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## TACKLING CORRUPTION IN DIFFERENT REGIMES

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## ABSTRACT

Corruption is a major global problem that worsens social inequality, corrodes political institutions, and hampers economic growth. It is also a vaguely defined phenomenon incorporating an aggregate of actions with different nature and consequences. This paper will disaggregate corruption as a concept, study the differences of corruption in different political systems, and reveal effective anti-corruption strategies as well as limitations in different political systems.

## EXECUTIVE SUMMARY

This paper examines in detail the problem of corruption in various political systems, drawing on Yuen Yuen Ang's categorisation of corruption into Petty Theft, Grand Theft, Speed Money, and Access Money. The paper shall qualitatively study cases of democratic countries, authoritarian countries, and countries with a combination of the two, outline their issues with corruption, and then analyse their anti-corruption strategies. From this, divergent features and convergent patterns will be found. This paper hopes to provide new perspectives to tackle specific issues of corruption in countries with different political systems, as well as new understanding of limitations in anti-corruption strategies.

## I. INTRODUCTION

### I. THE PROBLEM OF CORRUPTION

Corruption is a major global challenge today, with wide ranging negative implications. As Transparency International - one of the largest organisations tasked with combating corruption - writes, corruption “erodes trust, weakens democracy, hampers economic development and further exacerbates inequality, poverty, social division and the environmental crisis.”<sup>1</sup> Thus, studying corruption and how it can be reduced is crucial and could be hugely rewarding.

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<sup>1</sup> Transparency international. *What is corruption?* (2021) Available at: <https://www.transparency.org/en/what-is-corruption> (Accessed: 23 October 2021).

## II. DEFINITIONS

However, corruption is notoriously difficult to define, especially since different academics and organisations define corruption differently. Transparency International defines corruption as “the abuse of entrusted power for private gain”<sup>2</sup>. This encompasses acts within the private sector, for example, executives who run private companies against their shareholder’s interests could be said to be committing acts of corruption. However, Fisman and Golden (2017) and many other academics argue that corruption is best understood in a narrower sense as ‘the abuse of public office for private gain’. Related, yet more specific, is Beetham’s definition of corruption as “the distortion and subversion of the public realm in the service of private interests”<sup>3</sup>. This definition is helpful because it shifts the focus away from solely public officials, by recognising that private companies can corrupt the public sector too. Together, these definitions will provide the backdrop of the paper, although without the nuance of definitions being the main focus.

## III. MEASURING CORRUPTION

Measuring corruption is also challenging, in part due to cross-cultural differences in how corruption is conceptualised. Which actions that are prosecuted by anti-corruption legislation vary widely from country to country, for example many forms of lobbying practises seen in the United States are illegal in other Western democracies. But the very nature of the problem of corruption also causes difficulties in measuring it. Because corruption is secretive, gathering reliable data can be extremely difficult. Most studies of the prevalence of corruption are based on people’s perceptions, and people may be more inclined to think corruption is widespread if it is high on the agenda, than if it just takes place under the radar.

The most influential measurement of corruption is the Corruption Perception Index (CPI), released annually by Transparency International, where countries are ranked on a scale from 1-100 based on the perceived level of corruption. The CPI is an average of a number of global corruption surveys conducted by various organizations focused on government accountability and business climate: thus, as the name

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<sup>2</sup> Ibid

<sup>3</sup> Whyte, D. (2015) *How Corrupt is Britain?* London, UNITED KINGDOM: Pluto Press. Available at: <http://ebookcentral.proquest.com/lib/cam/detail.action?docID=3386802> (Accessed: 1 November 2021).

emphasizes, it is a perceptions-based measure rather than one that necessarily reflects anyone's actual involvement in corrupt transactions.<sup>4</sup>

We will be drawing heavily on this ranking in this paper in our assessment of corruption within countries, however we also take seriously the problems with using a one-dimensional scale for measuring corruption. As Yuen Yuen Ang points out, it is important to have in mind the different forms of corruption that exist, as opposed to just the quantity of corruption, because their consequences are vastly different. Thus, we shall also utilise Ang's categorisation of four different types of corruption (see below), and what Ang deems the Unbundled Corruption Index (UCI) - a ranking of 15 countries based on the prevalence of each four categories of corruption - as a complement to the CPI.<sup>5</sup> We shall supplement her categorisation of corruption with alternative measurements, such as the World Bank's Control of Corruption Measure,<sup>6</sup> Transparency's Global Corruption Barometer, and the World Economic Forum's Executives Opinion Survey.<sup>7</sup>

#### IV. APPROACH AND OUTLINE

Corruption is commonly understood as individual moral deficiency, but this paper shall study corruption as a systematic problem with deep social roots. We argue that corruption stems from a wide set of social arrangements - including norms of accepted conduct and the nature of the criminal justice system - where corruption is, at an individual level, the most profitable course of action. This corresponds to Fisman and Golden's 'equilibrium approach', which sees incentives to engage in corruption as locked in by social arrangements. The problem of corruption is thus one of collective action: a large enough number of

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<sup>4</sup> Transparency international. *Corruption Perceptions Index 2020*. Available at: <https://www.transparency.org/en/cpi/2020> (Accessed: 12 October 2021).

<sup>5</sup> Yuen Yuen Ang, *Unbundling Corruption: Why it matters and how to do it*, (2020) Available at: <https://oecd-development-matters.org/2020/06/25/unbundling-corruption-why-it-matters-and-how-to-do-it/> Accessed: 12 October 2021

<sup>6</sup> An alternative to Transparency's CPI is the World Bank's Control of Corruption measure, which comes under its World Governance Index (WGI). This is another expert opinion aggregator giving a score between -2.5-2.5. WGI's corruption measure was in fact based on CPI but attempts address criticisms of the CPI such as a lack of country specific weighting for sources or not taking into account enough the results of public perception surveys etc.

<sup>7</sup> Transparency's Global Barometer is one bribery survey that gives the percentage of people who have paid a bribe to access certain public services. The World Economic Forum's Executives Opinion Survey gathers data instead from business leaders giving an index score between 1-7 based on qualitative perceptions. The World Banks' Enterprise Bribery survey is another business-led survey giving percentage data on payment of bribes or informal gifts in a range of different business scenarios.

people need to change their behaviour for it to no longer be ‘rational’ to engage in corrupt activity.<sup>8</sup> Economists often refer to this as a ‘tipping point’, at which wider systemic change is possible. Furthermore, many corruption scholars, including Fisman and Golden, argue that what is known as a ‘big bang approach’ to tackling corruption is beneficial for just this reason: far-reaching, rapid reforms have the highest probability of managing to tip an equilibrium, and thus causing a shift from a high-corruption to a low-corruption, equilibrium.<sup>9</sup>

However, not all corruption is equally harmful. As Yuen Yuen Ang points out, corruption comes “in distinct flavours, each exerting different social and economic harms.”<sup>10</sup> She distinguishes between four different types of corruption: Petty Theft, Grand Theft, Speed Money and Access Money. The former two involve direct theft, ranging from police officers accepting bribes, to political elites engaging in large scale embezzlement. The latter two involves exchange: Speed Money usually takes the form of small bribes paid to officials in exchange for services, and Access Money usually mean “capitalists offering high-stakes rewards to powerful officials in exchange not just for speed but also for access to exclusive, lucrative privileges.”<sup>11</sup> Whereas petty theft, grand theft, and speed money are commonly illegal and widely condemned, access money is unique in the sense that it exists in legal and accepted forms. Most obviously, lobbying in the US and other democracies is a form of access money, where powerful private actors offer rewards to politicians for political support for their interests.<sup>12</sup> In practice, the different nature and consequence of corruption means that each poses a different challenge to policy makers.

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<sup>8</sup> Fisman, R. (2017) *Corruption: what everyone needs to know* / Ray Fisman, Miriam A. Golden. New York, NY: Oxford University Press, [2017].

<sup>9</sup> Ray Fisman and Miriam Golden, *Corruption: what everyone needs to know* / Ray Fisman, Miriam A. Golden. New York, NY: Oxford University Press, (2017).

<sup>10</sup> Yuen Yuen Ang, ‘The Robber Barons of Beijing’, 7 October 2021. Available at: <https://www.foreignaffairs.com/articles/asia/2021-06-22/robber-barons-beijing> Accessed: 12 October 2021

<sup>11</sup> Ibid.

<sup>12</sup> Yuen Yuen Ang, *Unbundling Corruption: Why it matters and how to do it* (2020) Available at: <https://oecd-development-matters.org/2020/06/25/unbundling-corruption-why-it-matters-and-how-to-do-it/> Accessed: 12 October 2021

The link between political systems and corruption is a key theme in this paper, yet the link is not a straightforward one. Previous political science literature on corruption has highlighted the correlation between democratic rule and low corruption on one hand, and authoritarianism and high corruption on the other. The argument is usually that in democracies, politicians are subject to the will of the people and thus can't politically afford to be corrupt; whilst in authoritarian regimes, the rulers are free to use public resources however they see fit. But as Fisman and Golden show, this does not hold up to empirical scrutiny. As they put it, being a democracy "has no discernible impact" on the prevalence of corruption within a given country.<sup>13</sup> In order to understand corruption and devise optimal strategies to tackle it, this paper will explore the impact of political systems on corruption and on anti-corruption strategies, although theorising the impact remains secondary to exploring solutions.

The paper will be divided into sections based on different political systems. We have chosen to distinguish between three broad categories of political systems: democracies, authoritarian regimes, and countries with both democratic and authoritarian characteristics - mixed regimes. We also recognise the diversity of political organisation within each of these categories. To distinguish between each category, we rely on widely accepted measurements, such as the Economists Intelligence Unit's Democracy Index, and reports by Freedom House. Whilst there are disagreements over these classifications,<sup>14</sup> they are useful in identifying divergence in patterns of corruption in this paper.

## V. METHOD AND LIMITATIONS

This paper is primarily based on qualitative data, drawn from in-depth case studies of corruption within countries with different political systems and anti-corruption reform within these countries. However, quantitative data will also be used to make broader comparisons between countries. Using case studies enables us to grasp the complex and multifaceted nature of anti-corruption reform. Our ability to apply our conclusions to general scenarios is limited by the specificity, but arguably this is inevitable in any study

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<sup>13</sup> Fisman, R. (2017) *Corruption: what everyone needs to know* / Ray Fisman, Miriam A. Golden. New York, NY: Oxford University Press, [2017].

<sup>14</sup> Bush, S.S. (2017) 'The Politics of Rating Freedom: Ideological Affinity, Private Authority, and the Freedom in the World Ratings', *Perspectives on Politics*, 15(3), pp. 711–731. doi:[10.1017/S1537592717000925](https://doi.org/10.1017/S1537592717000925).



wishing to understand social phenomena in depth, and we believe context would be a more consequential sacrifice than generalisability.

We have chosen to focus on medium - high income countries with a stable and established state, not only because of information availability, but more so because where there is no state, it makes little sense to discuss corruption or anti-corruption policies.

Lastly, our methodologies will differ in between studying democracies, and mixed regimes/authoritarian states. For democracies, more case studies will be used, and there shall be more analysis on institutional designs and cross-border comparisons. This is because, firstly, the amount and quality of information available on democratic states is greater. Secondly, formal institutional designs are of more consequence in democracies. Moreover, the importance of institutional designs ensures that countries which share similar institutional designs and electoral systems could more easily borrow strategies from one another, making cross-border comparisons more useful. Lastly, there are more examples of overall success in tackling corruption in democracies. Whilst in mixed regimes and authoritarian states, institutional designs tend to be of less consequence due to their dysfunctionality or lack of transparency, solution-borrowing tend to be more issue-focused if not fragmented, and there are fewer examples of overall success, thus deeper dive into fewer cases is more useful.

## **II. THE PROBLEM OF CORRUPTION**

### **II.I. CORRUPTION IN DEMOCRACIES**

Democratic systems are not, per se, less corrupt. As Fisman and Golden's aforementioned study revealed, counterintuitively, being a democracy does not have a discernible impact on the country's level of corruption. In this section, we shall investigate and explain mechanisms behind corruption in democracies in greater detail.

The central control mechanism of corruption is accountability; those who participate in corrupt behaviour must be held accountable and the perceived loss that this causes must outweigh the perceived gain of

engaging with corruption. Democracies hold public officials accountable through both horizontal and vertical accountability mechanisms. The former means accountability within levels of governance, for example, from a strong opposition party or from a prime minister to their ministers. The latter means accountability that derives from the influence that voters have over their politicians through frequent elections.

In theory, it can be presumed that voters will keep corruption in check, by simply removing corrupt politicians from office. However, this does not always happen. As Fisman and Goldman point out, studies of voters in Japan, India and Italy all show that politicians known to have engaged in corrupt activities are frequently re-elected, often at higher rates than politicians without a similar past.<sup>15</sup> Thus, politicians' reliance on popular support does not necessarily discourage corrupt activity. On the contrary, Rose-Ackerman argues that democracies may even incentivise corruption, because when politicians know that their terms are limited, and that they won't be re-elected, they can be incentivized to try to seize as much public resources as possible.<sup>16</sup> Schwindt-Bayer and Tavits<sup>17</sup> have argued that the key to vertical accountability is 'clarity of responsibility' – the ability of voters “to monitor their representatives, identify those responsible for undesirable outcomes, and hold them accountable by voting them out of office.”<sup>18</sup> Clarity of responsibility is highest when power is held by only a few as this means that they can easily be held responsible. Furthermore, it may be improved by ensuring that there is a strong, free, and independent media that allows voters to learn about government actions. A problem arises, however, when this is considered alongside horizontal accountability which suggests that accountability is highest when there are lots of different governing groups who can hold one another accountable. As such, contending with this conflict is key to effective accountability.

The key to understanding why there is corruption in democracies is to understand how different balances between horizontal accountability and vertical accountability may cause different levels and types of

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<sup>15</sup> Fisman, R. (2017) *Corruption: what everyone needs to know* / Ray Fisman, Miriam A. Golden. New York, NY: Oxford University Press, [2017].

<sup>16</sup> Rose-Ackerman, S. (2016) *Corruption and government: causes, consequences, and reform* / Susan Rose-Ackerman, Bonnie J. Palifka. Second edition. Cambridge: Cambridge University Press, 2016. (Corruption & Government).

<sup>17</sup> Schwindt-Bayer, Leslie A, and Margit Tavits. “Clarity of Responsibility, Accountability, and Corruption.” Cambridge UP, 2016.

<sup>18</sup> Schwindt-Bayer, Leslie A, and Margit Tavits. “Clarity of Responsibility, Accountability, and Corruption.” Cambridge UP, 2016. p.148

corruption. Moreover, as shall be demonstrated, depending on different levels and balances of accountabilities, corruption can also 'look' different across democracies.

### **i. HIDDEN ACCESS MONEY: CRONYISM IN THE UK AND GERMANY**

Cronyism is a process through which elected officials and senior decision makers act to benefit their friends and peers rather than acting for the benefit of the public and could be seen as a form of Access Money prevalent in democracies. It can be severely damaging by bringing inefficiency into a system and undermining processes designed to get the best people for the job. The Covid pandemic can be seen to have caused a rise in cronyism as governments had to depart from due process to get results quickly and accountability fell.

Cronyism is most prevalent in recent years in the UK with a litany of recent examples<sup>19</sup>. The Good Law Project recently won a case against the cabinet office<sup>20</sup> over the failure to have a formalised competitive tender process for a several thousand-pound contract. This represents the courts standing in to provide accountability; however, this is somewhat unusual. There have been several corrupt behaviours during the pandemic: Transparency International UK concluded that a fifth of UK government contracts awarded to respond to the covid-19 pandemic last year contained "red flag indicators of possible corruption."<sup>21</sup> The National Audit Office found that "£10.5 billion [of contracts] were awarded directly without a competitive tender process"<sup>22</sup>. This is a major problem allowed by insufficient accountability, similar to lobbying in the UK. The Conservative government have declared that a report will be done into the pandemic but that this won't be done until 2022. This shows the issue with internal accountability, it allows the potential rule breaker to decide whether and when to come clean. Further, without a report the ability of the public to fully provide accountability in a future election is limited by their limited access to information.

