

**Addressing Impunity and Political Corruption: Lessons from Captured States**

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Ladies and gentlemen, distinguished guests – Good morning

It is a pleasure and an honour to be with you this morning. May I take this opportunity to thank TI Moldova for holding this important and very relevant conference, and for inviting me to speak.

I have been asked to address:

*“the issues of impunity and political corruption as problems at an international level and then turn to such emerging democracies with small opening economies as Moldova where these problems may have an even heavier impact”*

I shall do my best in the short time allotted.

As I started to write my talk for today, I had three guiding thoughts in mind:

1. Your President’s speech at Chatham House at the beginning of November: a talk that I was privileged to attend
2. The regional context within which Moldova is placed, and
3. The correlation between corruption and fragility

Allow me please to address these three aspects by way of introduction.

**First**, President Dodon’s talk at Chatham house. He addressed the subject of ‘Moldova’s Delicate Balancing Challenge’, in other words: the balance in the relationships between Moldova and Russia, and Moldova and the EU. Amongst other things, he emphasised that he wished for continuing dialogue between both sides and not having to be faced with a choice. In the talk and discussion that followed, he also referenced amongst other things the EU Association Agreement yet the need for a Moldovan Plan, not a Western or a Russian one. I’ll return to this requirement at the end.

**Second,** the regional context within which Moldova is placed. I really don’t have to tell you. You know it well. It is problematic. A highly fragile Ukraine, the long running Transnistria debate, and your other external relationships, particularly that with Romania. I invite you to take a careful look at these areas. Much corruption has brought about the regional situation that you see today.

**Third,** the connection between corruption and fragility. In addressing this, I was compelled to turn to a report produced by the Carnegie Endowment for International Peace in 2014 entitled “Corruption: The Unrecognised Threat to International Peace”. I commend it. It provides an excellent understanding of the nexus between corruption and fragility internationally and provides relevant guidance to help improve policy in dealing with severe corruption. It also highlights the security implications of severe corruption[[1]](#footnote-1) and, if I may, I’ll summarise a few of these:

* Acute corruption is **‘the system’** it is not just a pathology or part of a frayed system
* Such systemic corruption evokes indignation in populations, making it a factor in social unrest and insurgency
* It contributes to other international security threats such as symbiotic relationships between states and organized crime
* It may combine with other risk factors such as religious or ethnic tensions

I would add to that Carnegie list:

* It damages a country’s international standing,
* prevents it from being part of major clubs (for example it is delaying – and could prevent, if not resolved – some Balkan countries from joining the EU) and
* good trade and investment relationships are frequently jeopardised and sometimes not possible

**Trust becomes a key issue**

I believe that many of you will recognize these features.

For example, we saw in Romania in August this year the major protests against corruption for over two weeks and saw that many emigrants had returned to make that protest. They had left in order to earn money to send back to their children to have a better life but that better life was being denied through corruption: an estimated US$5.0bn was remitted by the diaspora last year, however, a significant percentage of GDP was lost to corruption[[2]](#footnote-2).

Whereas there were indicators of optimism in Bosnia following the signing of the Dayton Peace Accord in 1995, by 2014 that optimism had turned to anger and loathing for a severely corrupt government and violent protests erupted on the streets of major cities including Sarajevo and Tuzla. The current situation is fragile, exacerbated by poor economic conditions – particularly high youth unemployment (55%) – criminal gangs and external threats. A TI report in January of this year stated that corruption still “presents a comprehensive challenge” in Bosnia and that despite repeated recommendations by the EU and GRECO (the Group of States Against Corruption), many efforts have been “declarative only and failed to substantially improve the anti-corruption legislative framework”.

Similar protests were repeated in the Republika Srpska earlier this year following allegations of cover-up over a homicide.

