthly price of heating their homes with gas – about 30,000 AMD (US\$80) – they can bribe the local forestry warden and cut wood to heat their homes for an entire winter.

Additionally, with the global economic crisis, the population officially labeled as “poor” in Armenia reached 37 percent, and as a result, more people are using wood as fuel.

Old, Unreliable Statistics

Environmental organizations say that illegal tree logging is increasing, but Hayantar says the opposite.

If official statistics are to be believed, the number of logged trees in recent years has decreased dramatically from more than 32,000 in 2004 to less than 3,000 in 2010, and forested areas continue to cover 334,000 hectares (11.2 percent of the Armenian territory), as it was in 1991.

But Hayantar hasn't conducted a new inventory of Armenia's forests, and photos taken by the U.S. National Aeronautics and Space Administration (NASA) show forested areas were only about 8 percent of the territory in 2001. "Analyzing the NASA images, some 48,000 hectares were destroyed just in the 1990s," said Karine Danielyan, head of the Association for Sustainable Human Development.

Hovik Sayadyan, a lecturer at the Armenian State Agrarian University's Department of Forestry and Agro-Ecology, says that even official documentation renders Hayantar's statistics not credible.

According to him, these figures have been deemed dubious by studies like the National Forest Project adopted in 2005.

This year's ICARE research report found that, "It is evident that official statistics under-represent the figures by a factor of 80."

While Hayantar insists that around 75,000 cubic meters of timber are logged yearly, independent studies suggest much higher numbers.

A 2009 survey by the non-governmental organization the Greens' Union of Armenia (GUA) interviewed household members in communities adjacent to forested lands about the amount of wood used for fuel in the course of a year. "Our calculations indicate that between 1 (million) and 1.3 million cubic meters of wood is logged every year," said Hakob Sanasaryan, GUA chairman.

A similar study by EcoLur, an environmental non-governmental organization, suggests that approximately 700,000 cubic meters of forest are cut down annually in the country, said EcoLur's president, Inga Zarafyan.

In response, Hayantar's director, Martun Matevosyan, said, "While qualitative changes to the forest have occurred, the overall amount of forested areas is the same today as in 1988."

'Fed Up' with Corruption

As long as the government refuses to revise and update its data about forestry areas, the lack of solid information will hinder any real opportunity for accountability in the timber business. The lack of legitimate data is also a reflection of little transparency in Armenia.

In April 2011, the Caucasus Research Resource Center (CRRRC) in Yerevan presented its 2010 "Armenia Corruption: Survey of Households," showing that over 80 percent of Armenian citizens believe that corruption is a serious problem. That is 10 percent higher than the prior year, said CRRRC Director Heghine Manasyan.

According to Transparency International's 2011 Corruption Perception Index, Armenia ranked 129th (unchanged from 2010) out of the 183 countries assessed, with a 2.6 score. The score indicates the perceived level of public sector corruption on a scale of 0 to 10, where 0 means a country is perceived as highly corrupt.

When it comes to corruption perceptions, the government also plays down the numbers. In November 2011, Georgi Kutoyan, chairman of the Anti-Corruption Strategy Monitoring Committee and an adviser to the president of the Republic of Armenia, presented a report about implementation issues with the functions of the monitoring commission. After the Anti-Corruption Council discussed the information, the official statement said, "There was a reduction in corruption risks in the above-mentioned time period as compared to 2008 and 2009."

Asked why there are no improvements on corruption regarding the perception of citizens and civil society organizations, Armenian Prime Minister Tigran Sargsyan said, "There is the real state of corruption, and there is the perception of corruption. For two years, we have banned 18 investigative bod-

ies from conducting inspections in around 50,000 enterprises. Naturally, this has led to a sharp drop in corruption and all the studies show that corruption risks have actually decreased.”

The Armenian public is “fed up with corruption,” he added. “This means that we have serious work to do in bringing corruption levels down and in portraying the true picture to the public.”

Transparency International’s Varuzhan Hochtanyan offered a couple of suggestions for battling corruption and corruption perceptions. “Without measures like the separation of the business and political spheres and the decrease of monopolies it’s quite unlikely that the perception will improve,” Hochtanyan said. “It is even possible to cut the level of corruption without arrests, if that separation is achieved or if other steps are taken to put an end to the monopolies.”