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<sup>19</sup> Cowper, Andy. "What Doctors Need to Know about the Greensill Scandal." *BMJ* (Online) 373 (2021): N1245; Iacobucci, Gareth. "Dido Harding: The Former Business Leader Now Heading up England's Covid-19 Response." *BMJ* 370 (2020): M3332

<sup>20</sup> *Good Law Project v Cabinet Office* [2021] EWHC 1569

<sup>21</sup> Cowper, Andy. "What Doctors Need to Know about the Greensill Scandal." *BMJ* (Online) 373 (2021): N1245

<sup>22</sup> "Investigation into Government Procurement during the COVID-19 Pandemic." *M2 Presswire* 2020: M2 Presswire, 2020-11-18.

Cronyism is also prevalent in Germany. Recently, it was revealed that during the pandemic senior CDU (the largest party) officials were exposed for having earned hundreds of thousands for brokering deals between mask suppliers and purchasers<sup>23</sup>. However, unlike the UK where there have not been resignations or accountability linked to the corruption in Germany Nikolas Löbel – who earned €250,000 – handed in his mandate and resigned from the CDU, while Georg Nüsslein, said he would step down before the next election.

Comparing institutional differences between the nations this is not necessarily surprising. Cronyism often involves the giving of profitable contracts to associates. As such, where there is significant horizontal accountability, this would be very challenging as opposing parties or non-partisan players (such as an ombudsman) may prevent the government from giving contracts to cronies or from swaying from due process. The UK's voting system is majoritarian rather than proportional like Germany's, which means that the legislative and executive branch are usually controlled by a majority party who can largely do what they want. Due to the relative lack of horizontal accountability from coalition partners, the level of cronyism is likely to be higher.

However, as suggested by Schwindt-Bayer and Tavits<sup>24</sup>, where power is less condensed in a system, it is harder for voters to know who to blame, since there are lots of different parties and political actors involved in decision making. There is some evidence that clarity of responsibility may be beginning to have an accountability effect in the UK after the corrupt practices of the pandemic. While before the pandemic the Conservatives were up at 50% compared to Labour's 30% the gap has since narrowed to 40% and 35%<sup>25</sup>. While it is not possible to say exactly what led to this change, it is likely that the poor

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<sup>23</sup> Oltermann, P, "Corruption claims threaten to damage Germany's CDU party", Guardian, 9<sup>th</sup> March 2021

<sup>24</sup> Schwindt-Bayer, Leslie A, and Margit Tavits. "Clarity of Responsibility, Accountability, and Corruption." Cambridge UP, 2016

<sup>25</sup> Politico, National parliament voting intention, Poll of Polls, 17<sup>th</sup> October 2021. <https://www.politico.eu/europe-poll-of-polls/united-kingdom/>

handling of the pandemic had a significant role. Therefore, it may be that while corruption is currently high, those who are corrupt will be held accountable by prioritising clarity of responsibility.

## ii. PREVALENT CORRUPTION IN DEMOCRACIES: MOLDOVA AND NICARAGUA

The Republic of Moldova has consistently been in the lower ranks of CPI reports for the past decade<sup>26</sup>. The country has gained its independence from the USSR in 1991 and has adopted its constitution in 1994, so it can be considered a very young parliamentary democracy, a context which must be accounted for when tracing possible futures of the country in relation to the issue of corruption.

The administrative culture lacks transparency, red tape is a major problem, and officials often commit overt acts of corruption, although corruption is addressed in the legislature, as the Criminal Code prohibits extortion, bribery, abuse of office, and trading in influence. There is also a set of laws targeting specific aspects of corruption, such as the Law on Preventing and Combating Corruption<sup>27</sup>, Law on Public Procurement, Law on Civil Service, Law on Preventing and Combating Money Laundering. However, while stipulations are in place, there is a stark lack of professional staff and resources to properly enforce these laws. The judiciary branch of Moldova is one of the weakest in the world regarding its independence from political judges and is cited as one of the most corrupt institutions in the country<sup>28</sup>, with judges and prosecutors often extorting bribes. The legislative system, then, instead of acting as a source of checks on the executive, employs corrupt methods to serve individual goals<sup>29</sup>. Furthermore, the position of the oligarchic elite is well consolidated, hindering any substantial attempts to alter the system<sup>30</sup>. The presence and prevalence of the role that the elites play in furthering mechanisms of corruption and distorted networks both in the case of Finland and Moldova legitimate the aforementioned decentralist critiques. In the context of skewed power balances, domestic institutional checks have little impact on hindering

<sup>26</sup> Transparency International, 'Corruption Perception Index: Moldova', 2010-2020, <https://www.transparency.org/en/cpi/2020/index/mda>

<sup>27</sup> Kos, Dragos. 'Law on Prevention and Combating of Corruption of the Republic of Moldova – Expert Opinion'. Council of Europe, 2021.

<sup>28</sup> Marques, Filipe César. 'Review of the Composition and Operation of the Superior Council of Magistracy of the Republic of Moldova'. Council of Europe, 2020.

<sup>29</sup> Jenkins, Matthew; Merkle, Ortrun. 'Moldova: Overview of corruption'. Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute, 2022.

<sup>30</sup> Jamestown Foundation, A Year in Review: Oligarchic Power Consolidation Defines Moldova's Politics in 2017, 10 January 2018. Available at: <https://www.refworld.org/docid/5b728cb16.html>

corruption. As such, the difficulties which Moldova faces are owed to the legacy of oligarchic arrangements, the inefficiency of the legislative system, and especially to the deeply ingrained culture of corruption both at the civil and administrative level.

The most widespread forms of corruption are Access and Speed Money. Bribes are not only usual, but in fact even expected when operating in Moldova, with 1 in 7 companies expecting to give gifts or money in Moldova to ‘get things done’<sup>31</sup>. The practice is, however, present in all the levels of society, not only in the business sector. Bribes and gifts are common in all areas, from speeding up the acquisition of permits to ensuring access to certain positions, events, deals, or institutions.

Petty Theft is common especially in the bureaucratic and administrative sector at local level. Grand theft is present at government level, as well as in national and international companies. For example, the Deputy Ministry of Economy, Tiboi, was found guilty of abuse of power and embezzlement<sup>32</sup>, the Dutch bank Rabobank was guilty of land grabbing, and the Moldavian bank Moldindconbank laundered circa \$20.8 billion<sup>33</sup>. Repercussions are often scarce and solutions performative and symbolic rather than enact effective and sustainable change. For example, while culprits may be prosecuted, it will often be the case that their sentences will be shortened or not properly enforced. The last vestige of accountability comes from the civil society, which periodically breaks into anti-corruption protests, prompting often temporary, albeit incremental changes.

As such, corruption in Moldova is rampant and affects all parts of society and of the administrative and governmental bodies. Controlling this phenomenon has been and continues to be one of the biggest challenges that the country is facing<sup>34</sup>. One of the aspects which hinder positive developments the most seems to be, overarchingly, how deeply engrained the culture of corruption is in the psyches of individuals

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<sup>31</sup>Risk & Compliance Portal, ‘Moldova Corruption Report’, last updated August 2020, <https://www.ganintegrity.com/portal/country-profiles/moldova/>

<sup>32</sup>Mosneag, Victor. ‘Sentinte: Incuplar poentru coruptie intr-un dosar de rezonanta, deci condamnat’, in *Ziarul de Garda*, 2018, <https://www.zdg.md/importante/sentinte-incuplat-pentru-coruptie-intr-un-dosar-de-rezonanta-deci-condamnat/>

<sup>33</sup>OCCRP. ‘The \$20 Billion Bank in the Country of the Poor’, 2014, <https://www.occrp.org/en/laundromat/the-20-billion-bank-in-the-country-of-the-poor/>

<sup>34</sup>Jenkins, Matthew; Merkle, Ortrun. ‘Moldova: Overview of corruption’. Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute, 2022.

as well as in the fabric of society. Actions and attitudes such as but not limited to bribes, favouritism, nepotism, and Petty Theft are normalised and naturalised in the attitudes of the individuals, which is then reflected across all constitutive systems of social life in Moldova. The pervasiveness of corruption as a socio-cultural phenomenon hinders the effectiveness of tools and mechanisms of control. For example, from analysing the legal stipulations against corruption, one would expect that corrupt actions would be effectively addressed; however, these laws are not enforced because the culture of corruption is pervasive in the legal, judiciary, and executive branches of the state, actions such as grand theft rendering resources limited and inappropriate for efficiently enforcing legal stipulations. More importantly, because the position of the oligarchic elite is so well consolidated and corruption favours them, there is barely any real interest and very little room for top-down improvement.

The civil society in Moldova excuses, furthers, and engages in the culture of corruption. However, it is tenable that the culture of corruption has become systematic and therefore constrains the actions of individuals to function within the framework which it imposes. From this perspective, the civil society can prove to be a last vestige of hope, as shown by its ceaseless engagement in anti-corruption protests and initiatives such as NGOs. State responses to protests vary from violent stifling to enacting minor changes. Nevertheless, incremental changes still set precedents and pave the way for systemic shifts.

After European integration, there have been interventions by European institutions, mainly targeting the judicial branch. The Economic Crime and Cooperation Division started the Action against Corruption in the Republic of Moldova to address the needs for reform in the country. The Action aimed to improve corruption prevention mechanisms regarding judges and prosecutors, to strengthen the capacities and effectiveness of the National Integrity authority and to support in-service training for judges and prosecutors<sup>35</sup>. The interim report<sup>36</sup> has an optimistic tone but seems to be based around a language of ‘advising’ and ‘reviewing’ rather than implementing immediate changes. Naturally, more time is needed to appropriately understand and assess the outcomes of the project. Nevertheless, international

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<sup>35</sup> Council of Europe, ‘Action against Corruption in the Republic of Moldova’, 2021, <https://www.coe.int/en/web/corruption/projects/aac-moldova>

<sup>36</sup> Council of Europe, ‘Annual Report: Action against Corruption in the Republic of Moldova’, 2021, <https://rm.coe.int/interim-narrative-report-aac-republic-of-moldova-vc-2744-short-version/1680a235cc>

involvement not only raises awareness of the domestic situation on an international scale but can also act as an incentive to the national government.

Overall, Speed and Access Money are the most common instances of corruption in Moldova at all levels of society, petty and grand theft being especially present in the business, administrative and governmental sectors. The most common solutions address the legislative and the judiciary branches, but initiatives often fail. The judiciary branch fails to enact the legal stipulations because it is itself ravaged by corruption, which is furthered by the similar nature of the executive branch. Top-down reforms are rare and, in this situation, grass-roots actions from the citizen body and interventions from the international community seem to be that which can prompt positive shifts in the future. These issues confirm some of the proposed shortcomings of parliamentary systems, especially those regarding elite insulation and its consequent impacts on policy reform. What will be most difficult, though at the same time, most crucial, is to unembed the socio-cultural pervasiveness of corruption and the extent to which it is normalised and has become, consequently, systemic.

Nicaragua, a presidential democracy, has also been in the bottom lower ranks of the CPI for the past decade<sup>37</sup>. The administrative culture is plagued by rampant corruption, impunity and favouritism, there is little to no transparency and red tape is a large issue. Nicaragua has a comprehensive anti-corruption legislation, including but not being limited to the criminalization of embezzlement, prohibition of facilitation payments, bribery, and gifts to public officials, as well as granting protection of whistle-blowers. However, the law is not enforced effectively, as courts are manipulated and corrupted not only by politicians, but also by organised crime cartels. The ruling party, the National Liberation Front (FSLN), exercises complete control over the executive, legislative, judicial, and electoral functions, hence corruption is endemic<sup>38</sup>. Politicians have a lot of control and influence over the judicial system, placing it under heavy political pressure<sup>39</sup>. Tax and customs are at a high risk for bribery, speed money being very

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<sup>37</sup>Transparency International, 'Corruption Perception Index: Nicaragua, 2010-2020', <https://www.transparency.org/en/cpi/2020/index/nic>

<sup>38</sup> U.S. Department of State, 'Country Reports in Human Rights Practices: Nicaragua', 2019, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/nicaragua/>

<sup>39</sup> Krylova, Yulia. 'The Anti-Corruption Policies and Regulation: the Case of Nicaragua', in *Economic Analysis of Law Review, Brasilia, Vol. 7, Issue 1, pp. 36-52*, 2016.



common, as well as extortion and arbitrary application of procedures. The civil society is discontent, but has limited opportunities to voice their concerns, as there is restricted freedom of association and assembly<sup>40</sup>. CSOs still engage in opposition rallies but are quickly suppressed by pro-government supporters. The media has alleged freedom, but the government often limits it through censorship, arbitrary application of libel, and judicial harassment. Consequently, self-censorship is high, which corresponds with a decrease in critical reporting. Equally, while there are no restrictions over internet use and access, illegal government monitoring is a common practice<sup>41</sup>.

Many attempts to counter corruption in the country are severely limited by President Daniel Ortega Saavedra and the FSLN. For example, the government did not allow the United Nations to send monitoring and working groups in the country, blocking the possibility of exposing the shortcomings of the state<sup>42</sup>. While Nicaragua ratified the UNCAC and is a signatory to the ICSID, it is not a member of OECD and international agencies have not had major substantial anti-corruption initiatives in the country. This issue is furthered by the fact that Ortega was inaugurated for a third term in office, expanding the party's supermajority in the National Assembly. This confirms the correlation amongst presidential institutional design, tendencies towards authoritarianism, and the difficulties of attempting to remove a president from office. The case of Nicaragua also proves that it is not necessarily true that presidential systems have a stronger separation of powers, as the authoritarian tendencies of the leadership suffocate the independence of the legislative and the judicial system.

Overall, Access and Speed Money are common across all levels of society and are ingrained in the functioning of state systems. Petty and grand theft is very common among political elites, as is favouritism and influence peddling. The president has control over the legislative branch, as his party has a supermajority in the National Assembly, and the judiciary is under the influence of both political elites and organised crime cartels. It is difficult for domestic resolutions to flourish, as the civil society is severely limited by the state apparatus and international agencies are denied access to the country. However, not all hope can be lost, as the upcoming elections may prove to be a step in the direction of improvement.

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<sup>40</sup> Ibid.

<sup>41</sup> Freedom House. 'Freedom on the Net 2021: Nicaragua', 2021, <https://freedomhouse.org/country/nicaragua/freedom-net/2021>

<sup>42</sup> UN News. 'Nicaragua: UN rights chief 'alarmed' by imminent expulsion of key human rights groups', 2018, <https://news.un.org/en/story/2018/12/1029111>

Several opposition groups have made a call to the population to reject the upcoming elections on the basis of rigging and also a call to the international community to declare them illegitimate and impose sanctions<sup>43</sup>. As corruption is endemic to Ortega's rule, a change in leadership may also come with an improvement in anti-corruption initiatives, strengthening of civil society, and cooperation with international bodies.

The case study of Moldova and Nicaragua shows that although institutional designs could condition the problem of corruption in democracies, they are not alone determinative.