In 2008 I was a member of a team reviewing an EC funded programme in support of the National Parliament and nine Provincial Legislatures of South Africa. It was designed to strengthen democracy and good governance and assist in delivering on the vision of the South African Constitution. At that time, there was considerable hope. Now there is a Commission of Inquiry into Corruption – in fact not just corruption but state capture! An article in the journal ‘The Conversation’, 17th September this year states:

*“How it (the Commission) goes about its work, and delivers on its mandate, will have profound constitutional and political consequences. This is more so because it is clear that deposed former President Jacob Zuma, who is at the core of the allegations, has launched a fightback campaign that can undermine President Cyril Ramaphosa’s efforts to clean up government”.*

Whether Zuma will walk away with impunity, we will have to watch and wait.

**So how does one face the problems of impunity and political corruption?**

The OECD’s thesis is that:

*“We have reached a turning point in the global fight against corruption: only a coordinated response among all partners[[3]](#footnote-3) – government, business and civil society – will lead to meaningful reform and lasting change”.*

If I may, therefore, I’ll provide three examples where such coordinated approaches have been independently led and have shown or at least are beginning to show real and positive gains.

**GUATEMALA**

The first such example is one in which the issue of impunity has been tackled head on. It is provided by the **International Commission Against Impunity in Guatemala**, (CICIG to give it its Spanish acronym). It is claimed that the CICIG has reduced Guatemala’s impunity rate between 2006 and 2015 by some 28%, so I believe there is more than a little relevance to it as an example.

The CICIG is not an ordinary anti-corruption commission. It was established in 2006 through a bilateral agreement between the UN and the State of Guatamala and whilst it is supported by the UN Department of Political Affairs it is actually independent. Since 2008 it has been funded by voluntary contributions by UN member countries including the UK, USA, Canada and Norway. Its features are as follows:

* it is regarded as a ‘non-UN entity’
* it is structurally independent of the UN and financially independent of Guatemala’s public agencies, private organisations and any economic elites
* whilst the Commissioner is appointed by the UN Secretary General, his decisions are his own
* it comprises judges, prosecutors and law enforcement officers from over 20 countries with wide and deep experience of fighting corruption and organised crime
* it has authority to launch and investigate crimes in Guatemala in cooperation with state institutions
* it supports institutional and judicial reforms, and serves as a complementary prosecutor working closely with the public prosecutor’s office, police, etc.

Writing in the Journal ‘Global Policy’, February 2018, Dr. Yulia Krylova, *(of the Centre for Terrorism, Transnational Crime and Corruption Studies at George Mason University, USA and a World Bank Adviser)*  explains that whilst it was initially established to fight “clandestine criminal structures and illegal security groups” it has gone on to have many successes outside these specific areas. She cites amongst others:

successful “prosecutions of high-ranking officials including two former presidents and a vice president, legal and judicial reforms, programmes on building local capacity of investigative authorities and initiatives to mobilise civil society”.

**AFGHANISTAN**

Closer to this region is the case of the Independent Joint Anti-Corruption Monitoring and Evaluation Committee (MEC) in Afghanistan. Founded in 2010 upon presidential decree, it is totally independent of the Afghan Government and the international community. The MEC comprises a Committee of 6 leading anti-corruption experts (some Afghan, some international) selected through a nomination process overseen by the international community and the Afghan government, and a staff in excess of 30. The Chairmanship of the Committee alternates between an Afghan and an international appointee every six months. Its mission is to evaluate national and international efforts to fight corruption in Afghanistan. It reports to the public, parliament, president, and the international community.

The achievements of the MEC have to be judged in the excruciatingly difficult context within which it operates. In this last year, some $258.1m of stolen assets from the Kabul Bank have been recovered and a further $47.0m of assets are frozen in Dubai; a survey has revealed that the Afghan budget had become the second most transparent budget in the region (after Nepal); and a variety of other modest gains have been made.

Such achievements are important if not significant. To recover from acute corruption takes time.

**GEORGIA**

Surprisingly perhaps Georgia’s progress in fighting corruption has been most significant and is an exemplar.

In 2003 there was what was called the “Rose Revolution” an uprising of the people against a corrupt government and state capture, Shevardnadze having been accused of ‘institutionalising corruption’. The result of that revolution has been dramatic.