** Edik Baghdasaryan is the founder and head of Investigative Journalists of Armenia and editor in-chief of the newspaper Hetq. A lecturer at Yerevan State University, Baghdasaryan has received a number of local and international awards. In 2010 he won the Gerd Bucerius “Free Press of Eastern Europe” Award, and in 2011 he received the 2011 Media Freedom Prize in Armenia.*

World Bank Photo Collection



In the state-owned Electricity of Ghana (ECG) corruption moves in the lower rungs of the company, in the top management, and consumers are no saints either: about 30% of the revenue is lost due to consumers making illegal connections.

GHANA

Need for Power in Ghana Turns ‘Victims into Villains’

*By Anas Aremeyaw Anas**

Ghana President John Evans Atta Mills paid a surprise visit to the state company Electricity of Ghana (ECG) in April 2010. Far from just a photo op, the visit turned to a scolding, and the president publicly expressed his displeasure about the lack of solutions to deal with illegal connections and “frequent unannounced power outages.”

Cephas Gakpo, then managing director of ECG, told the president that about 30 percent of the revenue of the company was lost to illegal connections. ECG had engaged a consultant to verify the metering of consumers to expose illegal connections and impose penalties.

OVERALL SCORE: 67 ■ WEAK
LEGAL FRAMEWORK SCORE: 79 ■ MODERATE
ACTUAL IMPLEMENTATION SCORE: 54 ■ VERY WEAK

Category I	Non-Governmental Organizations, Public Information and Media	64 ■
I-1	Anti-Corruption Non-Governmental Organizations	93 ■
I-2	Media's Ability to Report on Corruption	90 ■
I-3	Public Requests for Government Information	8 ■
Category II	Elections	63 ■
II-1	Voting and Party Formation	95 ■
II-2	Election Integrity	83 ■
II-3	Political Financing Transparency	11 ■
Category III	Government Conflicts of Interest Safeguards & Checks and Balances	55 ■
III-1	Conflicts of Interest Safeguards & Checks and Balances: Executive Branch	45 ■
III-2	Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch	49 ■
III-3	Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch	53 ■
III-4	Budget Process Oversight & Transparency	71 ■
Category IV	Public Administration and Professionalism	55 ■
IV-1	Civil Service: Conflicts of Interest Safeguards and Political Independence	43 ■
IV-2	Whistle-blowing Protections	23 ■
IV-3	Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards	81 ■
IV-4	Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards	71 ■
Category V	Government Oversight and Controls	85 ■
V-1	National Ombudsman	88 ■
V-2	Supreme Audit Institution	88 ■
V-3	Taxes and Customs: Fairness and Capacity	88 ■
V-4	Oversight of State-Owned Enterprises	80 ■
V-5	Business Licensing and Regulation	79 ■
Category VI	Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism	81 ■
VI-1	Anti-Corruption Law	100 ■
VI-2	Anti-Corruption Agency or Equivalent Mechanisms	84 ■
VI-3	Judicial Independence, Fairness, and Citizen Access to Justice	78 ■
VI-4	Law Enforcement: Conflicts of Interest Safeguards and Professionalism	63 ■



In response to the scolding, Gakpo announced that US\$430 million would be dedicated to improving electricity distribution within the next six to 18 months, and assured the public of better services at the end of the period.

But today service continues to be poor, with frequent and unannounced power outages increasing rather than disappearing. In December 2011, the president dissolved ECG's board of directors and reconstituted it with new members.

Ghana suffered a major electricity crisis in 2006 that led to a full year of erratic power supply, and the question in 2012 is whether the country is en route to another crisis.

The situation in 2006 was so severe it brought losses to the country's economy as a whole, as the need for alternative power sources by businesses led to a rise in general price levels. Production costs increased, and many companies filed for insolvency.

A dip in water levels at the Akosombo dam – Ghana's main source of hydroelectric power – was cited as a major cause of the crisis, along with high system losses, created by unaccounted-for electricity, contract malfeasance and mismanagement by ECG, Ghana's major distributor of electricity, as widely reported by the media at the time.

Six years later, not much beyond integration of the board has changed at ECG.

The relationship between ECG workers and customers eager to get service faster or for little money and willing to pay bribes seems to be at the heart of the problem, according to an investigation by the New Crusading GUIDE daily. Nearly 25 percent of the company's power is consumed through illegal connections, and that threatens to trigger more outages.

Kofi Bentil, a policy analyst and senior fellow at the IMANI Center for Policy and Education in Accra, the capital and Ghana's largest city, says that customers have an existential need for energy and can easily go from victims to villains in a corrupt system.

"If you take the energy, it fills a serious need, and people are willing to pay whatever it takes to get it when it appears nonexistent," he said. "People are prepared to throw all their resources at it."