## II.II. CORRUPTION IN MIXED REGIME

For mixed regimes, countries combining both democratic and autocratic qualities, the nature of the political system has a fundamental impact on the types of corruption present. For the three mixed regimes that serve as case studies for this section, Ukraine, Georgia and Brazil, in the context of corruption, these three countries inhabit different positions on their transition from authoritarianism to democracy, which directly influences not only the type and level of corruption present, but the extent to which policies designed to combat corruption can be drafted and enforced. What follows is an outline of corruption as a political problem in Ukraine, Georgia and Brazil respectively, profiling the political system and the types and levels of corruption. At the end of this section, it will be shown that although these three mixed regimes are different, there are common features present that undermine the fight against corruption. The reasons for selecting Ukraine, Georgia and Brazil are two-fold. Firstly, each of the countries present a unique political system, showcasing how corruption manifests in different political systems due to distinctions in the extent of democracy, the separation of powers, the variance in executive and the availability of anti-corruption strategies, alongside many other variables. Secondly, whilst Brazil offers the opportunity to examine the role a potentially populist government and cronyism has on anti-corruption efforts, the comparison between specific solutions that Ukraine and Georgia have adopted under the IAP

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<sup>43</sup> R. K. Bautista, 'A Step of Unity and Encouragement for Nicaragua', 13 October 2021, <https://havanatimes.org/opinion/a-step-of-unity-and-encouragement-for-nicaragua/>

(Istanbul Action-Plan) monitoring system allows for a detailed assessment of both the successes and failures each country has experienced, even with regard to similar solutions.

## **i. FECKLESS PLURALISM AND CORRUPTION IN UKRAINE**

Ukraine's political system is one characterised by a democratic republic with a semi-presidential system of government, where the constitution provides for an elected President who appoints a Prime Minister. This Prime Minister must then be confirmed by a unicameral Parliament, the Verkhovna Rada, the single legislative body.

Thomas Carother's concept of 'weak pluralism syndrome'<sup>44</sup>, may help us understand the nature of corruption and the obstacles to anti-corruption that Ukraine faces. On the former, building on Samuel Huntington's third wave of democracy<sup>45</sup>, Carothers traces the transition of Ukraine from the former Soviet Union into a post-Soviet Republic, arguing that the transitional paradigm no longer aptly describes the transformational status for all states moving from authoritarianism to democracy. Instead, Carothers believes Ukraine fits into one of two syndromes, the feckless pluralism syndrome, operating within a grey zone.<sup>46</sup> These are political systems marked by positive democratic aspects including political freedom, elections, and the peaceful transfer of power between political groupings, yet remain hindered by a lack of political participation, elite domination of politics, and corruption. For Ukraine, despite having democratic properties like a democratic constitution and relatively independent civil society, the hybrid regimes' practice of democracy is stifled by democratic deficits such as poor representation, weak state institutions and civil apathy which contribute to the pervasiveness of corruption. Carothers puts further emphasis on the constant alternation of power between political groupings, where short-term parties or charismatic leaders such as Zelensky seek power, another characteristic of the feckless pluralism syndrome. As for the consequence of this syndrome, besides democratic deficit and an increasing boundary between Ukraine's leaders and citizenry, corruption is extensive. An important indicator of

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<sup>44</sup> Thomas Carothers, 'The End of the Transition Paradigm' [2002] 13(1) *Journal of Democracy*

<sup>45</sup> Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1991)

<sup>46</sup> Thomas Carothers, 'The End of the Transition Paradigm' [2002] 13(1) *Journal of Democracy*

feckless pluralism syndrome is a public perception of corrupt, selfish politicians, and general dissatisfaction with politics.

Public perception of corruption can offer a decent indicator as to the levels of corruption in Ukraine. According to Transparency International's 2020 Corruption Perceptions Index, Ukraine ranks 117 out of 180, with a score of 33.<sup>47</sup> Transparency International's Global Corruption Barometer also offers itself as a good indicator, with 23% of public service users paid a bribe in 2016.<sup>48</sup> The police and judiciary are perceived as particularly affected sectors, with a belief of regulatory capture being pervasive at all levels of the state. This is congruous with external perceptions, the CableGate WikiLeaks reveal US diplomats referring to Ukraine when Kuchma and Yushenko in office (1994-2010) simply as a kleptocracy.

Petty Theft/Speed Money in the form of bribes paying for on-time public service provision is a largely normalised part of Ukrainian culture, with 36% of Ukrainian respondents to the GfK's 2001 study expressing that bribes were essential to live.<sup>49</sup> Grand Theft is likewise common: the Ukrainian president of 2011 stated \$2.5bn USD in revenues are lost annually from the state budget through public procurement dealings, i.e. 10-15% of the state budget.<sup>50</sup> The media depicts a lavish 'millionaire lifestyle' of civil servants in direct contradiction to salaries officially declared.<sup>51</sup> To demonstrate the significance of theft at the highest level, reference the IMF statement for corruption reduction being key for continuation

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<sup>47</sup> Transparency international, 'Transparency International Corruption Perceptions Index ' (Transparency International, 2020) <<https://www.transparency.org/en/cpi/2020/index/ukr>> accessed 21 September 2021

<sup>48</sup> Transparency international, 'Transparency International Global Corruption Barometer' (Transparency International, 2017) <<https://www.transparency.org/en/gcb/global/global-corruption-barometer-2017>> accessed 24 September 2021

<sup>49</sup> 10th IACC {Press Releases} (2012). Available at: <https://web.archive.org/web/20120308181926/http://www.10iacc.org/content.phtml?documents=602&art=303> (Accessed: 8 December 2021).

<sup>50</sup> Mark Rachkevych, 'Under Yanukovych, Ukraine slides deeper in ranks of corrupt nations' (2011) KyivPost. Available at: <https://www.kyivpost.com/article/content/ukraine-politics/under-yanukovych-ukraine-slides-deeper-in-ranks-of-118032.html> (Accessed: 8 December 2021).

<sup>51</sup> Mark Rachkevych, 'Ukrainska Pravda exposes presidential estate scandal' (2010) KyivPost. Available at: <https://www.kyivpost.com/article/content/ukraine-politics/ukrainska-pravda-exposes-presidential-estate-scandal-91317.html> (Accessed: 8 December 2021).

of aid as it is allowing increased fund extraction instead of yielding positive permanent change.<sup>52</sup> Lastly, Access Money has been flourishing in the absence of laws capping private donations to political parties. This created a heavily dependent, resource strapped public sector who thus more closely aligns policies to attract donors instead of representing public interest.

Tackling corruption in Ukraine is difficult as the executive branch often interferes with the judiciary's independence, and given that the public sector is underfunded, it is too weak to fight systematic corruption described above.

## ii. DOMINANT POWER POLITICS AND HIGH-LEVEL CORRUPTION IN GEORGIA

Georgia is a parliamentary representative democracy. The Prime Minister of Georgia operates as the head of government, and along with the government holds executive power. Similarly, to Ukraine, Georgia has a unicameral legislative body, the Parliament of Georgia. The current Prime Minister is Irakli Garibashvili.

Carother's two syndromes of democracy may further help us in understanding how Georgia's political system influences corruption. According to Carother, Georgia again occupies a political gray zone, where authoritarianism and democracy meet. However, instead of feckless pluralism syndrome, Georgia is plagued by dominant-power politics. By this, Carothers means Georgia fits roughly into countries possessing real political space, political contestation by opposition groups, and basic institutional forms of democracy. Yet, there is one politically dominant group, for instance The United National Movement following the Rose Revolution of 2003, and Georgian Dream since 2012.<sup>53</sup> For Carothers, a distinguishing feature of dominant-power countries is the indistinct line between the dominant party and the state, as state services including media, policing, and finance are slowly put into the hands of the dominant party,<sup>54</sup> a circumstance which can contribute to corruption.

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<sup>52</sup> Alessandra Prentice, 'Ukraine, IMF agree terms to resume financial support' (2016), 18 May. Available at: <https://www.reuters.com/article/uk-ukraine-crisis-imf-idUKKCN0Y92JB> (Accessed: 8 December 2021).

<sup>53</sup> Thomas Carothers, 'The End of the Transition Paradigm' [2002] 13(1) *Journal of Democracy*

<sup>54</sup> *Ibid.* 12

On the performance of the state, Carothers maintains that in dominant-power countries, the state is similarly weak and impotent like that in feckless-pluralism countries, yet makes an important distinction with regard to our enquiry into corruption in various political systems. For Carothers, one of the specific problems in dominant-power countries is a bureaucracy decaying under the de facto rule of the dominant party, with corruption an ingrained by-product of stagnant political rule. It is also for this very reason, that although the dominant party or leader may express their desire to end corruption, anti-corruption strategies find it difficult to gain traction and widespread support within the establishment. This occurs because the dominant party and leaders that preside over such an intolerant system have very little magnanimity regarding opposition and NGO recommendations and criticism, which seek to draw attention to the issue of corruption. Effectively, as Carothers puts it, the basic political configuration over which they preside breed the very problems they publicly commit themselves to tackling.<sup>55</sup>

Looking at the public perception of corruption in Georgia, According to Transparency International's 2020 Corruption Perceptions Index, Georgia ranks 45 out of 180, with a score of 56.<sup>56</sup> According to the Global Corruption Barometer, only 4% of public service users were paid a bribe during 2016.<sup>57</sup> Petty Theft or Speed Money is relatively rare in Georgia, with high transparency in public procurement. Likewise, the customs service and taxation are relatively clean, a significant change from pre-2003 levels where bribes came in conjunction with any sort of public transaction.<sup>58</sup> Grand Theft is more serious, however. Transparency International's 2013 report has identified serious potential issues with corruption at the highest government levels, due to a continued lack of accountability caused by weak state and media institutions that cannot act as effective checks.<sup>59</sup> No-bid state contracts still have allowed rapid wealth increases of the public officials that process them. Privatisation has been a key mechanism also to which this sort of corruption can occur as state-owned assets have been auctioned without ensured competition

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<sup>55</sup> Ibid.

<sup>56</sup> Transparency international, 'Transparency International Corruption Perceptions Index ' (Transparency International, 2020) <<https://www.transparency.org/en/cpi/2020/index/ukr>> accessed 21 September 2021

<sup>57</sup> Transparency international, 'Transparency International Global Corruption Barometer' (Transparency International, 2017) <<https://www.transparency.org/en/gcb/global/global-corruption-barometer-2017>> accessed 24 September 2021

<sup>58</sup> Christofer Berglund and Johan Engvall, 'How Georgia Stamped Out Corruption on Campus' (2015), Foreign Policy. Available at: <https://foreignpolicy.com/2015/09/03/how-georgia-stamped-out-corruption-on-campus/> (Accessed: 8 December 2021).

<sup>59</sup> Erekle Urushadze, 'Overview of Corruption and Anti-Corruption in Georgia' (2013) Transparency International Georgia <<https://www.transparency.org/en/cpi/2020/index/ukr>> (Accessed 8 September 2021)

and transparency, an obvious example TI references is the even direct sale of one of the largest parks in Tbilisi by the City Council to a company owned by a city council member without any sort of bidding process. The sale of these assets at below-market prices creates an easy mechanism to misappropriate public wealth. Lastly, Access Money in the form of ‘revolving doors’ is quite dominant with elected business leaders using their position to create favourable policy conditions for their own companies, but also ‘on exit’ with the private companies that former government officials are employed by receiving ‘considerable benefits or favourable treatment’.

The main obstacles to addressing corruption in Georgia are a lack of anti-corruption mechanisms in state-owned enterprises, and a failure to expand existing anti-corruption strategies.

### **iii. EXECUTIVE INTERFERENCE AND WIDESPREAD CORRUPTION IN BRAZIL**

Brazil is a federal presidential democratic republic, whereby the President operates as both the head of government and state. There is a separation of powers within Brazil’s political system, where executive power is held by the President, at current Jair Bolsonaro, legislative power held by Brazil’s National Congress, a bi-cameral legislative body comprised of the Federal Senate and Chamber of Deputies, and judicial power held by the Supreme Federal Court, Superior Court of Justice, National Justice Council and Regional Federal Courts.

According to Transparency International’s 2020 Corruption Perceptions Index, Brazil ranks 94 out of 180, with a score of 38.<sup>60</sup> On the Global Corruption Barometer, 11% of public service users were paid a bribe in 2016, whilst 54% of people thought overall corruption had increased throughout 2016.<sup>61</sup>

Petty Theft/Speed Money are widespread throughout Brazil, mainly manifesting in the form of ‘superfaturamento’, i.e., overbilling in public procurement as a method of embezzling funds to amass personal wealth. An example of this at a smaller scale can be seen in the investigation of Mayor Carlinhos Almeida in 2018 for overpricing school materials. In comparison to market prices for the same product quality, ‘the children’s towel charged at R\$19 in the market, was purchased for R\$54.35 by the city hall’

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<sup>60</sup> Transparency international, 'Transparency International Corruption Perceptions Index ' (Transparency International, 2020) <<https://www.transparency.org/en/cpi/2020/index/ukr>> accessed 21 September 202

<sup>61</sup> Transparency international, 'Transparency International Global Corruption Barometer' (Transparency International, 2017) <<https://www.transparency.org/en/gcb/global/global-corruption-barometer-2017>> accessed 24 September 2021

with similar overpricing for crayon boxes, ice cream sticks etc. Aggregating for this effect for the 137 total items making up the Department for Education kits aggregates to an added price of around half the original contract value adding over the year, with the contract itself also awarded among suspicions of favouritism in the original bidding process.<sup>62</sup>

The practice of overbilling occurs at all scales of procurement with key prevalence in large construction projects, which could be considered a form of Grand Theft. The construction of the capital itself in the 1960s under president Kubitschek had 'serious signs of overpricing of the works and favouring contractors linked to JK's political group.'<sup>63</sup> The recently disbanded operation Car Wash seemed like a potential equilibrium change in perception of politician impunity as inflated contract prices for oil awarded to state-owned Petrobras in return for executive kickbacks led to the arrest of many prominent political figures including past presidents and ministers. Although this effort was not entirely partial as the Judge who initially headed the investigation seemed to tailor decisions and pass on information to prosecutors to 'prevent Lula's Workers' Party from winning the 2018 elections'<sup>64</sup>

The Car Wash operation also reflects the presence of the issue of Access Money, since it indicates corrupt public-private ties in contract allocation among many areas. It is thus taken as a given that policy environment, such as that allowing uncompetitive contract bidding, to be favourable toward private industrial progress.

The main obstacles to tackling corruption in Brazil are executive interference in anti-corruption agencies, and a National Congress that is both slow and reluctant to adopt anti-corruption legislation.

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<sup>62</sup> Lauro Lam, 'PSDB sees overpricing in the purchase of school kits' (2018) O Vale. Available at: <https://web.archive.org/web/20181021111410/http://www2.ovale.com.br/psdb-ve-superfaturamento-em-compra-de-kits-escolares-1.500920> (Accessed: 8 December 2021).

<sup>63</sup> Cristine Delphino, 'Government of Juscelino Kubitschek - Brazilian History' (2011). Available at: <https://web.archive.org/web/20110923165127/http://www.historiabrasileira.com/brasil-republica/governo-de-juscelino-kubitschek/> (Accessed: 8 December 2021).

<sup>64</sup> Andrew Fishman, Rafael Moro Martins, Leandro Demori, et al. "Their Little Show": Exclusive: Brazilian Judge in Car Wash Corruption Case Mocked Lula's Defence and Secretly Directed Prosecutors' Media Strategy During Trial' (2019), The Intercept, 17 June. Available at: <https://theintercept.com/2019/06/17/brazil-sergio-moro-lula-operation-car-wash/> (Accessed: 8 December 2021).