The World Bank’s report on ‘Doing Business 2018’ highlights the fact that Georgia ranks highest in Europe and the Central Asia Region this year. How? Well there has been successful implementation of a major anti-corruption effort driven by four guiding principles and as a result, international perception of Georgia has changed markedly, with the UK Governance Fund Manager describing it as a “Regional Champion”, *(Source: “From Failed and Corrupt State to Regional Champion”, (G. Chanukvadze, Tbilisi, Georgia, 2018)).*

The principles are as follows:

1. Good political leadership, commitment to fighting corruption and the will to put in place a meritocracy
2. A simplification of rules and regulations
3. A carrots and sticks approach – a willingness and ability to prosecute offenders, and incentives to obtain best practice
4. Leveraging IT and technology

It is not possible in this short presentation to expand upon and explain the way in which these principles have been followed or the full consequences of following them. However, it is useful to focus on one aspect, namely that of the simplification of rules and regulations.

The overall aim has been to have smart regulations based on such ideas as:

1. a ‘silence is consent rule’ – in other words, an application for a license or some other form of authority is automatically granted if no answer or response has come from government within a set deadline
2. adherence to a ‘One Government principle’ – multiple forms from different government agencies should not be necessary and there is a requirement for mind-set changes of government personnel
3. ‘Regulatory piggy-backing’ on best practices – applying other countries’ regulations to meet local needs, and
4. Simplifying and streamlining regulatory processes - with regulations and services being viewed and tested from the standpoint of a client / beneficiary not a civil servant

An excellent example of this latter aspect is provided by the following. Whereas in 2003 it took 25 days and 9 procedures to register a new business it now takes two procedures and two days to make such a registration. Small changes in such areas as reducing electricity connection costs; providing protection for minority investors; and resolving insolvency issues have supported further. It can now be seen that FDI as a % of GDP has risen from 7% in 2005 to 12% in 2017, (although with a few oscillations).

**SECTOR AND BOTTOM-UP APPROACHES**

Now let me just move from the strategic and comprehensive approaches to those that are more targeted and tactical:

1. Sector specific
2. Local (or bottom-up), and
3. Media Freedom

prone to neglect if there is a fixation on the all-embracing top-down approach

1. **the sector specific**.

This draws on my personal experience in South Sudan, where I worked in the health sector. My mission – shortly after the signing of the peace treaty in 2011 – was to advise on a proposed joint donor funding programme for the sector. The donors included the EC, DFID, Australia Aid, the Netherlands and others, who were to provide monies to a pooled fund for health. The management of the programme was by a totally independent team of specialists and for purposes of funding, monies flowed in a parallel and independent system from that of the treasury. Apart from aiming to ensure highly targeted health provision, the programme was designed and established to ensure good governance (particularly circumnavigating the major corruption network that had permeated the sector) and enable government personnel to be trained in best practice. The programme is still being successfully implemented and serves as a good example of what can be achieved by donors working in unison.

**2. Bottom-up**.

I note with interest that some Latin American experience is already being drawn upon in this country, in that the mayor of Straseni, Ms. Valentina Casian, oversees a project on the “Future of cities: transparent and innovative urban development”. The project is designed to promote integrity and fight corruption and draws on a successful anti-corruption campaign by the Mayor of La Paz, Bolivia. Its funded by the UNDP. Such approaches have the potential to provide high value. They have been shown to help regenerate urban areas, particularly through helping ensure that malfeasance in procurement and budgeting is constrained and stopped.

The approach in Casian is an interesting one since to an extent it models itself on one that was promoted in the Ukraine. Namely that of creating ‘Integrity Cities’. The idea being that if enough cities strive toward the goal of integrity and fighting corruption, ultimately sufficient pressure will come on the nation state to align its systems, procedures and culture, and develop its own reform programme.

**Media Freedom**

A pluralist and independent media, free from suppression is an imperative for a democracy to survive. A number of recent reports present a very concerning picture of the lack of media freedom in Moldova, highlighting: “the broadcasting regulatory authority’s lack of independence”[[4]](#footnote-4), the “lack of media pluralism”[[5]](#footnote-5) and, that as much as 70% of the audiovisual market could effectively be in the hands of one person[[6]](#footnote-6).