Undercover video footage obtained by the newspaper showed how corruption moves both in the lower rungs of the company and all the way to the top management.

And yet the government does little.

The Ghana Integrity Initiative, the local chapter of Transparency International, said in a statement that “GII is particularly worried that even in cases where there is concrete evidence, including video coverage of fraudulent acts by public officials and private businesspersons, the government is unwilling, unable, or fails to successfully prosecute them and get them convicted in the courts.”

“In fact, many Ghanaians are left with no choice but to conclude that such acts of omission and commission on the part of government are the result of a lack of interest and political will to tackle corruption.”

The Undercover Investigation

The investigation showed how, when customers submit their meter acquisition forms for registration at one of the company’s substations, they’re usually told that it will take a long (but unspecified) time to acquire meters. Then, knowing the urgency with which customers demand meters, some officers at these substations suggest they can facilitate a faster acquisition of meters if the customer is willing to pay more than the normal price. The customers who agree are then given an invoice for the normal amount, while the extra payment goes to the officer – no receipt is issued for that amount.

This is the lowest level of the bribery ladder, where officials take small amounts ranging between 5 Ghana Cedis (US\$3.30) to 10 Ghana Cedis (US\$6.60).

Officials at higher levels intervene when larger bribes are involved. A typical case happened at the Kwabenya Branch – a local outfit of ECG – where the undercover investigation secured a three-phase meter (which comes with additional voltage) at the cost of 600 Ghana Cedis (US\$400) from an ECG official.

Further up the bribery ladder, some district technical officers (DTOs) were complicit in bribery whenever customers

approached them for the mandated duty of signing quotations. Quotations are an estimated receipt of how much it would cost a customer to get power, and inspections are required to issue them.

ECG estimators are officials dispatched to inspect the premises where power is to be supplied after a customer registers his forms. How soon the inspection is performed depends on how urgent it is for the customer to have power and his ability to provide transport for the estimator, who usually demands a fee at the end of his job.

The investigation revealed that failure to bribe them can lead to estimators either finding flimsy excuses for which the premises are not fit to be supplied with power, or they may discard the customer's forms. This happened in the course of the undercover investigation and was confirmed by customers who spoke to the newspaper.

District managers would not take bribes for single or separate meters. Their "domain" is the larger bribes related to CT (current voltage transformer) meter connections and transformers, district-level ECG contract awards and massive cable theft deals.

Bribery and corruption run the entire gamut of ECG's operations, and the effects are visible in the company's indebtedness. ECG can account only for 75 percent of the energy it buys, and as a result erratic power supplies persist and tariffs for the average consumer become higher. Over the last quarter of 2011 alone, there was a 3 percent increase in electricity tariffs. Officials cited illegal connections and system losses as the cause.

ECG workers assist customers to get illegal connections. For post-paid meter users, this involves illegal tampering of meters, known as "bypassing results," to generate low or no readings to avoid the payment of high tariffs or no tariffs at all. For prepaid users, this takes the form of manufacturing fake receipts, which requires the help of ECG officials to create the impression that the customers have already purchased an amount of prepaid credits.

It wasn't possible to obtain statistics on the number or disciplinary cases against corrupt employees; however, the New Crusading GUIDE investigation obtained evidence that

two ECG workers who had been dismissed for engaging in the installation of illegal power connections were seen working on the premises at an ECG regional office. On site, a poster showed their pictures and a note of their dismissal.

Consulted about the investigation, the new ECG representatives declined an interview request, citing the transition process.

Sole-Sourcing Contracts Adds to Costs

ECG losses are also the result of pilfering of state resources, especially with procurement led by the company's board of directors. Supply of materials to ECG has proved to be another major point of financial loss to the company. The investigation uncovered a specific case on the supply of treated electricity poles.

ECG uses 9-meter Class 5 and 11-meter Class 4 poles, and the procurement process for these poles is fraught with issues of sole-sourcing and bloated figures for a combined loss of \$1.5 million.

Busi & Stephenson (from a previous selective tender for poles) had agreed to supply ECG with 9-meter Class 5 and 11-meter Class 4 poles at US\$120 and US\$185, respectively. However, the ECG board opted for buying similar-quality poles from an alternative company, Mustek, at substantially higher prices: US\$184 and US\$283.50, respectively.

That is US\$64 more for each pole of the first type and US\$98.50 for the second one, which amounted to an extra \$1.5 million price tag for the same goods, which were acquired through a sole-sourcing arrangement by the current board.

In a written response to the newspaper, ECG's then managing director, Anthony Gyampo, said the company made the decision because Busi & Stephenson was not able to provide 848 of the total 16,800 ordered.