On the former, despite President Jair Bolsonaro's right-wing populist campaign adopting a firm anti-corruption stance with a view to stamping out corruption in Brazil, Brazil's anti-corruption agencies and institutions have been subject to an increasing amount of interference since Bolsonaro took office in January of 2019. Executive interference into the Federal Police illustrates the extent to which intervention on behalf of the executive contributes to corruption at the top of Brazilian politics. Brazil's Federal Police is under the control of the Ministry of Justice and Public Security, with its own independence with regard to budgetary, financial and structural matters. Since President Bolsonaro took office in 2019, there have been numerous attempts to undermine and influence the Federal Police, targeting Federal Police Chiefs in Rio de Janeiro and the Director-General of the Federal Police, at the time Mauricio Valexio, chosen by then Minister of Justice Sergio Moro.<sup>65</sup> President Bolsonaro's interference into the Federal Police began with the removal of Rio de Janeiro's Federal Police Chief Ricardo Saadi due to management and productivity concerns.<sup>66</sup> However, upon closer examination, it became apparent that under Saadi's leadership, the Rio branch of the Federal Police opened multiple grand theft related corruption investigations, managing to arrest 10 members of the State Parliament, three previous governors and the previous President, Michel Temer, within the wider Operation Car Wash.<sup>67</sup> However, one of Bolsonaro's principal reasons for this removal, albeit unproven, was due to the fact that at the same time as Operation Car Wash was being undertaken, investigations into Senator Flavio Bolsonaro, the eldest son of President Bolsonaro, on suspicion of money laundering, embezzlement and misappropriation of public funds under what is known in Brazil as *rachadhina*, were being conducted. Further friction was caused when President Bolsonaro threatened to remove Director-General Valexio, whilst in dispute with his then Minister of Justice Sergio Moro, who then left his post in April 2019 citing undue interference into the Ministry of Justice and Public Security.

A theoretical framework, O'Donnell's 'delegative democracy' within his typology of democracies may offer some focus in understanding why certain types of corruption and obstacles occur in a hybrid regime

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<sup>65</sup> Daniel Gullino, 'Bolsonaro anuncia durante entrevista que ira trocar superintendente da pf no rio' (O Globo, 15 August 2019) <<https://oglobo.globo.com/brasil/bolsonaro-anuncia-durante-entrevista-que-ira-trocar-superintendente-da-pf-no-rio-23879087>> accessed 22 September 2021

<sup>66</sup> Ibid.

<sup>67</sup> Transparency international, 'BRAZIL: SETBACKS IN THE LEGAL AND INSTITUTIONAL ANTI-CORRUPTION FRAMEWORKS' (Transparency International, October 2019) <[https://images.transparencycdn.org/images/2019\\_Report\\_BrazilSetbacksAntiCorruptionFrameworks\\_English\\_191121\\_135151.pdf](https://images.transparencycdn.org/images/2019_Report_BrazilSetbacksAntiCorruptionFrameworks_English_191121_135151.pdf)> accessed 22 September 2021

like that of Brazil. According to O'Donnell, hybrid states like Brazil occupy a democratic grey area where they are not completely institutionalised democracies, yet they are enduring ones nonetheless.<sup>68</sup> A delegative democracy is one that rests on the premise that whoever wins election to the presidency is entitled to govern as he or she sees fit, constrained only by the hard facts of existing power relations and by a constitutionally limited term of office.<sup>69</sup> In this sense, another uncertainty is introduced, the boundary between delegative democracy and populism, for both to some extent influence the other, and in turn influence Brazil's hybrid regime. For, as O'Donnell notes, the president is taken to be the embodiment of the nation and the main custodian and definer of its interests.<sup>70</sup> Focusing on President Bolsonaro in particular, in revoking ties with the Social Liberal Party, he has successfully presented himself as both above political parties and organised interests.<sup>71</sup> In order to fully understand one of Brazil's primary obstacles to fighting corruption, executive interference into anti-corruption agencies and efforts, one must understand the delegative democracies' populist leader and executive. For a truly populist leader, the democratic appendages, courts, legislatures, and importantly for our case, corruption agencies are presented as nuisances that come attached to the domestic and international advantages of being a democratically elected president.<sup>72</sup> For the hybrid regime, accountability to such institutions appears as a mere impediment to the full authority that the president has been delegated to exercise.<sup>73</sup>

In a more structural vein, regarding the second obstacle to tackling corruption in Brazil, that of a National Congress that is slow and reluctant to pass key anti-corruption legislation, the problem can be traced to not only a lack of political will within Brazil's hybrid regime, but the absence of relatively institutionalised democracy. It is somewhat true that Brazil's partially institutionalised democracy is characterised by the restricted scope, weakness, and low density of its current political institutions, a fact that means forms of noninstitutionalised democracy, strong operative practices as O'Donnell calls them, such as widespread corruption and clientelism,<sup>74</sup> instead take the place of institutionalised democracy. The prevalent

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<sup>68</sup> Guillermo O'Donnell, 'Delegative Democracy' [1994] 5(1) *Journal of Democracy* 55-69

<sup>69</sup> *Ibid.* 59.

<sup>70</sup> Guillermo O'Donnell, 'Delegative Democracy' [1994] 5(1) *Journal of Democracy* 55-69

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.* 60.

<sup>73</sup> *Ibid.* 61.

<sup>74</sup> *Ibid.*

corruption in Brazil can be thought of as systematic and a consequence of the functioning of delegative democracy.

In practice, the National Congress can be seen to be slow and resistant in passing anti-corruption legislation. For example, the 2019 bill reforming public procurement, although approved by the House of Representatives in June 2019, only managed to pass the final stage months later. Another example of where the National Congress were hesitant to pass legislation was when Minister of Justice Sergio Moro put forward numerous anti-corruption measures, only to have them stalled and debated in a House of Representatives working group.<sup>75</sup> Even then, since Transparency International led the New Measures against Corruption developed during 2017 and 2018, a series of sweeping reforms designed to detect, prevent and prosecute corruption, only a number of the proposals, were adopted, and crucial areas such as whistle-blower protection, campaign finance reforms, and lobbying regulation remain relatively ignored by the National Congress.<sup>76</sup>

### II.III. CORRUPTION IN AUTHORITARIAN STATES

Authoritarianism is associated strongly with many of the deeply corrupt low-income countries of the world, with 18/27 (66.7%) of the world's low-income countries alongside 17/49 (34.7%) of lower middle-income countries classified as such compared to the overall figure of 34.6% among all countries.<sup>77</sup> This could be understood as a global structural issue, and there has been much scholarship on the interconnection between underdevelopment and authoritarianism, as well as underdevelopment and endemic corruption. However, since it is almost impossible to tackle such an issue with policies, this underlying context shall be largely overlooked, although the limitation is acknowledged. Additionally, as explained in the introduction, this section will focus on three wealthier authoritarian countries with established states that had the ability to tackle corruption and analyse both their successes and pitfalls. The

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<sup>75</sup> Transparency international, 'BRAZIL: SETBACKS IN THE LEGAL AND INSTITUTIONAL ANTI-CORRUPTION FRAMEWORKS' (Transparency International, October 2019) <[https://images.transparencycdn.org/images/2019\\_Report\\_BrazilSetbacksAntiCorruptionFrameworks\\_English\\_191121\\_135151.pdf](https://images.transparencycdn.org/images/2019_Report_BrazilSetbacksAntiCorruptionFrameworks_English_191121_135151.pdf)> accessed 22 September 2021

<sup>76</sup> Ibid.

<sup>77</sup> Uses World Bank income classifications and EIU democracy index, countries with World Bank income classification without EIU classification are ignored

hope is that such in-depth analysis shall reveal institutional tendencies towards certain types of corruption, as well as certain shared strengths and limitations in tackling corruption.

### **i. THE MANY FACES OF CORRUPTION IN CHINA**

As the world's most populous nation, China accounts for the vast majority of people living in countries classified as autocracies by Polity5, as well as of those in authoritarian nations classified by the EIU's democracy index.<sup>78,79</sup> Throughout China's rapid economic development in the previous 40 years, many have questioned how it has been able to sustain such growth momentum despite what appears to be a vast amount of corruption ranking an average of 79<sup>th</sup> in Transparency's CPI and in the bottom 44<sup>th</sup> percentile using the World Bank's Control of Corruption measure over the past 20 years.<sup>80,81,82</sup> In every single sector measured by GAN's risk of corruption reports China is rated high risk, meaning China has more sectors deemed high risk for corruption than Saudi Arabia and even Russia.<sup>83</sup>

Despite the political centralisation apparent at the heart of the CPC's governing model, the size of China's provinces alongside the complexity of their economies means that the government is decentralised in practice at the local level.<sup>84</sup> The bureaucracy consists of a colossal 50 million people, with the leaders and elite officials approximately accounting for 1% being "directly appointed by the party and rotated across locales". Civil servants make up in the region of 19% of the bureaucracy, performing 'management roles in the Party's state agencies' and these are not rotated, instead managed by personnel departments. No

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<sup>78</sup> Centre for Systemic Peace, 'Polity5 Regime Narratives 2018', (Systemic Peace, 2018),

<http://www.systemicpeace.org/p5creports.html> accessed 2 October 2021

<sup>79</sup> Economist Intelligence Unit, 'Democracy Index 2020: In sickness and in health?' (Economist Intelligence, 2021) <<https://www.eiu.com/n/campaigns/democracy-index-2020/>> accessed 21 September 2021

<sup>80</sup> Yuen Yuen Ang, *China's Gilded Age: The Paradox of Economic Boom and Vast Corruption*. Cambridge University Press, 2020.

<sup>81</sup> Transparency International. *Corruption Perceptions Index 2020*. Transparency.org. Available at: <https://www.transparency.org/en/cpi/2020> (Accessed: 12 October 2021).

<sup>82</sup> World Bank, 'Interactive data analysis' (World Governance Indicators) <<https://info.worldbank.org/governance/wgi/Home/Reports>> accessed 4 October 2021

<sup>83</sup> GAN Integrity, 'China Corruption Report', (Risk and Compliance Portal) <https://www.ganintegrity.com/portal/country-profiles/china-corruption-report/> accessed 10 September 2021

<sup>84</sup> Albert, Eleanor, et al. "*The Chinese Communist Party.*" *Council on Foreign Relations, 2021*, <https://www.cfr.org/backgrounder/chinese-communist-party> . Accessed 17 October 2021.

civil service public employees account for the remaining 80% and are those who “directly deliver services to and interact with citizens on a daily basis”<sup>85</sup>.

In popular perception, corruption in China predominantly takes the form of everyday Speed Money, which is backed up by anecdotal evidence. However, in reality, China’s corruption varies in nature and severity geographically, which is associated with the sectors in which corruptions occur. Graft is especially dominant in Village committees, which reflects the reduced control of central government over granular rural programmes such as poverty alleviation alongside the power they hold over substantial revenue making mechanisms such as land distribution.<sup>86, 87</sup> Governance of poorer rural regions appears overall far more impacted by petty theft and speed money types of corruption. Grand/petty theft are far more common in areas such as managed resources while access money features heavily with other pillars of China’s economy from real estate and finance to customs.<sup>88</sup> In the vibrant Eastern regions of China, especially to the South bribery (dominated by access money) is the most common form of corruption with a burgeoning economy that now accounts for close to 2/3rds of China’s total output.<sup>89</sup> By contrast, for the ailing poorer Northern regions dominated by SOEs, theft is more prevalent. Moreover, the centrally managed municipalities of Shanghai, Beijing and Tianjin are seen as having the best governance alongside the least corruption.<sup>90, 91</sup>

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<sup>85</sup> Yuen Yuen Ang “Counting Cadres: A Comparative View of the Size of China’s Public Employment” (2012) 211 *The China Quarterly* 676

<sup>86</sup> Ang in the context of Chinese case definitions usually classifies graft as access money, however, Li Hui implies his data set counts theft also in graft, so definitions are taken in context from the article data set.

<sup>87</sup> Shuai Wu and Tom Christensen, ‘Corruption and Accountability in China’s Rural Poverty Governance: Main Features from Village and Township Cadres’ [2020] *International Journal of Public Administration*

<sup>88</sup> This is further explored in the Saudi section

<sup>89</sup> Lusha Zhang, ‘COVID-19 epidemic widens China’s North-South economic divide’ (*Reuters*, 28 January 2021) <<https://www.reuters.com/article/us-china-economy-provinces-idUSKBN29X1A9>> Accessed 14 October 2021.

<sup>90</sup> Matthew Cole, Robert Elliott and Jing Zhang (2009), ‘Corruption, Governance and FDI Location in China: A Province-Level Analysis’, *Journal of Development Studies*, 45, issue 9, p. 1494-1512,

<sup>91</sup> Hailin Chen, Friedrich G Schneider, and Qunli Sun. ‘Size, Determinants, and Consequences of Corruption in China’s Provinces: The MIMIC Approach’ (August 08, 2018). CESifo Working Paper Series No. 7175, <<https://ssrn.com/abstract=3254203>> Accessed 15 October 2021

The level of corruption went up during the early years of economic liberalisation in the 1980s before beginning to level off by the 1990s.<sup>92</sup> Since the 2000s, two trends have come to define Chinese corruption overall. Theft in the forms of embezzlement, misappropriation of public funds, and bureaucratic extortion have been declining since the 2000s, whilst graft and cronyism have skyrocketed. Additionally, reported incidents of corruption amongst the elite revealed a stark increase in the amount of cash involved.<sup>93</sup>

As Ang's study reveals, Access Money dominates China's corruption<sup>94</sup>. While the bribery incidence and depth stand at 11.6% and 9.9% respectively for China, similar to Italy (and far below Russia's 26.8% and 19.8%), expectation of informal gifts for government contracts is a colossal 42.2%.<sup>95</sup> In 2015, white paper by Charney Research revealed that paying Access Money is almost an 'unspoken rule' when doing business in China.<sup>96</sup>

Access Money fuels China's "super-profitable, speculative sectors", which are dominated by a housing bubble that now is the single biggest driver of Chinese growth, combined with constant infrastructural stimulus, with these construction/land-based schemes allowing easily for kickbacks and more.<sup>97</sup> There is certainly an argument that Chinese investment into infrastructure is not yet too excessive or has only recently reached levels of excess as it only now matches that of the developed world<sup>98</sup>, but investment

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<sup>92</sup> Andrew Wedeman. "The Intensification of Corruption in China." (2004) *The China Quarterly*, no. 180: 895–921.

<sup>93</sup> See 'China's Gilded Age' figure 3.5 p 70 and figure 3.6 p 72.

<sup>94</sup> See 'China's Gilded Age' figure 2.1 p33

<sup>95</sup> World Bank, 'Corruption' (*Enterprise Surveys*) <<https://www.enterprisesurveys.org/en/data/exploretopics/corruption>> accessed 28 October 2021

<sup>96</sup> Richard Levick, 'New Data: Bribery Is Often 'An Unspoken Rule' In China'. *Forbes*, <<https://www.forbes.com/sites/richardlevick/2015/01/21/new-data-bribery-is-often-an-unspoken-rule-in-china/?sh=2e72171f79c6>>

<sup>97</sup> The Economist Group, 'How a housing downturn could wreck China's growth model' (*Economist*, 30th September 2021) <<https://www.economist.com/finance-and-economics/how-a-housing-downturn-could-wreck-chinas-growth-model/21805115>> accessed 5 October 2021

<sup>98</sup> Economist Intelligence Unit, 'Is China investing too much in infrastructure?' (*Economist Intelligence*, 1st June 2018) <<https://country.eiu.com/article.aspx?articleid=866788670&Country=China&topic=Economy>> accessed 1 September 2021

into China's healthcare and social safety net by comparison is far more lacking.<sup>99</sup> Extensive overcapacity especially for its SOEs can be seen as another consequence deeply intertwined with the role of access money. Land sales can make up to 40% of all local government revenue, leading to substantial incentives in regard to profit sharing for local governments to maintain the housing boom.<sup>100,101</sup> It would of course be too far to pin the blame solely or even majorly on the incentives created by access money, with this all related to a variety of reasons that have caused housing to have such an outsized role in the Chinese economy. However, there is little doubt from the above data on access money in real estate that it has played a part in maintaining the housing bubble.