My understanding is that over the recent past there have been many excellent programmes and projects in support of a free media here in Moldova[[7]](#footnote-7). However, most appear targeted on individual sub-sectors / aspects of the media.

Whilst procedures for appointment to a national regulatory authority are not transparent, whilst there exists the potential for inappropriate and illegal pressure to be applied on investigative journalism and whilst the independence of media outlets has been captured for the private benefits of power elites, such programmes and projects are only scratching at the surface of the underlying problems. A much more cohesive and coordinated approach to ensuring a free media is required.

**LESSONS LEARNT**

In conclusion, I offer 10 key lessons from evidence gathered from this international experience:

1. **The correlation between corruption and state fragility is high where a state has been captured by a ruling elite.**
2. **By itself, a captured state will invariably neither have sufficient institutional nor human resource capacity to break the bonds of captivity**
3. **External assistance that is not harmonised or coordinated has limited value in such circumstances. There, therefore, appears significant merit in seeking independent assistance and taking a coordinated, collective action approach[[8]](#footnote-8) such as that illustrated by the CICIG[[9]](#footnote-9) and MEC**
4. **Such help cannot be externally imposed but must be requested by government**
5. **UNCAC’s merits should not be overlooked in this context[[10]](#footnote-10)**
6. **Avoid a national anti-corruption strategy from becoming a proxy for action[[11]](#footnote-11)**.
7. **Direction and steerage of such a programme should be by an experienced high level and inspirational team[[12]](#footnote-12)**
8. **Build human and institutional capacity** and in so doing:

* improve professional standards,
* eliminate the opportunities for corruption, (where necessary re-engineering systems and procedures),
* build culture[[13]](#footnote-13) and a new ethos, and
* in the words of DFID’s anti-corruption head: *“change the calculations that people make”* that incentivise their corrupt action[[14]](#footnote-14).

1. Take a “**strategic criminal prosecution approach**” to ensure “investigations target structural features that support a clientelistic political culture”[[15]](#footnote-15)
2. **Work from the bottom-up should complement and supplement work from the top-down[[16]](#footnote-16)**.

**Ladies and gentlemen, if the balanced ‘Moldovan Plan’ that your President wishes for is to be achieved, might I respectfully suggest that this international evidence be carefully considered**

**Thank you for listening**

**\* \* \* \* \* \* \* \* \* \* \***

**Footnotes:**

1. When corruption is likely to be exposed, journalists may be killed, attacked, threatened or detained. Many are intimidated to self-censor. Between 1992 and 2018 over 1,300 journalists have been killed *(See: Committee to Protect Journalists,* [*https://cpj.org/data/killed/*](https://cpj.org/data/killed/)*)*

According to Thomas Hughes, executive director at human rights group Article 19:

*“The reality is that the impunity rate for these crimes remains staggeringly high, with 90 per cent unresolved”.*

1. In a recent “Comparative Analysis of Media Freedom and Pluralism in the EU Member States” by the EU’s Directorate General for Internal Policies, the key elements of media freedom and pluralism are stated as:

* Freedom of expression and pluralism
* Diversity in ownership
* Funding
* Online pluralism: Content offered vs. content accessed
* Journalistic ethics, media literacy and protection of sources

Individually, no measurements against these criteria are available for Moldova.

1. Federica Mogherini (The EU Vice president) on the recent anniversary of the ‘International Day to End Impunity for Crimes against Journalists’ (2nd Nov 2018) stated:

*“Democracy cannot live without free, diverse and independent media”,*

and emphasised the EU’s continuing commitment to:

*“use all appropriate external policy and financial instruments to enhance the quality of journalism, access to public information and freedom of expression. It will continue funding the European Centre for Press and Media freedom (ECPMF) and providing targeted protection through Human Rights Defenders Support programmes”.*