"It was at this stage that a decision was made to sole-source from Mustek Engineering under a certificate of urgency," he noted.

Sole-sourcing in the ECG has come under criticism even from President Mills, who has called for its avoidance. In 2003,

the Procurement Act set up the National Procurement Authority and ordered it investigate sole-sourcing for public sector contracts. However, the enabling legislation has not been passed.

Bentil, of IMANI Ghana, faulted President Mills for not showing enough will as the chief executive of the country to fight sole-sourcing at ECG and other corruption.

“What the president has to do is to be more forceful,” Bentil said. “He can insist on certain levels of performance and just leave it at that. He should be doing other things, insisting that certain goals be met and making sure other people do their job. Leave them alone to work out the details.”

The Ghana Integrity Initiative also is disappointed the government isn’t doing more to combat corruption at ECG and elsewhere.

Citing its “disappointment” at the response of both past and present governments to audit reports released by the auditor-general and media reports on issues of corruption, GII said it “is worried that even though this rotten state of affairs has been known for a long time by government, no action had been taken to stop it. Heads of these institutions ... must resign or be fired by the president.”

“The president should go beyond expressing anger and act on the revelations. Transfers are not a solution to the problem.”

A Power Project Dogged by Delays

ECG is currently working on preparations for the Ghana Energy Development Access Project (GEDAP), a US\$250 million project that the World Bank and other aid donors have been working on since 2006 for system improvement in electricity distribution.

In 2010, the World Bank provided US\$70 million to ECG, the larger share of which is intended for network upgrading in the Ashanti Region, as well as meter replacement and other aspects. Of that amount, about US\$30 million is destined to new facilities and state-of-the-art meters.

However, ECG was reluctant to follow procurement laws as spelled out by the World Bank, as well as Ghana’s procurement laws, to put out competitive bidding for the electric meters.

New Crusading GUIDE's investigation found that the ECG board was calling for sole-sourcing, and the World Bank was rejecting it.

Sunil Mathrani, a senior energy specialist at the World Bank country office in Ghana, said that the provision of meters for the GEDAP project has yet to begin. "Time has been lost in going back and forth with ECG on the technical specifications and the kind of meters," he said.

ECG's managing director said, "Bid documents have been prepared for the procurement of these meters and would be published upon receipt of no objection from the World Bank."

At the time of writing, the World Bank still hadn't received the required bid documents, according to Mathrani. "We all went through the power crises of 2006-2007 and saw what that did to the country. Nobody wants to go there again, but the risks are there," Sunil said.

There is a fear that the World Bank may withdraw its support of the project as a drastic measure, if the current board flouts procurement laws and resorts to sole-sourcing – a situation which lacks transparency and is susceptible to corruption.

And without improvement to the power system in Ghana, of which the GDAP project is just one part, and more efforts to combat corruption at ECG and elsewhere, there is no hope of avoiding more power outages in the years ahead.

** Anas Aremeyaw Anas is an undercover journalist working with the New Crusading GUIDE daily newspaper in Ghana. He has gone undercover to expose several trafficking rings in Africa and has won several local and international awards. In 2009, he was mentioned by U.S. President Barack Obama as a courageous journalist who risks his life to tell the truth.*

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State-owned National Resources Investment & Development Corp. (Mawared) was supposed to turn the heart of Jordan's capital, Amman, into a luxurious business hub. Instead, the corporation has become the center of a series of corruption investigations.

JORDAN

Corruption Smashes Grand Vision for Capital City, Deters Investors

*By Dina al Wakeel**

The state-owned National Resources Investment & Development Corp. (Mawared) was supposed to turn the heart of Jordan's capital, Amman, into a luxurious business hub with high-rise towers, hotels and deluxe apartment buildings.

But things haven't gone quite that way.

Instead, the corporation became embroiled in a corruption scandal after Jordan's anti-corruption watchdog, the Anti-Corruption Commission, revealed early in 2011 financial irregularities with Mawared.

For example, Mawared paid exaggerated rates for goods and services including feasibility studies and implementing

OVERALL SCORE: 57 ■ VERY WEAK
LEGAL FRAMEWORK SCORE: 68 ■ WEAK
ACTUAL IMPLEMENTATION SCORE: 46 ■ VERY WEAK

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projects. The commission also found evidence of the illegal donation of public funds.

According to Ramzi Nuzha, a board member at the Anti-Corruption Commission, Mawared is at the center of several cases, and the investigation has been ongoing since October 2010. That's when Prime Minister Samir Rifai transferred the case to the commission, after he received a report on Mawared from an international auditing company.