After taking power in 2012, Xi Jinping has undertaken a colossal and continuous anti-corruption push throughout all levels of government in China, disciplining well over 1.5 million officials.<sup>102</sup> While the bulk of the disciplining peaked by 2014, there has been a continued effort to maintain anti-corruption as a new normal as policy initiatives have continued. Though it is almost certain that a substantial part of the push has been driven by power consolidation, and though the predominantly top-down approach risks encouraging “dereliction of duty” and apathetic governance<sup>103</sup>, there are nevertheless signs that Xi's anti-corruption drive is having a real impact. Between 2010 to 2014, one major survey found portion of those who believed that corruption has improved nearly doubled from 35.5% to 60.4% and those who believed it had worsened halved from 32.2% to 17.1%<sup>104</sup>. BTI has reported a substantial rise in the prosecution of office abuse and anti-corruption policy in recent years<sup>105</sup>. Other surveys have seen similar findings in terms

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<sup>99</sup> Ken Wills, 'Seeking Balance' [2018] 55(4) Finance & Development 20

<sup>100</sup> Xinhua, 'China's central SOEs continue efforts to cut overcapacity' (*China Daily*, 20th April 2017) <[https://www.chinadaily.com.cn/business/2017-04/20/content\\_29015006.htm](https://www.chinadaily.com.cn/business/2017-04/20/content_29015006.htm)> accessed 20 September 2021

<sup>101</sup> Tom Mitchell, Christian Shepherd and Sherry Fei Ju 'Coronavirus: China's risky plan to revive the economy' (*Financial Times*, 10th March 2020) <<https://www.ft.com/content/396def8e-5d82-11ea-8033-fa40a0d65a98>> accessed 12 October 2021

<sup>102</sup> Xinhua, 'Spotlight: China's effective campaign sets model for global anti-corruption cause' (*Xinhuanet*, 11 March 2018) <[http://www.xinhuanet.com/english/2018-03/11/c\\_137031213.htm](http://www.xinhuanet.com/english/2018-03/11/c_137031213.htm)> accessed 2 October 2021

<sup>103</sup> Kilkon Ko and Cuifen Weng, “Structural Changes in Chinese Corruption” (2012) 211 *The China Quarterly* 718

<sup>104</sup> Bruce Dickson, *The Dictator's Dilemma: The Chinese Communist Party's Strategy for Survival* (Oxford University Press 2016)

<sup>105</sup> Bertelsmann Stiftung, 'BTI 2020 Country Report — China'. (Bertelsmann Stiftung, Gütersloh, 2020)

of public acceptance, though they find still concerns over local corruption<sup>106</sup>, which is perhaps to be expected for such a top-down effort. Indeed, despite what appears to be the genuine sincerity of central government to tackle corruption (as evidenced by its much cleaner municipalities it directly measures), the criticisms of power consolidation playing too great a role and the inadequacies of an overly top-down dominated drive, certainly ring true.

## ii. GRAND THEFT AND ABSOLUTE MONARCHY IN SAUDI ARABIA

As the largest economy and oil supplier of the Middle East & North Africa alongside the home of Islam, Saudi Arabia embodies key characteristics of the region's wealthy rentier states. Saudi Arabia's absolute monarchy led by the House of Saud ranks it into the top twelve most authoritarian countries by the EIU, the top seven for Freedom House and among the top ten for all but two of V-Dem's rankings.<sup>107,108,109,110</sup> Oil accounts for around 90% of the Saudi government's revenue and its exports alongside 42% of its overall GDP.<sup>111</sup>

Saudi Arabia's government is heavily dominated by its vast royal family who hold both central and regional government roles. The judicial system is based around no written constitution and instead interpretations of Sharia law, though there are certainly extensive regulations.<sup>112</sup> However, the supremacy of Sharia law

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<sup>106</sup> Yan Sun and Baishun Yuan, 'Does Xi Jinping's Anticorruption Campaign improve regime legitimacy?' [2017] 24(2) *Modern China Studies* 14-34

<sup>107</sup> Economist Intelligence Unit, 'Democracy Index 2020: In sickness and in health?' (Economist Intelligence, 2021) <<https://www.eiu.com/n/campaigns/democracy-index-2020/>> accessed 21 September 2021

<sup>108</sup> Freedom House, 'Countries and Territories' (Freedom House) <<https://freedomhouse.org/countries/freedom-world/scores>> accessed 12 October 2021

<sup>109</sup> V-Dem Institute, 'V-Dem Dataset - Version 11.1', (V-Dem, 2021) <<https://www.v-dem.net/en/data/data/v-dem-dataset-v111/>> Accessed 12th October 2021

<sup>110</sup> Using Vdem, Saudi Arabia is 20<sup>th</sup> lowest for deliberative democracy (explored more in solutions) and 19<sup>th</sup> in egalitarian democracy

<sup>111</sup> Forbes, 'Best Countries for Business 2018 Saudi Arabia' (*Forbes*) <<https://www.forbes.com/places/saudi-arabia/?sh=1ac73a4b4e5c>> accessed 18 October 2021

<sup>112</sup> Bertelsmann Stiftung, 'BTI 2020 Country Report — Saudi Arabia. (Bertelsmann Stiftung, Gütersloh, 2020)



makes it easy for the judiciary to acquiesce to royal pressure as the judiciary ultimately answers to the royal family.<sup>113</sup>

Saudi Arabia's corruption is relatively high for its income level and currently ranks at joint 52<sup>nd</sup> in the world using Transparency's CPI methodology.<sup>114</sup> However, both petty theft and speed money are likely very low. GAN evaluates basic services such as police and tax services as having low risk of corruption and indeed the WEF executive survey ranks Saudi Arabia at 30/151 countries in terms of bribery control, above the USA.<sup>115</sup> Overall, corruption is more pervasive on the higher levels of government.<sup>116</sup> However, despite relatively stringent enforcement, around 2014, a drop in public sector wages and increased cuts from reduced oil revenues has led to some evidence of increased lower-level corruption, although the levels continue to be seen as low with recent spending reversing the cuts.<sup>117</sup> This will feed into the discussion of the Efficient Wage Thesis later.

As GAN integrity notes, by far the greatest risk of Saudi corruption relates to its oil budget alongside procurement, with some estimating 10-25% of all government funds are embezzled in Saudi Arabia.<sup>118,119</sup> These are areas which exhibit classical opportunities for Grand Theft, with Saudi Arabia's budget being

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<sup>113</sup> Ben Hubbard, David D. Kirkpatrick, Kate Kelly and Mark Mazzetti. 'Saudis Said to Use Coercion and Abuse to Seize Billions' *The New York Times* (New York, 11th March 2018) <<https://www.nytimes.com/2018/03/11/world/middleeast/saudi-arabia-corruption-mohammed-bin-salman.html>> accessed 14 October 2021

<sup>114</sup> Global Change Data Lab, 'GDP per capita vs Corruption Perception Index, 2014' (*Our World In Data*) <<https://ourworldindata.org/grapher/gdp-per-capita-vs-corruption-perception-index>> accessed 1 October 2021

<sup>115</sup> World Bank, 'Irregular payments and bribes' (*TCdata360*) <[https://tcdata360.worldbank.org/indicators/h236b6700?indicator=667&viz=line\\_chart&years=2010,2017](https://tcdata360.worldbank.org/indicators/h236b6700?indicator=667&viz=line_chart&years=2010,2017)> accessed 8 October 2021

<sup>116</sup> Kaunain Rahman, 'Saudi Arabia: An Overview of Corruption and Anti-Corruption' (*Transparency International Anti-Corruption Helpdesk*, 23rd January 2020) <<https://knowledgehub.transparency.org/helpdesk/saudi-arabia-an-overview-of-corruption-and-anti-corruption>> accessed 19 October 2021

<sup>117</sup> Ali Abdelaty, Sami Aboudi and Katie Paul, 'Saudi Arabia restores perks to state employees, boosting markets' (*Reuters*, 22nd April 2017) <<https://www.reuters.com/article/us-saudi-economy-idUSKBN17O0NL>> accessed 12 October 2021

<sup>118</sup> GAN Integrity, 'Saudi Arabia Corruption Report', (Risk and Compliance Portal) <<https://www.ganintegrity.com/portal/country-profiles/saudi-arabia/>> accessed 18 September 2021

<sup>119</sup> Ahmed Al Omran and Simeon Kerr, 'Saudi Arabia confronts legacy of corruption' (*Financial Times*, November 12, 2017) <<https://www.ft.com/content/f5a9340e-c60f-11e7-a1d2-6786f39ef675>> accessed 1 October 2021

both extremely low in its transparency alongside its oversight being minimal. This is exacerbated by the royal family member's de facto impunity from legal enforcement.

The direct harms of Grand Theft are evident in that it is the direct pillaging of resources for the people of the country, applying the high end 25% estimate to Saudi Arabia's budget would mean a staggering \$68 billion could be taken every single year. This contributes also to reluctance of foreign investment, preventing the transition away from an oil dominated economy by also preventing these resources from being invested into economic diversification. Therefore, this all links to the development of a toxic cycle trapping the country in a rentier state. This can be true even in economies undergoing rapid and varied economic growth as found in certain provinces in China.<sup>120</sup>

In 2017, Bin Salman began an incredibly public purge of prominent officials alongside business elites as a part of his attempt to remake the Saudi state. It was claimed that \$106 billion was reclaimed from an array of 381 individuals by 2019, yet soon the government would move on.<sup>121</sup> This was a striking move to hold some of the most powerful royals to account in a country where they seemed untouchable. The Saudi government would try and paint this as a permanent shift against corruption, helping to deliver on long term plans moving the country away from oil.<sup>122</sup> The anti-corruption purge has certainly consolidated Bin Salman's power standing in Saudi Arabia, and reforms such as in the sector of contracting may provide a basis for breaking the dominance of corrupt conglomerates.<sup>123, 124</sup> However, often the reform served to transfer contracts to his allies. Rosie Bsheer mentions "Mohammed bin Salman was not so much upending

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<sup>120</sup> Chen Ting and Kung James, 'Do land revenue windfalls create a political resource curse? Evidence from China' [2016] 123(C) *Journal of Development Economics* 86-106

<sup>121</sup> Stephen Kalin, 'Saudi Arabia ends \$100bn 'corruption drive' dismissed by critics as power play' (*Independent*, 31st January 2019) <<https://www.independent.co.uk/news/world/middle-east/saudi-arabia-corruption-mbs-crackdown-ends-confessions-billions-mohammad-bin-salman-a8756756.html>> accessed 7th October 2021

<sup>122</sup> Majid Al Qasabi, 'Riyadh Is Delivering on Vision 2030' (*The Wall Street Journal*, 12th November 2017) <<https://www.wsj.com/articles/riyadh-is-delivering-on-vision-2030-1510521284>> accessed 15th October 2021

<sup>123</sup> Thomas Friedman, 'Attention: Saudi Prince in a Hurry' (*The New York Times*, 7th November 2017) <<https://www.nytimes.com/2017/11/07/opinion/saudi-prince-reform-coup.html>> accessed 2nd October 2021

<sup>124</sup> Rosie Bsheer, 'How Mohammed bin Salman Has Transformed Saudi Arabia' (*The Nation*, 21st May 2018) <<https://www.thenation.com/article/archive/how-mohammed-bin-salman-has-transformed-saudi-arabia/>> accessed 11th October 2021

the historical relationship between regime and economic elites as much as he was narrowing the circle of those who benefited from it—and positioning himself at its centre”.<sup>125</sup>

It is still likely that Bin Salman’s anti-corruption bid still extends beyond the realm of only power consolidation due to the long-term plans to reform Saudi Arabia’s economy from one almost completely reliant on oil. Saudi Vision 2030 and associated social reforms represent vastly ambitious plans, but ones likely unrealistic and lacking detail of the sort of capacity building reforms needed in order to truly tackle high level corruption.<sup>126</sup> However, to at least begin to tackle a bloated royal family may be a first step in what needs to be an extensive anti-corruption program.

### iii. PREVALENT THEFT AND HISTORICAL LEGACIES IN RUSSIA

In comparison to both China and Saudi Arabia, Russia is usually ranked as far less authoritarian, coming in at the 43<sup>rd</sup> most authoritarian country under the EIU (having been ranked a hybrid regime just 10 years ago), the 32<sup>nd</sup> via Freedom House and similarly across Vdem’s indicators.<sup>127,128,129</sup> Russia’s budget transparency ranks at an impressive 14<sup>th</sup> in the world, ahead of the likes of the UK going by the Open Budget Survey.<sup>130</sup> Russia is also seen as having far greater press freedom at 30<sup>th</sup> in the world via Reporters

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<sup>125</sup> Ibid

<sup>126</sup> Zeeshan Aleem, 'Saudi Arabia’s anti-corruption purge is all about life after oil' (*Vox*, 29th November 2017) <<https://www.vox.com/world/2017/11/17/16658142/saudi-arabia-prince-salman-corruption-oil-women-rights>> accessed 9th October 2021

<sup>127</sup> Economist Intelligence Unit, 'Democracy Index 2020: In sickness and in health?' (Economist Intelligence, 2021) <<https://www.eiu.com/n/campaigns/democracy-index-2020/>> accessed 21 September 2021

<sup>128</sup> Freedom House, 'Countries and Territories' (Freedom House) <<https://freedomhouse.org/countries/freedom-world/scores>> accessed 12 October 2021

<sup>129</sup> V-Dem Institute, 'V-Dem Dataset - Version 11.1', (V-Dem, 2021) <<https://www.v-dem.net/en/data/data/v-dem-dataset-v111/>> Accessed 12th October 2021

<sup>130</sup> International Budget Partnership, 'Open Budget Survey 2019:

Russia' (Open Budget Survey, 2019) <<https://www.internationalbudget.org/open-budget-survey/country-results/2019/russia>> accessed 1st October 2021

Without Borders, with China 4<sup>th</sup> worst in the world and Saudi Arabia 10<sup>th</sup>.<sup>131</sup> Russia further has what is seen as a strong legal framework which attempts to meet the requirements set by various international frameworks.<sup>132</sup>

Yet Russia continuously ranks as one of the most corrupt countries in the world, well in the bottom 20% from the World Bank control of corruption measure and 130<sup>th</sup> in the world from Transparency.<sup>133,134</sup> Perhaps the key reason for Russia's current predicament is that Putin's government appears to value flexibility in its governance facilitated by oligarchs has led to the Russian institutions being powerless to enforce its robust legislation.<sup>135</sup>

The heart of the current Russian economy is largely oil and gas, dominated by its SOEs, with fuel products contributing around 60% of Russia's exports<sup>136,137</sup>. There are hence a variety of characteristics for Russian oligarchs that mirror the royal corruption of rentier states, although the nature of such power kleptocracy occupies a relatively different realm to that of the Gulf monarchies. It may be that rather than specifically a kleptocracy, there are also many characteristics of a power-bilateral monopoly as explored by Ackerman, where Putin has leveraged loyal oligarchs and tolerated organised crime during his rule. A

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<sup>131</sup> Reporters Without Borders, '2021 World Press Freedom Index' (RSF, 2021) <<https://rsf.org/en/ranking>> accessed 10 September 2021

<sup>132</sup> Alexei Panich and Sergei Eremin, The Anti-Bribery and Anti-Corruption Review: Russia. in Mark Mendelsohn (ed), *The Anti-Bribery and Anti-Corruption Review* (9th ed 2020)

<sup>133</sup> World Bank, 'Interactive data analysis' (World Governance Indicators) <<https://info.worldbank.org/governance/wgi/Home/Reports>> accessed 4 October 2021

<sup>134</sup> Transparency International. Corruption Perceptions Index 2020. Transparency.org. Available at: <https://www.transparency.org/en/cpi/2020> (Accessed: 12 October 2021).