1. In a recent paper on state capture in Moldova it is suggested “The nightmarish scenario of a breakdown in security in Moldova is unlikely. However, as Ukraine’s 2014 anti-corruption protests and the subsequent Russian invasions of Eastern Ukraine and Crimea have shown, war is possible”. See: ‘Confronting State Capture in Moldova’, R. Knight, Georgetown University, a paper for the NATO Science for Peace and Security Programme, Policy Brief 20, June 2018. [↑](#footnote-ref-1)
2. An estimated 6.3 percent of gross domestic product (GDP) of the 28 Member States is lost to corruption. No comparable figure is available for Romania, although the % is thought to be considerably higher. (For European figures see: ‘The Cost of Non- Europe in the area of Organised Crime and Corruption, Annex II – Corruption’, Report by Rand Europe on behalf of the Directorate General for Parliamentary Research Services (DG EPRS), March 2016) [↑](#footnote-ref-2)
3. A country’s international partners (World Bank, UN, EC and other) should be included in this list [↑](#footnote-ref-3)
4. See: “World Press Freedom Index, 2018”, Reporters Without Borders. The report also expresses concern over the regulatory authority’s excesses in the ‘fight against propaganda’. The Index itself ranks Moldova at 81/180 (c.f. Georgia at 61, Guatemala at 116 and Russia at 148) [↑](#footnote-ref-4)
5. See ‘Nations in Transit’, Freedom House, 2017, suggesting that such lack of pluralism “constitutes a serious obstacle to the country’s overall level of freedom” [↑](#footnote-ref-5)
6. See the Foreign Policy Research Institute (September 2017). This estimate appears despite new regulations to the Audiovisual Code. [↑](#footnote-ref-6)
7. For example, amongst others, the Council of Europe have supported:

   * a training seminar for the members and staff of the Coordinating Council of Audiovisual (CCA), addressing such matters as how to monitor political and electoral coverage, and social pluralism and advertising;
   * facilitated the legislation of an audiovisual media services code;
   * supported the launch of a training centre for Teleradio Moldova;
   * provided an autumn school on human rights for judges and prosecutors; and,
   * supported the provision of regional networks of self-regulatory bodies (across Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine, Belarus.

   [↑](#footnote-ref-7)
8. Stove piped approaches to tackle corruption in individual ministries and departments will not work: severe corruption crosses sectors, administrative regions, public and private sectors, civil society organisations, and obviously ruling elites connected with international organised crime. Donors that are involved must all be agreed on one strategic / comprehensive approach (e.g. as per Guatemala and South Sudan examples provided in the main text). [↑](#footnote-ref-8)
9. the CICIG example, well highlights the benefits of out-sourcing the fight against corruption and it also provides “good examples of new anti-corruption tools and innovative agreements”. In Dr. Krylova’s paper referenced above she explicitly states:

   “expansion to other countries could constitute a new chapter in the global fight against corruption”. [↑](#footnote-ref-9)
10. UNCAC (the UN Convention Against Corruption) offers wide ranging support including in areas such as information exchange, asset recovery, technical assistance and international cooperation (e.g. mutual legal assistance, law enforcement cooperation) [↑](#footnote-ref-10)
11. Overcoming resistance to change is critically important in this context. [↑](#footnote-ref-11)
12. All 3 examples described above – the CICIG Guatemala, MEC Afghanistan, and Georgia – have such [↑](#footnote-ref-12)
13. Be prepared for cultural change to take a generation [↑](#footnote-ref-13)
14. See: “Tackling Corruption, DFID’s Approach: Perspectives, Priorities and Pitfalls”, Phil Mason, Senior Anti-Corruption Adviser, DFID, Paper presented to FCO MENA Briefing, January 2018. In this context it is worth noting that tracking expenditure can change incentives. [↑](#footnote-ref-14)
15. Another lesson from the CICIG but evidenced elsewhere (e.g. Turks and Caicos) [↑](#footnote-ref-15)
16. This can take many forms from:

    * supporting NGO’s
    * building integrity cities and exploiting the symbiosis of a number of city initiatives, and
    * building press competence and resilience, and a free media.

    [↑](#footnote-ref-16)