Subsequently, Mawared's CEO, an accountant and a financial adviser were detained and transferred to the state security court, a special military court composed of civilian and military judges.

One of the cases transferred to the attorney general involves Mawared's donation of more than JD2.5 million (US\$3.5 million) to the al Jazeera sports club. Investigators found that there was a conflict of interest, as the financial and administrative manager at Mawared was also involved in the al Jazeera club (he was their treasurer and then their vice president). Furthermore, the Legislation and Opinion Bureau (Diwan al Rai wal Tashree') ruled that donating public funds is illegal, Nuzha said.

The Anti-Corruption Commission also has recovered JD132,000 (US\$186,400) that Mawared had paid twice to a consortium of two companies involved in a construction project in the city of Zarqa. According to the commission's website, representatives from the consortium admitted receiving the payment twice.

Today, the commission continues to investigate cases related to the state-owned National Resources Investment & Development Corp., and so far, three cases have been transferred to the related judicial bodies for prosecution.

Doubts About the Investigation

But while the Mawared investigation marks a breakthrough in the country's fight against corruption, critics say it hasn't gone far enough. Analysts say corruption is entrenched in Jordan, even among higher circles.

"Corruption is real and it exists in Jordan and it cannot

be overlooked,” Jumana Ghuneimat, a respected Jordanian editor in chief at al-Ghad daily newspaper said.

Jordan’s newly appointed Prime Minister Awn Khawwas was recently quoted by al Arab al Yawm daily newspaper as describing corruption as a “real problem” in the country, vowing that his government will work hard to combat it.

Jordan slipped on Transparency International’s 2010 corruption index from 49 in 2009 to 50 out of 178 countries, but came up 56th in 2011. Jordan’s corruption perception index, which ranks countries on the degree to which corruption is perceived to exist in the public sector, retreated to 4.7 in 2010 from 5, out of a possible 10. Ghuneimat believes the real culprits have been spared. “The big names have not been interrogated,” said Ghuneimat.

However, commission officials insist that they have investigated everyone involved in Mawared and any other case they looked into.

Ghuneimat maintained that each case has had its scapegoats and that efforts made so far failed to root out the problem; some of the real corrupt people have not been held accountable for their deeds or put on trial.

“Some of the major corruption cases were transferred to the commission, such as the Sakan Kareem case which aimed at providing underprivileged Jordanians with affordable houses but failed,” Ghuneimat said. “But I believe that due to pressures and lobbying by those involved in these cases, no procedures were taken and until today we don’t know if it really involved corruption or not.”

Nuzha, of the Anti-Corruption Commission, argues otherwise. He says the commission is fully independent and has no interest in hiding facts or protecting anyone. “Despite the fact that we have dealt with some major corruption cases, no member from the commission was subject to any type of pressure from any external party.”

The commission, established in 2006, is supposed to be an independent body, but board members and the chairperson are appointed by a royal decree upon the recommendation of the prime minister. Some analysts and journalists be-

lieve that this particular point undermines their work.

Great Strides Made, But More to Be Done

Rana Sabbagh, executive director of Arab Reporters for Investigative Journalism, hailed the commission's work thus far.

"The commission has found themselves like a person who bought a full-options car that they cannot drive properly. They are trying, but in major cases like Mawared, it's a political decision," Sabbagh said. "The problem is that the whole system, the culture and the people encourage corruption whether it's on a small or big scale."

Sabbagh, a journalist who worked for international newspapers and a columnist for *al Arab al Yawm*, said she suspects those involved in the Mawared case will likely reach an out-of-court settlement soon.

She stressed that the commission should be reporting to a more independent entity like Parliament.

"But in the end they have made some strides; they put Khaled Shaheen behind bars. Who would have thought in the past that this was possible?" she said.

Shaheen, a business tycoon, was sentenced to three years in prison for corruption. He was allowed to leave Jordan for medical treatment in the U.S. and was brought back from Germany after he refused to return voluntarily.

The Anti-Corruption Commission said on its website that it transferred the Shahin file to the prime minister after investigations revealed legal violations in the way Shaheen was allowed to travel. There was also criticism that he was sent a jail Jordanians deem luxurious.

Chilling Effect and Character Assassination

In 2010, the commission dealt with 1026 cases in the public and private sectors (433 cases of misuse of power, 126 cases for waste of public funds, 37 cases of fraud, 23 theft cases, and 19 instances of embezzlement).