<sup>135</sup> Noah Buckley, 'Corruption and Power in Russia' (Foreign Policy Research Institute, April 2018)

<sup>136</sup> Anders Åslund, 'The Russian economy in health, oil, and economic crisis' (*Atlantic Council*, 27th May 2020) <<https://www.atlanticcouncil.org/commentary/long-take/the-russian-economy-in-health-oil-and-economic-crisis/>> accessed 14th October 2021

<sup>137</sup> Datawheel, 'Russia' (*Observatory of Economic Complexity*) <<https://oec.world/en/profile/country/rus>> accessed 11th October 2021

lack of will to enact lower-level reforms such as in administration has meant that Petty Theft and Speed Money have hardly been properly tackled.<sup>138,139</sup>

Russia's problems of corruption were greatly exacerbated during the final years of the USSR where a combination of rapid liberalisation alongside political control loosening led to a rapid explosion of corruption throughout the nation.<sup>140</sup> Indeed, Russia even lacked a proper tax code in the early 90s as the massive reforms took place. While there are the problems comparing CPI over time due to its changing methodologies, there is also plentiful consensus that the USSR's end years and early years of Russia proved very damaging in corruption terms.<sup>141,142</sup> Perhaps the most evident of these failings came with the rapid privatisation of state enterprise (in a period regarded usually as not under authoritarianism), which proved disastrous as the nation's assets were seized to create essentially a class of oligarchs.<sup>143</sup>

Petty Theft/Speed Money are far more prevalent in Russia compared to the Gulf monarchies and China, with 34% of Russians responding they have paid a bribe in the 2017 Global Corruption Barometer in comparison to 26% in China.<sup>144</sup> Partly this may be down to Russia having far less resource per capita in comparison to its Gulf counterparts, thus encompassing the worst of both worlds in terms of Grand and Petty corruption.<sup>145</sup> The limited power and oversight over police corruption, basic legal system

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<sup>138</sup> Susan Rose-Ackerman, *Corruption and Government: Causes, Consequences, and Reform* (Cambridge University Press 1999)

<sup>139</sup> E.N. Kofanova and V.V. Petukhov, 'Public Opinion of Corruption in Russia' [2006] 47(6) *Russian Social Science Review* 23-45

<sup>140</sup> Noah Buckley, 'Corruption and Power in Russia' (Foreign Policy Research Institute, April 2018)

<sup>141</sup> Fisman, R. (2017) *Corruption: what everyone needs to know* / Ray Fisman, Miriam A. Golden. New York, NY: Oxford University Press, [2017].

<sup>142</sup> Anastassia Obydenkova and Alexander Libman, 'Understanding the survival of post-Communist corruption in contemporary Russia: the influence of historical legacies' [2014] 31(4) *Post-Soviet Affairs* 304-338

<sup>143</sup> Michael McFaul, 'State Power, Institutional Change, and the Politics of Privatization in Russia' [1995] 47(2) *World Politics* 210-243

<sup>144</sup> GCB is afflicted commonly by low samples sizes, but Russia's experience of bribery is nearly always higher than China in its surveys, the 2011 survey had Russia at 26% and China just 9%, though appears more of an outlier with countries like Japan also yielding 9% and 0% in the 2017 survey

<sup>145</sup> Daniel Treisman, 'Is Russia Cursed by Oil' [2010] 63(2) *Journal of International Affairs* 85-102

corruption and the likes are also explanations. Overall, the drive for the flexibility of the Russian regime has greatly hampered efforts combating corruption across the Russian state.

Some suggest Petty Theft may have already been common during the time of the USSR (though the ability to do research was quite constrained by the closed nature of the USSR).<sup>146</sup> However, the previously mentioned rapid liberalisation exacerbated the problem by fostering organised crime, which came to dominate and collaborate with the Russian state. This meant that Petty Theft such as extortion became rampant across Russia, leading to a deeply hostile environment for businesses and citizens.<sup>147</sup> Petty corruption is felt most directly by its citizens, it contributes to cycles of poverty through damaging private business and investment. Combined with Russia's Grand Theft rentier struggles, such corruption pose a critical challenge to any attempt at diversifying the economy.

Putin has led various anti-corruption efforts targeting mainly the oligarchical class in his initial years during the early 2000s, but perhaps as expected of a corruption campaign where there is a lack of focus on either petty corruption or sustainable changes to high level governance, Putin's anti-corruption reforms mainly resulted in power consolidation.<sup>148</sup> The problem of extortion directly by organised crime and the rampant violence which it brought with it has greatly decreased, though the downward trend had started before Putin.<sup>149</sup> It is likely that indeed some of Putin's reforms have targeted blatant crime and corruption such as new laws against money laundering. However, rather than reduce the prevalence of corruption, lower-level officials especially have come to be deeply embedded with companies leading to a more institutionalised method of extortion, petty theft and more.

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<sup>146</sup> John Kramer, 'Political Corruption in the USSR' [1977] 30(2) *Western Political Quarterly* 213-224

<sup>147</sup> Dan Harris, 'Why China is Better Than Russia for International Business' (*Harris Bricken*, 15 December 2013) <<https://harrisbricken.com/chinalawblog/why-china-is-better-than-russia-for-international-business/>> accessed 5th October 2021

<sup>148</sup> Leslie Holmes, 'Corruption and Organised Crime in Putin's Russia' [2008] 60(6) *Europe-Asia Studies* 1011-1031

<sup>149</sup> Jordan Gans-Morse, 'Threats to Property Rights in Russia: From Private Coercion to State Aggression' [2012] 28(3) *Post-Soviet Affairs* 263-295

After Medvedev's failed reforms punctuated by a lack of political will, Putin's second stint in office has been dominated by a focus on flexibility and self-preservation as the semblance of Russian democracy has further collapsed. This has meant that vertical law-making has dominated since 2012 and the prospect of serious anti-corruption, though commonly mentioned by officials and media, is low.<sup>150</sup> With Russia's major issue of petty corruption, Putin's attempted anti-corruption without the usage of properly backed institutional capacity building reforms, especially bureaucratic reforms, have left much of his anti-corruption effort a dead end.<sup>151</sup> In spite of having a relative institutional advantage in comparison to Saudi Arabia and China, this has appeared to actually hamper his anti-corruption reforms which have clashed with a need to weaken these institutions to maintain power.

#### **iv. CORRUPTION AS A SOCIOECONOMIC PROBLEM**

As mentioned in the introduction, many of the world's authoritarian states are classified as low income with a range of contributing factors, and the relationship of corruption, poverty and authoritarianism in these countries is relatively neglected by this paper. However, as alluded to throughout the focus sections of the case studies, corruption both impacts and is impacted by the economic models and conditions. This is evident when comparing within or between nations where there is the trap of "corruption-causing-poverty-causing-corruption." explained by Ang as meaning "countries are poor because they are corrupt, and they are corrupt because they are poor."<sup>152</sup>

A more comprehensive strategy against China's corruption cannot neglect long term economic reforms and substantial changes to China's state, especially with regards to addressing the harms access money has contributed to. These range from reforms which are already underway by government such as action to reduce China's gigantic housing bubble to complex questions of further market reform and reducing the power of SOEs. Social reforms are also crucial. One of the most prominent discussions on combatting corruption through social reform surrounds China's Hukou system. The Hukou system deprives the rights of migrant workers while also strengthening an urban elite that itself contributes to the disbalancing of

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<sup>150</sup> Bertelsmann Stiftung, 'BTI 2020 Country Report — Russia'. (Bertelsmann Stiftung, Gütersloh, 2020)

<sup>151</sup> Phyllis Dininio and Robert Orttung, 'Explaining Patterns of Corruption in the Russian Regions' [2005] 57(4) World Politics 500-509

<sup>152</sup> Fisman, R. (2017) Corruption: what everyone needs to know / Ray Fisman, Miriam A. Golden. New York, NY: Oxford University Press, [2017].

China's economy.<sup>153</sup> By empowering rural migrants, there is the possibility of reducing land reform corruption.<sup>154</sup>

Many of these are challenges where for decades, whether related to corruption or general economic distortions, experts have called for them to be addressed. Yet it is clear that engaging in these changes makes a real change to corruption, such as simply improved funding of healthcare, hence helping to cut down the excessive over-prescription of medicines that was crucial to their previous budgets.<sup>155,156,157</sup> While it may be that the substantial overhauls needed are beyond the scope of this paper, some of the more basic recommended measures may be able to make it past local government resistance when pushed by central government.<sup>158</sup>

Meanwhile, the anti-corruption crackdowns and many of the Gulf state reforms, as well as Russia to a lesser extent, are founded upon the diversification of these states from the usage of oil. It is perhaps not a surprise that the least corrupt Gulf state in the form of the UAE has been most ambitious and most

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<sup>153</sup> Tiejun Cheng and Mark Selden, 'The Origins and Social Consequences of China's Hukou System' [1994] 139 *The China Quarterly* 644-668

<sup>154</sup> Kam Wing Chan and Will Buckingham 'Is China Abolishing the Hukou System?' [2008] 195 *The China Quarterly* 582-606

<sup>155</sup> Xiaochen Ma, Hong Wang, Li Yang, Leiyu Shi and Xiaoyun Liu, 'Realigning the incentive system for China's primary healthcare providers' [2019] *BMJ* 365: l2406

<sup>156</sup> Susan Rose-Ackerman and Yingqi Tan. 'Corruption in the Procurement of Pharmaceuticals and Medical Equipment in China: The Incentives Facing Multinationals, Domestic Firms and Hospital Officials' (June 2, 2014). Yale Law & Economics Research Paper No. 498, <<https://ssrn.com/abstract=2444738>> [Accessed 12th October 2021]

<sup>157</sup> China's opening of its healthcare system to market forces while government funding remained low led to over-prescribing drugs and over-use of medical equipment as they became a major source of healthcare revenue. While hospital staff's non-elite status may classify this more along the lines of petty corruption, it arguably fits with access money more readily as the corruption enticed multinational medical giants alongside domestic firms to turn their attention towards the Chinese market as a huge opportunity for growth, while also facilitating great volumes of corruption in the healthcare sector in terms of bribery for favouring their prescriptions etc. Example of general funding beyond standard wage considerations, although this has been combined with other capacity building reforms of healthcare coordination to reduce corruption.

<sup>158</sup> Hongbin Ca, J. Vernon Henderson and Qinghua Zhang, 'China's land market auctions: evidence of corruption?' [2013] 44(3) *The RAND Journal of Economics* 488-521



successful in diversifying its economy away from oil.<sup>159</sup> The rentier economic structure of these nations is tightly interwoven with the type of corruption.

## Solutions

### I. OVERVIEW & FOREWORD

As presented, although political system alone does not determine the nature or the extent of corruption in the country, the problem does tend to differ across political systems. Most importantly to policy makers, divergence in institutional make-up results in different challenges and courses of action available in tackling corruption. In this section, we will again thematically present and analyse anti-corruption strategies in different political systems. Whilst some policies and strategies would be useful across systems, like empowering the judiciary, others are more specific and limited, like empowering the media. Additionally, identical strategies or policies may sometimes have to be implemented differently across systems to overcome different challenges, one example of which being civil service reform, as our discussion shall demonstrate.

### II. TACKLING CORRUPTION IN DEMOCRACIES

#### i. LEARNING FROM CLEANER DEMOCRACIES

##### *New Zealand: A case study*

New Zealand has historically stood out as the paradigm of effective corruption policy. With extremely low levels of corruption, frequently scoring in the top five least corrupt nations, and ranked first alongside Denmark for corruption perception index by Transparency International, it is arguably a goalpost for anti-corruption.<sup>160</sup> Examining how New Zealand managed its corruption problems could inform the discussion on effective policy solutions to corruption.

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<sup>159</sup> Bertelsmann Stiftung, 'BTI 2020 Country Report — United Arab Emirates. (Bertelsmann Stiftung, Gütersloh, 2020)

<sup>160</sup> Transparency International, the global coalition against corruption, <https://www.transparency.org/en/cpi/2020/index/nzl>

To be sure, albeit the level is low, corruption is not absent in New Zealand, and in recent years, there have been growing issues with corruption, especially associated with the housing market. Corruption in New Zealand's housing market is a collection of corrupt behaviours which have exacerbated the unaffordability of property and reduced the effectiveness of the housing market, thus increasing inequality. The first issue is accountability and scrutiny of ministers. The Social Housing Reform (Transaction Mandate) Bill which was passed into law in 2016 enabled the Ministers of Finance and Social Housing to "individually negotiate the sale of these assets on their own terms, exempt from normal legal scrutiny."<sup>161</sup> This has been labelled a "charter for corruption"<sup>162</sup>, since by allowing ministers to flout rules imposed on the sale of assets, this enables using public office for private gain. However, like much of the corruption found in democracies it is not as obvious as bribery or extortion, since it does not involve law breaking; rather it is the law itself which is changed to allow for the corrupt behaviour, making accountability harder.

This exposes the lacking of both horizontal and vertical accountability: revolving door appointments, cronyism, and generally poor parliamentary scrutiny<sup>163</sup> all make horizontal accountability difficult and thus open the door for corrupt law making. Since the liberalisation of New Zealand's housing regulations in the 90s, there has been poor inspection of remaining regulations in the interest of saving money with "fraudulent attempts to get past inspectors frequently noted"<sup>164</sup>. The system of peer review which enabled the company doing the design to nominate the reviewing company enabled companies to sign off on each other.<sup>165</sup> Such exploitation of the rules by the private sector for profit through corrupt practices has been

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<sup>161</sup> Matthewman, Steve. "'Look No Further than the Exterior': Corruption and Disaster in New Zealand?" *International Journal for Crime, Justice and Social Democracy* 6.4 (2017): 71-85. Note: the author requests the article be cited as Matthewman S (2017) 'Look no further than the exterior': Corruption in New Zealand. *International Journal for Crime, Justice and Social Democracy* 6(4): 71-85. DOI: 10.5204/ijcjsd.v6i4.439. p.75

<sup>162</sup> Twyford P, "National set to pass charter for corruption." Labour, 18 February (2016)

<sup>163</sup> Matthewman, Steve. "'Look No Further than the Exterior': Corruption and Disaster in New Zealand?" *International Journal for Crime, Justice and Social Democracy* 6.4 (2017): 71-85. Note: the author requests the article be cited as Matthewman S (2017) 'Look no further than the exterior': Corruption in New Zealand. *International Journal for Crime, Justice and Social Democracy* 6(4): 71-85. DOI: 10.5204/ijcjsd.v6i4.439

<sup>164</sup> McCrae T "Housing pressure drives shoddy building practices." Newshub, 24 April (2016)

<sup>165</sup> Matthewman, Steve. "'Look No Further than the Exterior': Corruption and Disaster in New Zealand?" *International Journal for Crime, Justice and Social Democracy* 6.4 (2017): 71-85. Note: the author requests the article be cited as Matthewman S (2017) 'Look no further than the exterior': Corruption in New Zealand. *International Journal for Crime, Justice and Social Democracy* 6(4): 71-85. DOI: 10.5204/ijcjsd.v6i4.439.

of great consequence to society. The reduction of building regulations led to properties that were both leaky and not fire safe. Apart from the clear risk to life that this presents, it has led to significant costs in repairing properties that should have been built properly in the first place.

However, New Zealand's low levels of corruption in general remains remarkable, and there are nevertheless valuable lessons to be learnt from its general practices. Daniel Zirker<sup>166</sup> suggests that success in combating corruption in New Zealand comes from three main factors: egalitarian culture, British-origin legal and political structures that has strict policies on corruption practices, and highly professional public bureaucracy with secure careers. Whilst the first two factors could be deemed too elusive and/or specific to the country to provide useful lessons for policy makers elsewhere, the history of New Zealand's civil service reform could prove illustrative.