In order to boost the commission's authority, a new draft law presented to Parliament would allow the commission to prosecute bribes in the private sector, provide protection to witnesses and whistle-blowers, and grant the court the authority to cancel contracts resulting from corruption.

The draft law, though, included an article that caused a public outcry. Article 23 would make it a crime punishable by a minimum fine of \$42,000 to publicly accuse others of corruption without any proof, to prevent what the government called "character assassination." Journalists were also asked not to write about corruption over fears that it might scare away investors in Jordan.

The media criticized that as an infringement on free speech. In Nuzha's view, though, "This article is not restricted to journalists. It applies to anyone who does any act that aims at character assassination."

After much debate, the Senate postponed consideration of the law to bolster the authority of the Anti-Corruption Commission, and as of December 2011 the draft was with the legal committee for further study.

"I believe that nobody should bad-mouth anybody, but the timing of this (article) was wrong. A whistle-blower would now think four times before coming out and saying anything," warned Sabbagh.

Mamdouh al Abbadi, head of Parliament's anti-corruption committee and vice president of the Arab Region Parliamentarians Against Corruption, called the law "flawed" and said the commission's affiliation with the prime minister will always stand in its way.

"I believe they (the commission) had a good start, especially what they've been doing as of late," Abbadi said. "They are serious, but I don't think that they are entirely independent like the (other anti-corruption commissions) in developed countries," he said.

Abbadi noted that Parliament's anti-corruption committee also has been investigating corruption cases, including the Greater Amman Municipality's Bus Rapid Transit system project which was supposed to reduce traffic jams. The case was transferred to the government with recommendations to

halt the project.

In a course of three months, the committee investigated six cases related to GAM, Abbadi said.

Corruption is a Top Problem, Jordanians Say

Jordanians have been quite angry at the level of corruption that made headlines in 2011.

A study carried out by the Center of Strategic Studies found that the majority of people polled believed that corruption tops the priorities the government should address.

Another poll conducted in June 2011 by the International Republican Institute, which surveyed 1,000 Jordanians, found that one in three citizens believed fighting corruption was a priority.

But experts and analysts seem to believe that the Arab Spring which has engulfed many Arab countries, including Jordan's neighbor Syria, will deter corruption especially when the Arab streets are boiling at the amount of corruption in their countries.

"With the Arab Spring, I think that fighting corruption will be stronger, the government's policy will be better and the parliament and media monitoring of corruption will be stronger," Abbadi said. "I think that currently what provokes the public in the Third World the most is corruption."

Sabbagh agreed. "The only thing that unites people is corruption. If you ask anybody about the common goals, they would say corruption, while political reforms would be their point of disagreement."

Big or small, corruption remains a problem that casts shadows over Jordan's development efforts, such as the plans to turn the heart of Amman into a luxurious hub of high-rises, upscale apartment buildings and hotels. As such, corruption threatens to undermine the confidence of badly needed investors and most importantly the trust of Jordanians in their country's government and business elite.

Many analysts believe combating corruption would show how transparent and serious Jordan's anti-corruption efforts are. And that would lead to more investment and

development.

“I think that an investor would actually prefer an uncorrupt environment where he doesn’t have to bribe or pay commissions,” Ghuneimat said.

** Dina al Wakeel, a journalist for the past 10 years, has written a variety of stories, covering Parliament, politics and business. She has also organized journalism training programs for local and regional reporters.*

Ana-Maria Luca



In Bourj al Barajneh, a Palestinian camp in the Southern suburbs of Beirut, people have little option but to steal electricity through illegal connections – even though it puts their lives in danger- because the Lebanese government doesn't provide basic services.

LEBANON

How Corruption Keeps the Lights on in Lebanon

*By Ana-Maria Luca**

Jinane Al Ayoubi, a 47-year-old woman from Tripoli, North Lebanon, said her life is perfect when she has the “government electricity.” She can turn on the refrigerator, has hot water, and can watch her favorite Turkish soap opera on television – and she is not afraid to turn on an extra light bulb.

“The only problem is that we don't really get that electricity,” she said, with a trace of sarcasm in her voice.

In her neighborhood, Tripoli's Abi Samra, electricity is scheduled to be cut up to 10 hours per day, so the woman does what all Lebanese citizens do: She pays \$60 every month to an illegal electricity generator owner to be able to keep her re-

frigerator and television on and maybe a light bulb glowing at night, if the old generator network is able to accommodate that much demand.

Not all Lebanese are as patient as Al Ayoubi, and not all have the money to pay for generator power. Angry Tripoli residents are used to taking to the streets when power cuts are unbearable, usually in the cold winter or hot summer. In spite of continuous talk about the blackouts, demonstrations take place all over Lebanon, some of them turning violent. However, nothing changes.

Lebanon has been rationing electricity for over three decades, with down times scheduled differently according to region, from three hours in Beirut, the country's capital, to even 12 hours per day in Beirut's southern suburbs and villages. Lebanon's power problems date to the 1975-1990 civil war, which devastated the country's electrical network.

The country is still struggling with power cuts, old infrastructure, a mafia of illegal electricity generators and reform plans that are never put in practice. All Lebanese politicians admit that the country has a serious energy problem because of various forms of corruption – from the police turning a blind eye to electricity theft in poor regions to top-level politicians' traffic of influence and political bickering.

'It's All Political,' Underground Power Supplier Says

Corruption is rampant in the postwar structure in Lebanon, which has led to a power-sharing formula among political and confessional groups resulting in competition for state resources. The lack of awareness on corruption, its causes and consequences, absence of functional key anti-corruption institutions, weak legislation and lack of law enforcement increase the problem.

The latest Corruption Perception Index issued by Transparency International in 2011 ranks Lebanon 134th out of 183 countries – down from 2010, when it ranked 127th out of 180 countries, alongside Syria and the former Soviet republic

Belarus.

Since Lebanese encounter corruption on a daily basis, they have a word for “traffic of influence” – *wasta*, which defines the personal connection (be they relatives or simply clerks who take bribes) one has and can use to get a job, a loan from a bank, their driver’s license, or be tolerated to operate a private electricity generator business which brings them profit.

The energy crisis has lasted for so long that most institutions and businesses already gave up pressuring the government to reform the electricity system.

Most large businesses, factories, office buildings, hospitals and other institutions are already equipped with private generators, as part of their investment plan, in order to keep their activities on track without having to deal with the power cuts.

An improvement in the public electricity system would make their investments in huge private generators useless.

However, the ones who suffer most from the power cuts are the small businesses and households which cannot afford their private electricity generators and are forced to pay exorbitant bills to generator operators in their neighborhoods.

The direct consequence of the power cuts is the booming illegal generator business across the country. Although functioning outside any legal framework, private generator businesses, which provide electricity through a small network, are tolerated in most areas of Lebanon, and according to a World Bank report dated June 2009, they provide around a third of the country’s electricity at a much higher price than the state.

A generator operator in Tripoli, who refused to give his name for fear of his personal safety, says he provides electricity to several buildings in his neighborhood during blackouts and charges \$50, compared to around \$30 that EDL charges.

But he also said he pays around \$3,000 to political parties’ armed thugs in order to be allowed to operate his business without being attacked or killed. “The key of all our problems lies with the politicians. It’s all political, starting from the power cuts in EDL (Electricity of Lebanon), where and when they cut, all the way to these thugs harassing us,” he explained.

A plan by the Tripoli municipality council to charge generator owners was never enacted, according to the World Bank

report. The same happened in Sidon, a city in South Lebanon, while only one suburb of Beirut charges the generator owners a small fee.

“These examples suggest that private generators not only operate outside the legal framework, but have been generally successful at thwarting local government attempts at imposing fairly modest taxes,” the World Bank report said.

Electricity of Lebanon Meets Only a Fraction of Demand

Electricity of Lebanon (Electricite du Liban – EDL), an autonomous state-owned company under the jurisdiction of the Ministry of Energy and Water, has been labeled the costliest individual case of corruption in the Lebanese economy and the cause behind a massive portion of the budget deficit. EDL costs the Lebanese citizen yearly around \$350, according to the World Bank.

According to the State of the Environment Report issued in June 2011 by the United Nations Development Program in Lebanon, except for four power plants which are concessions to private companies and serve 82,000 subscribers, EDL has a quasi-monopoly over electricity production, transmission and distribution. It operates seven thermal power plants running on outdated equipment using gas-oil (diesel) as fuel instead of natural gas, while the six hydropower plants can produce only around 3 percent of the demand due to low water availability. EDL meets only 70 percent of the demand estimated at 2,100 megawatts with a peak load of 2,600 megawatts.

According to the World Bank report, technical losses in the EDL network are “optimistically” estimated at 15 percent, while theft and uncollected bills may reach 30 percent. Investments in the sector amounted to only US\$1.4 billion over two decades, from 1990 to 2009.

Unpaid bills and electricity thefts in some areas of the country are often blamed by the government for the lack of reform in the system.