The professional and clean public service in New Zealand has been the result of decades of reforms, beginning in the early 20th century. Several milestones could be identified. In 1912, The Hunt Commission published a report which made four principal recommendations: "Block all "back doors" of entrance to the public service. Promote from within the service. Appoint and promote on the basis of merit. Provide for free transfers of officers between departments."<sup>167</sup> In 1962, New Zealand introduced the "Scandinavian institution of the Ombudsman"<sup>168</sup>. And in the 1980s, steps were taken for provisions of making official information available to the public<sup>169</sup>. These three introductions allowed for accountability and reduced the opportunity for corruption contributing to a low-corruption society.

The Hunt Commission's set of principal recommendations tackle several of the problems of corruption commonly found in democracies. The prevention of back doors of entrance into the public service and the policy of promotion from within both move to prevent revolving doors. Revolving doors are when it is easy to move from the private sector to the public sector the consequence of this being that many public

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<sup>166</sup> Zirker, Daniel. "Success in Combating Corruption in New Zealand." *Asian Education and Development Studies* 6.3 (2017): 238-48

<sup>167</sup> Zirker, Daniel. "Success in Combating Corruption in New Zealand." *Asian Education and Development Studies* 6.3 (2017): 238-48

<sup>168</sup> Hill, L, "The model Ombudsman institutionalizing New Zealand's democratic experiment" Princeton: Princeton University Press. 0, 1977

Gillian, B, "The Ombudsman in New Zealand", Dunmore Press Publishers, 1998.

<sup>169</sup> Gregory, R. J., & New Zealand Institute of Public, A. (1984). *The Official Information Act: a beginning*, Wellington, N.Z.

officials have conflicts of interest and thus will act in an interest other than that of the collective public. Promoting from within and preventing back doors both act to ensure that those found at the top of public institutions – those being best placed to be corrupt – do not have conflicts of interest and have their individual interest aligned with that of the collective. Such meritocratic public service reduced the incentive to act contrary to public interest by offering a realistic opportunity for success by following the rules, as well as ensured that those at the top have both worked hard to be there meaning they will be invested in the success of the institution and that they are competent for the role, providing horizontal accountability to those who work below them. Additionally, free movement of officers between departments further encourages accountability, as people between departments could ensure that each department keeps the others from being corrupt.

Moreover, the 1962 and 1980s measures improved accountability. New Zealand was the first British dominion to introduce the concept of an Ombudsman to investigate and report on complaints made about the public services. It is thus a measure of horizontal accountability – from within the civil service rather than from voters. Introducing an Ombudsman is effective at preventing corruption because it creates an external check on civil service activity, this prevents individuals insulated from the scrutiny of voters and other departments from becoming corrupt as they will be held accountable by the Ombudsman. Nations that struggle with horizontal accountability, such as those that use majoritarian voting systems or have a strict separation of powers may benefit from a similar policy as this. Additionally, the provision of official information to the public provides vertical accountability by giving public oversight over their officials. Using the concept of ‘clarity of responsibility’ given by Schwindt-Bayer and Tavits it may be said that it is made more obvious to voters which specific individuals caused a result. As such, voters can then decide whether or not they want to hold that individual accountable. As was discussed earlier proportional voting systems often suffer from low clarity of responsibility due to the number of political actors. Consequently, these systems may benefit from the open provision of official information to the public.

*Finland: A Case Study*

In the past decade, Finland, a parliamentary democracy, steadily maintained its status as one of the least corrupt states in the world according to the CPI<sup>170</sup>. The country is famous for low incidence of corruption and appropriate resolution when corruption cases do arise.

Finland has a generally balanced society and equality between citizens, has been displaying steady economic growth, and has been sustaining free and fair elections, reinforced by the good status of public servants and encouragement of good practice in governance. Notably, it has a strong administrative culture of transparency and openness, priding itself in its strong system for internal and external controls, which render administrative corruption nearly non-existent. The civil society is actively involved in the management of public affairs, NGOs and CSOs operate without restrictions and are consulted in matters of legislation, and the media plays a central role in uncovering corruption cases, operating freely. The ethical administrative culture and the level of civil involvement and trust is both reflected in and bolstered by the nature of Finland's legislative sector. The Ombudsman helps maintain a just and clean administrative structure, reinforced by tight financial audits and decentralised monitoring, as well as watchdogs. The watchdogs include the Parliamentary Audit Committee for state finance and budget, the Ombudsman for legal regulation, and the unit for internal control which is present in all government agencies and have the role of reporting any identified corruption cases to the police. Beyond institutional constraints, there is also the law per se. The Criminal Code contains strong provisions against active and passive bribery, embezzlement ('grand theft', in Yuen Yuen Ang's terminology)<sup>171</sup>, fraud, abuse of office, breach of trust, abuse of insider information, and prohibits facilitation payments (that which Yuen Yuen Ang names 'access money'). Members of parliament are not allowed to accept gifts exceeding EUR100 and donations over EUR800 for local elections and EUR1500 for parliamentary elections are to be reported. At domestic level, the police are central to starting investigations and deciding dismissals of corruption cases and at international level, Finland is bound by international agreements such as the OECD Anti-Bribery Convention, UNCAC and GRECO. As such, Finland seems to owe its success to a

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<sup>170</sup> Risk and Compliance Portal, 'Finland Corruption Report', last updated September 2020, <https://www.ganintegrity.com/portal/country-profiles/finland/>

<sup>171</sup> Y. Y. Ang. *China's Gilded Age: The Paradox of Economic Boom and Vast Corruption*, Cambridge: Cambridge University Press, 2020

stable politico-economic environment, to its open and transparent administrative culture, as well as to dutiful civil involvement.<sup>172</sup>

Additionally, when faced with corruption scandals, Finland efficiently and decisively enforces the stipulations of the law. A famous case of petty theft was that of Jari Aarnio, former head of Helsinki's anti-drug police unit. He was, among other crimes, found guilty of purchasing equipment and software of the department from a company in which he had decision-making power and, consequently, sentenced to over 10 years in prison<sup>173</sup>. In dealing with individual corruption cases then, Finland dutifully enforces its legislative stipulations. Bribery is equally uncommon and does not prevail throughout Finnish society, but there has been a prolific case of political corruption in 2006 in relation to external election finance. An association was established for campaign finance purposes during local and national elections, but it was later revealed that its purpose was to influence the political composition of the next Finnish government, with businessmen channelling money to preferred candidates during elections. Yet again, the culprits were trialled, found guilty, and sentenced to 1 to 4 years of prison<sup>174</sup>.

Access Money, as well as Speed Money are, again, uncommon and discouraged through legislation, but are still present in business networks and from international actors. While Finland is, by and large, exemplary in managing domestic corruption, it has been reprimanded for being less cautious when the corruption is incited by international actors. In response to these critiques, it has reinforced its legislation and legislative sector, increasing openness, preventing double roles in decision making, and improving its anti-corruption strategies<sup>175</sup>.

The major remaining issue of corruption was distorted networks, more specifically 'Old Boys Networks'. These networks are based on loyalty, friendship, reciprocity, gratitude and secrecy and encompass nepotism, cronyism, kleptocracy and favouritism<sup>176</sup>; they bear resemblances to cronyism, but are even less organised and identifiable, verging on becoming a social phenomenon instead of a political act. They

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<sup>172</sup> J. S. T. Quah (Ed.) *Different Paths to Curbing Corruption: Lessons from Denmark, Finland, Hong Kong, New Zealand and Singapore*. Bingley: Emerald Group Publishing Limited, 2013.

<sup>173</sup> Walder, C. (2019) 'Allt du behöver veta om fallet Jari Aarnio' (All you need to know about the case of Jari Aarnio), *Svenska Yle*. Available at <<https://svenska.yle.fi/a/7-1397297>> accessed 22 September 2022.

<sup>174</sup> J. S. T. Quah (Ed.) *Different Paths to Curbing Corruption: Lessons from Denmark, Finland, Hong Kong, New Zealand and Singapore*. Bingley: Emerald Group Publishing Limited, 2013.

<sup>175</sup> J. S. T. Quah (Ed.) *Different Paths to Curbing Corruption: Lessons from Denmark, Finland, Hong Kong, New Zealand and Singapore*. Bingley: Emerald Group Publishing Limited, 2013, p. 68

<sup>176</sup> *Ibid.*, p. 62

are prevalent especially at local level more so than national level, but also play an important role in covering and furthering corruption from international business actors.<sup>177</sup>

Overall, corruption in the form of speed money, petty theft, access money, and grand theft is uncommon. The main reason being that they are emphatically discouraged by the law, as well as by the citizen and administrative body. Additionally, the country is proficient in maintaining an open and transparent culture, although it struggles to tackle the issue of distorted networks. The scarce problems that do arise are solved by appealing to the law and the legal body. The equitable and fair nature of the justice system and its strong legal tradition allows the legislative branch of the state to efficiently hold the executive accountable, the latter, in turn, gaining the confidence of the people. The harmonious functioning of the legislative and executive branches, as well as the well-enforced internal institutional checks and balances enforced by the judicial system (i.e., the Ombudsman) guarantee a low incidence of corruption and successful resolution of the existing corruption incidents. In comparison with the aforementioned case of Moldova, one could see that parliamentary design per se is not sufficient in discouraging corruption, and that the quality of institutions is more important. Hence, policy suggestions should focus more on making anti-corruption institutions alongside the judiciary more empowered and efficient, instead of macro-level institutional structure.

### *Chile: A Case Study*

In the past decade, Chile, a presidential democracy, has occupied a steady place in the higher ranks of the CPI surveys in the past decade;<sup>178</sup> however, a downward trend can be observed. Chile remains the least corrupt country in Latin America and prides itself in its strong and transparent institutions<sup>179</sup>.

Chile has a well-developed legislative framework<sup>180</sup>, as the Criminal Code prohibits bribery and penalises it with a maximum of five years in prison. Facilitation payments are prohibited and unlikely to be encountered and money laundering, bribery, and financing of terrorism are prohibited. Not only is the

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<sup>177</sup> J. S. T. Quah (Ed.) *Different Paths to Curbing Corruption: Lessons from Denmark, Finland, Hong Kong, New Zealand and Singapore*. Bingley: Emerald Group Publishing Limited, 2013.

<sup>178</sup> Transparency International, 'Corruption Perception Index: Chile', 2010-2020, <https://www.transparency.org/en/cpi/2020/index/chl>

<sup>179</sup> Ibid.

<sup>180</sup> Doren, Sebastián and Donoso, Juan Ignacio. 'The Anti-Bribery and Anti-Corruption Review: Chile', in *The Law Reviews*, 2021, <https://thelawreviews.co.uk/title/the-anti-bribery-and-anti-corruption-review/chile>

anti-corruption legislation strong, but it is also well-enforced as the judiciary is generally transparent and free from government interference<sup>181</sup>. Speed money in the judiciary realm is rarely exchanged and dispute settlement is considered moderately efficient<sup>182</sup>. There are effective mechanisms in place to investigate and punish police corruption and abuse, and hence, the risk of encountering corruption is rather low. In the administrative realm, there is, likewise, a low risk of corruption. Bribery rarely occurs, as Chile has undertaken reforms such as performance-based incentives, as well as reduction of political appointees. The civil society has freedom of speech, assembly, and association and NGOs and CSOs operate freely<sup>183</sup>. Chile stands out in the region for offering an open environment to the media without intimidation and harassment, though still it lacks diversity, especially in print media<sup>184</sup>, and does have, to an extent, restricted freedom because of laws from the Pinochet dictatorship regarding insult and defamation which have not yet been revised<sup>185</sup>. This issue is illustrative of the difficulty with which decisions are overturned in presidential systems, which can prove more detrimental than helpful in certain cases. On an international level, Chile is a signatory to the Inter-American Convention Against Corruption, United Nations Convention Against Corruption and to the OECD Convention.

Access Money and Speed Money are uncommon and discouraged and neither business<sup>186</sup> nor civilians often encounter or engage in such actions. Moreover, the 20.205 law provides protection for public employee whistle-blowers, encouraging transparent practices<sup>187</sup>. However, such safeguards are not present for private sector employees, issue which has also been criticised by the OECD, highlighting that Chile does not adequately establish corporate liability for foreign bribery offenses<sup>188</sup>. While these two classes of corruption are not common, they are still present and especially overlooked in the case of foreign investors – this has been a leitmotif throughout all the cases which have been analysed so far, underlining

<sup>181</sup> Freedom House. 'Freedom in the World 2020: Chile', 2020, <https://freedomhouse.org/country/chile/freedom-world/2020>

<sup>182</sup> World Economic Forum, 'The Global Competitiveness Report 2015-2016', 2016, <http://reports.weforum.org/global-competitiveness-report-2015-2016/>

<sup>183</sup> Freedom House. 'Freedom in the World: Chile', 2015, [https://freedomhouse.org/sites/default/files/2020-02/Freedom\\_in\\_the\\_World\\_2015\\_complete\\_book.pdf](https://freedomhouse.org/sites/default/files/2020-02/Freedom_in_the_World_2015_complete_book.pdf)

<sup>184</sup> Reporters Without Borders. 'Chile', 2022, <https://rsf.org/en/country/chile>

<sup>185</sup> Kelly Warner Law. 'Defamation Laws in Chile', <https://kellywarnerlaw.com/chile-defamation-laws>

<sup>186</sup> World Economic Forum. 'The Global Competitiveness Report 2015-2016'. <https://reports.weforum.org/global-competitiveness-report-2015-2016/>

<sup>187</sup> Ministerio Secretaría General de la Presidencia. 'Ley 20205. Protege al funcionario que denuncia irregularidades y faltas al principio de probidad.' <https://www.bcn.cl/leychile/navegar?idNorma=262932&idParte=>

<sup>188</sup> Organisation for Economic Cooperation and Development. 'Chile must conclude its current legislative reforms of the criminal sanctions regime and clarify its corporate liability framework to better combat foreign bribery', 2017, <https://www.oecd.org/chile/chile-must-conclude-its-current-legislative-reforms-of-the-criminal-sanctions-regime-and-clarify-its-corporate-liability-framework-to-better-combat-foreign-bribery.htm>



the willingness of states to overlook good practices for the sake of foreign investment in the country. This is an important factor in understanding the different levels at which corruption can occur and its visibility.

Petty Theft and Grand Theft are uncommon at local administrative levels but do pose a moderate to high risk in the public procurement sector, as there are strong ties between politicians and private companies. As a result of this dynamic, public funds are sometimes diverted to companies and decisions of government officials regarding contracts tend to favour well-connected individuals. For example, in 2015, there have been several cases involving fraud – such as the chemical company SQM which committed tax fraud of \$11Million<sup>189</sup> – influence peddling and bribery, which have been addressed through the imprisonment and probation of the involved parties. The effectiveness of this solution however is questionable, as in 2019 54% of people considered that corruption increased in the previous 12 months and 13% of public service users paid a bribe throughout the year<sup>190</sup>. More salient is the example of the actions of President Pinera recently revealed through the Pandora Papers leaks. Pinera sold the Dominga mining company through a firm which was owned by his children to businessman Carlos Delano, a close friend of the president<sup>191</sup>. Additional charges of bribery-related actions and tax violations have been addressed in relation to the case. In response to this, the process of impeachment has been launched in the second week of October 2021, which exemplifies the speed with which actions can be taken in presidential systems, as well as offering a testimony to the strong separation of powers under this system. Concomitantly, the impeachment process will be complicated and lengthy, which underlines the difficulty of removing presidents from office.