Energy and Water Minister Gebran Bassil, the son-in-law

of Michel Aoun, the Change and Reform Bloc leader in the Lebanese Parliament, had threatened in 2010 to cut the state power supply of several high-ranking politicians because they refused to pay their bills. Bassil announced that almost \$1 billion in unpaid bills accumulated over the years, \$8 million of it being owed by politicians.

After his press conference, however, the minister tempered his stance and said that the politicians, whose names were never made public nor talked about since, were to be called before any action was taken.

The minister was not available for comment.

In the Khaldeh neighborhood of Beirut's Southern suburbs, a region controlled by the Shia militant group Hezbollah, a resident explained how most of his neighbors steal electricity. "Look here! You tamper with the meter, so that it shows you consumed less energy than you actually did," he said, pointing at his meter. "Another way is to just steal the power directly from the electricity pole. That's how the whole cable grid over my street can be explained," he added, joking.

He also said that the bill collectors never complain because they also live in the area and, moreover, "this is the suburbs, not even the police are allowed to enter this area," hinting that the region is the home of Hezbollah's headquarters and is kept safe from intruders by the group's armed security agents.

But former Energy and Water minister Alain Tabourian says that electricity thefts and unpaid bills contribute to about 19 percent of EDL's deficit. The core of the problem is, he said, at the political level. "In order for the politicians to justify their inadequacy and the catastrophe that they have caused, the easiest way to get out of it is to say that this low-level corruption is to blame," he explained.

But although there are accusations of nepotism, money siphoning and conflict of interest in assigning several maintenance contracts to companies belonging to relatives of EDL or Ministry of Water and Energy employees, only one case was investigated and that case never made it to court, NOW Lebanon journalist Nadine Elali says.

"In early 2002, Lebanese Prosecutor-General Adnan Ad-doum opened a corruption investigation and accused Rudy

Baroudi, a former adviser at the MWE, of taking bribes for stalling the rise of fuel prices and allowing the fuel importers to make more profit,” she said. He was also called for questioning in the case of a company belonging to Ahd Baroudi, a relative, being chosen to handle the maintenance of a Lebanese power plant. But nothing came of it, she said.

Infrastructure Could Be the Answer

The most effective way to deal with the deficit in the electricity system is to fix the plants, which are either very old or operate on the wrong kind of fuels – diesel, the most expensive– which sent the production costs skyrocketing, even with the government spending \$12 billion to subsidize the cost of fuel.

“About 80 percent of EDL’s deficit is the cost of fuel oil,” Tabourian said, adding that EDL loses at least half a million dollars daily .

In 2009 a former minister proposed a five-year plan to build plants that operate on clean coal, which is cheaper than natural gas and more realistic than hydropower. But the plan of switching to clean coal reached a dead end, due to “strange reactions” from other ministers in the Cabinet.

The current government’s plan to tackle the electricity deficit is to build two 700-megawatt power plants which would use liquefied natural gas as fuel. That would not solve the electricity problem, because Lebanon needs at least another 1,500 megawatts to meet demand.

The electricity system deficit has been used as a political tool by several governments through the years, be they led by a pro-Syrian political coalition, pro-Western political blocs or national unity Cabinets. The most recent plan came in August 2011 from Aoun.

The \$1.2 billion plan had been discussed in 2010 by the previous pro-Western government. The plan was submitted again to the Cabinet after the pro-Syrian March 8 coalition led by Hezbollah took control of the Lebanese government in June 2011. After a month-long quarrel with the Druze ministers in the Cabinet over establishing a special committee to supervise how the \$1.2 billion would be spent, the proposal passed. The

two plants are expected to start producing power in two years.

“They came up with a plan to slightly overcome the deficit problem, but the financial problem will still be there, because prices of fuel will still go up and you will be still selling under cost,” Tabourian said.

“EDL is used as a scapegoat for all the problems of the sector. But EDL has no means to do anything,” he said. “They are not allowed to change rates; they are at the mercy of the Ministry of Finance to give them money to buy fuel or not.”

He said privatizing the company also is not a good option because no investor would be interested in taking over a dying dinosaur and endure years of losses in order to make it profitable. “The best option is a clean, transparent public-private partnership,” the former minister said.

In the meantime, Lebanese like Al Ayoubi make do paying \$60 per month for the illegal electricity generator that keeps a light on, the water hot and Turkish soap operas on television.

** Ana-Maria Luca is a senior journalist working with Beirut-based news website NOW Lebanon. She has been covering Lebanon and the Middle East for almost four years, after previously covering Eastern Europe and the Balkans. Her reports on human rights have received both national and international recognition.*