Overall, bribery in the form of access and speed money is generally not a commonly encountered practice in Chile but has been rising since 2019 and poses a risk especially in the case of businesses and international investors. Petty and grand theft, alongside tax fraud and influence peddling are uncommon among the general population but is rampant in political ranks. It is generally met with judicial action, in the case of President Pinera resulting in the beginning of the impeachment process. As such, elite insultation proves to be a highly pressing issue not only in parliamentary systems, but also in presidential systems, being perhaps even furthered by the lack of accountability ensured by the difficulty of tracing the steps of

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<sup>189</sup> Reuters. 'SQM says uncovers \$11Mln in questionable payments linked to ex-CEO', 2015, <https://www.reuters.com/article/chile-scandal-sqm-idUSL2N0WR1AW20150325>

<sup>190</sup> Transparency International, 'Chile Transparente', 2019, <https://www.transparency.org/en/countries/chile>

<sup>191</sup> Al-Jazeera, 'Chile opposition moves to impeach president for Pandora leaks', 13 October 2021, <https://www.aljazeera.com/news/2021/10/13/chile-opposition-moves-to-impeach-president-over-pandora-leaks>

decision-making processes in deals and agreements. This has been denounced by both the international and domestic community, watchdogs and whistle blowers being encouraged to take action.

## ii. USEFUL LESSONS SUMMARISED

### *Regulations (where there are robust institutions)*

Regulation is the first line of defence. The effect of regulation is to provide a basic framework into which other anti-corruption methods can fit and tackle issues. All democracies are set up well to pass legislation and therefore there should be little variation between democracies in the effectiveness of this policy. Regulation sits, therefore, outside the horizontal/vertical accountability dichotomy that has been discussed thus far and rather provides the legal framework for the accountability policies.

However, strong, clean, and independent judiciary and legislative branches are crucial to ensuring that (a) there are strong anti-corruption laws which are (b) enforced equitably. For example, Moldova has a strong set of anti-corruption laws, but cannot enforce them because of a weak judiciary. In Nicaragua, the legislative is subordinated to the President's party and does not pose a significant threat, position which is enforced by an even weaker judiciary. Both Finland and Chile have a strong set of laws and are generally appropriately enforced, with a few exceptions addressed in the sub-section on elites. In the case of Chile, it is through the power of the legislative branch that the accusations of corruption against the President were immediately acted upon, resulting in the process of impeachment. Strengthening the judiciary and the legislative does not have an immediate, direct solution; it is rather often a result of decades of internal and external effort. While maintaining that both branches need to be clean, strong and independent in order to be successful, the success of parliamentary systems seems to be more reliant on the judiciary, while that of presidential systems is more linked to the legislative. In parliamentary systems, the legislative often cooperates with the judiciary, the judicial being the one who keeps not only the society, but also the leadership in check. In presidential systems, the legislative is not necessarily linked to the head of the state and serves as the place of contestation (for example, being able to impeach the president) – while the judiciary is also crucial in upholding the decisions of the legislative.

### *Nominating oversight officials (improving horizontal accountability)*

Be it a public sector ombudsman, as used in New Zealand<sup>192</sup>, or a dedicated anti-corruption agency having officials that have an oversight over the executive and legislative's behaviour are a prime way to deal with both lobbying and cronyism. They prevent corruption in two central ways: the first is by enforcing breaches of regulation that is put in place to deal with corrupt practices; the second is by increasing scrutiny and accountability, thus increasing the risk of corruption, increasing its costs, and therefore reducing its propensity. The UK currently has neither a public sector ombudsman (despite a 2015 enquiry by the government on the issue<sup>193</sup>) nor does the UK have a dedicated anti-corruption agency rather anti-corruption is performed across law enforcement services. The UK and other states with condensed power should put effort into implementing this policy as it would help provide the horizontal accountability that is missing in these systems without undermining vertical accountability. The US also does not have a dedicated anti-corruption agency. Despite its more diffuse power structure, it would still benefit from more horizontal accountability.

### *Setting up legislative committees (improving horizontal accountability)*

Legislative committees can allow the legislature to hold the executive accountable by looking into the conduct of members of the government and enforcing penalties if they fail to maintain good standards. For example, the House of Commons Treasury Committee is currently investigating Cameron's involvement in Greensill<sup>194</sup>. This form of horizontal accountability can be especially useful where the legislative and executive do not have very much separation as it can enhance the ability of the legislative to perform a scrutinising role by, for example, allowing opposition party members to head up

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<sup>192</sup> Zirker, Daniel. "Success in Combating Corruption in New Zealand." *Asian Education and Development Studies* 6.3 (2017): 238-48

<sup>193</sup> Cabinet Office, "A public service ombudsman: government response to consultation" (2015), [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/417111/Ombudsman\\_Service\\_Consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/417111/Ombudsman_Service_Consultation.pdf)

<sup>194</sup> Cowper, Andy. "What Doctors Need to Know about the Greensill Scandal." *BMJ* (Online) 373 (2021): N1245

commissions. This is very useful for dealing with cronyism which often occurs in the executive due to their heavy role in day-to-day country planning. They may be less useful in lobbying issues because of the ability of lobbyists to influence legislators and thus influence the commissions undermining them. However, if it is possible to isolate the commissions from lobbying then they could provide a useful check on the motivation behind legislative efforts – namely is legislation in the public interest or the interest of lobbyists.

### *Disclosing official information to the public (improving vertical accountability)*

Disclosing official information to the public was a step taken by New Zealand in the 20th Century. The oversight allows people to vote in an informed way and therefore provide vertical accountability to those in office who acted against the voter bases interests. The US, for instance, would benefit a lot from disclosing official information as it would help with both its issues of lobbying and cronyism significantly. Disclosing official information does not interfere with the aim of institutional setups, but it does help to minimise negative institutional externalities.

However, this policy does not stop lobbying or cronyism; it would only enable voters to punish those who do lobby and participate in cronyism. The consequence of this is that if the means to punish are not in place, then it will not be effective. This is the case for most vertical policies: a strong and trusted electoral system must be in place.

This element is present in all countries, regardless of the level of socio-economic development or the institutional design, elites playing an important role not only maintaining and furthering corruption, but also in obstructing initiatives for improvement in anti-corrupt practices. Such elites include but are not limited to influential people from the current political class as well as that of the old regime where applicable, businessmen, and people from traditionally wealthy families. As these ‘Old Boys Networks’ are so well consolidated, hidden, and influential, it is difficult to find a solution which addresses their dissolution in a direct way and such solutions are even more difficult to achieve in the case of oligarchic elites. Nevertheless, greater openness and transparency of administrative processes may help decrease the incidence of elite corruption and target the culprits to disrupt and discourage such distorted networks.

### *Corruption Proofing Legislation (improving horizontal accountability)*

Lorenzo Pasculli suggests that “The UK legislative processes are well suited to incorporate a corruption-proofing mechanism”<sup>195</sup>, which would likely involve another stage in legislating in which draft legislation would be examined for any potential corruption issues. This could be modelled on the checks done as to human rights violations when legislation is passed. Doing this could help to ensure that lobbying did not result in unfavourable legislation from being passed. Similarly, it would help prevent cronyism by allowing the legislature to better predict when giving wide discretionary powers to the executive may result in corruption; although it does not stop the executive from abusing or violating legislations. This could be combined with the oversight measures talked about above and legislation with a potential to corrupt could have its effect watched by an oversight officer.

### *Foster work ethic amongst civil servants*

A clean, efficient, and robust public service is also important in controlling corruption. To achieve this, public servants need to have a good status in society (e.g., valued, not dismissed status of the job) and benefit from good salaries, which encourages satisfaction with the position that one holds. Having satisfactory salaries decreases the likelihood of public servants resorting to bribes to supplement their income. Incorporating performance-based incentives can also prove effective, transparent practices becoming encouraged not only at an ideational, but also material level.

While internal practices are important, so are external checks. Finland offers a positive example of the various checks and balances present in maintaining a clean administrative culture across all levels of administration, from local to national. Implementing these solutions is, however, easier said than done when accounting for the complex challenges that states face in different phases of their development. Improving the image of public officials is beneficial because it triggers a type of self-fulfilling prophecy wherein the position of a public servant is prized and, relatedly, more people who uphold the values of clean administration will want to enter the service which will, in turn, continue to maintain a just administrative culture. This shift, however, is a process which requires deep change spanning across a

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<sup>195</sup> Pasculli, Lorenzo. "Seeds of Systemic Corruption in the Post-Brexit UK." *Journal of Financial Crime* 26.3 (2019): 705-18.

long period of time, as there are various interrelated shifts which need to be in place to result in this final stage.

Internally, where salary increase is not presently viable, it can be recommended to increase the benefits of public servants either within the working place or on a broader level in such a way that the risks of accepting bribes are outweighed by (a) benefits of the job and (b) consequences of exposed. Such benefits in the workplace can involve performance-based bonuses (though here favouritism can interfere), holiday tickets, vouchers for various restaurants or shops, discounted memberships for activity centres, as well as paying more attention to the grievances and desires of people in the workplace regarding office practices and amenities.

Externally, it is important to consistently apply the stipulations of the law, decreasing impunity, selective punishment, and leniency. However, a critical caveat must be considered. The invariability of external checks ought to be implemented if and only if there have been sufficient and satisfactory developments in the internal arena. One cannot both underpay and overwork public servants and punish them for finding alternative channels to provide themselves with what an unstable state structure cannot. Therefore, there must be a balance between firstly, the initiatives of the state and of specialised institutions and bodies and, relatedly, the willingness of the population to accept and respect changes in the administrative culture which aim to improve transparency and decrease the incidence of corruption in the form of access and speed money.

In tackling Cronyism in particular, much could be learnt from the Hunt Commission. The Hunt Commission, as has already been mentioned, establish a number of guidelines for how to reform public services: “Block all “back doors” of entrance to the public service. Promote from within the service. Appoint and promote on the basis of merit. Provide for free transfers of officers between departments.” While most modern western democracies will abide by these it is important that they continue to do so. Having a robust civil service is essential in reducing the problem of cronyism both in its causes and in increasing the risk of being caught thereby reducing the incentives. More shall be said about improving civil service later.

### *Civil society oversight and impartial media*

Vertical accountability is a unique strength of democracy and should be harnessed to tackle corruption. More importantly, where a culture of corruption is widespread in society, the problem of corruption

tends to be rampant. Speed money becomes a practice which is equated to being able to obtain anything in time, access money and nepotism are not a last resort, but the starting point, petty theft is often overlooked, and grand theft, especially kleptocracy, is so common that it often fails to excite a fervent response from the population anymore. As such, the individual and the systems are involved in a reflexive process of complacency – people are constrained by the engrained corruption in the systems and institutions of the state, which in turn reinforces the actions of the state. A radical shift in this culture need to take place, but such as shift takes time, is difficult to power in an artificial manner, and is limited by the constraints of the present system and historical affordances. In this context, the cooperation of the civil society and the state systems is indispensable.

While avoiding practices of corruption altogether may be difficult because of the systemic expectations, changing personal behaviour is possible. Individuals may refuse to engage in corrupt practices, and such attitudes may be fostered by education and consciousness-raising. Involvement in NGOs and CSOs is also effective, as they become the representatives of the citizens and bridge the administrators and the population. In states where the administrative is unwilling to engage in anti-corruption measures and the civil society is severely constrained, such as in the case of Nicaragua, or change is merely performative and enough to appease the population until the next scandal, as in the case of Moldova, the situation of the civil body becomes more complicated. Involvement in NGOs and CSOs will be less effective and even restrained because of lack of basic freedoms and the systemic pressures to engage in corrupt practices in order to increase one's life chances will be stronger. When the administrative is unresponsive to the population, the civil body still has a duty to reframe their interactions, but change must, most importantly, alchemise at governmental level.

When the power of the society is limited, top-down change becomes even more important. In the best scenario, the people in leadership positions in the state should be committed to anti-corruption policies. However, even when this is the case, possibilities for radical policy change are still limited by historical and generational constraints, changes being incremental. In parliamentary republics, the more parliament and government members subscribe to values and practices to combat corruption, the likelier it is for such policies to be implemented. Because of systemic constraints and the embedded culture, it is highly difficult to reach a position of influence which goes against the interests of the elites. However, change starts with isolated individuals and then evolves to small groups dynamics, which, if they possess enough sturdiness to the adversities which will unavoidably appear, they will gain traction with the public and, in turn, elicit hope in the civil society. Although radical shifts may not be made during their time in the

administration, they create a precedent and a legacy of practical models to fight against corruption from within the system. In presidential systems with authoritarian tendencies, this can come in the form of the resistance of opposition groups, as in the case of Nicaragua. When the civil society is too limited in its abilities to enact change and the president effectively controls all the branches of the state, the opposition plays a crucial role in rallying the population against the head of the state on the one hand, and in obtaining the attention and condemnation of international bodies and of the international community, in hope of finding alternate routes of tackling the issue.

Changing a culture involves shifts not only at a systemic level, but also at the level of collective psychology and habits and can often result in a stale mate when the systemic constraints are overpowering. Where the government is willing to fight corruption, it ought to create a space for politicians with corresponding values and citizen dialogue, and the civil society ought to be involved in both personal change – through altering individual practices, and collective change – by being active in NGOs and CSOs. Where the government's interest in anti-corruption policies is merely performative but the society has freedom of speech and assembly, the latter ought to push for reform ceaselessly, actions which are also enabled by generational changes. Where the government is not willing to fight corruption and limits the freedoms of the society, political opposition can resort to the population in crucial moments of political opportunity (such as the advent of elections) and to the international community, in the hope of raising awareness and securing external pressure on the regime.

Lastly, media, as the source of information to the public at large, is of crucial importance in ensuring high clarity of responsibility. This has two sides to it. First, the media must be trustworthy and have integrity; there must be a high journalistic standard. Second, the media must not be too closely linked to any of the political parties so that they would avoid spreading negative information about them. If they were too close and avoided spreading information, then this would frustrate the public in its attempts to provide vertical accountability. This is likely most important where power is condensed as here the effectiveness of vertical accountability is of the upmost importance so something which could frustrate this must be prevented.

### *International cooperation*

Where domestic measures, accountability, and institutional designs are lacking, international intervention could be of use. Being a signatory to international anti-corruption conventions and being part of international bodies and organisations seems to correlate to a decreased incidence of corruption and



improved management thereof, provided that the suggestions of said agreements and bodies are appropriately implemented. Such international networks add an extra layer of checks and balances on the branches of the state and especially on the executive, external to the country in cases where the extent of domestic involvement reaches a stalemate. Ratifying and implementing conventions such as OECD, UNCAC, or GRECO can offer guidance on which areas need improvement and practical advice on approaches, as well as creating a broader network of states committed to anti-corruption measures. For example, Finland, while having a low perception of corruption, still faces certain challenges, whose resolution has been aided by the suggestions of international involvement. In Moldova, when the domestic situation does not present opportunities for appropriately strengthening the judiciary, the European Commission intervened with a better-outlined plan of action and, most importantly, provided the necessary resources – both personal and financial. Conversely, in Nicaragua, which is closed to international cooperation, relevant action cannot be taken, though international bodies are appealed to in trying to control the executive when the domestic community has been too smothered by the authoritarian tendencies of the President. However, this could not be implemented single-handedly by governments on the domestic level.

### III. TACKLING CORRUPTION IN MIXED REGIMES

As explained, in mixed regimes corruption can often be a prevalent and persistent issue and tackling corruption can be an arduous task facing many systematic obstacles. Thus, overwhelming success in controlling all types of corruption in all areas is rare. Moreover, given the less transparent nature of government and less robust institutions, it is more difficult to identify a set of strategies that would apply wholesale across borders.

Therefore, in this section, instead of drawing a set of strategy from exemplary countries that are successful in controlling corruption overall, we shall elaborate on and compare the anticorruption strategies of Ukraine, Georgia, and Brazil, seek to understand what exactly each country has done better than the other(s) in tackling different types of corruption, and draw lessons therefrom.

## I. TACKLING GRAND THEFT: LEARNING FROM UKRAINE

As stated, Grand Theft is a significant problem in Ukraine's civil service, the Natsderzhsluzhba (National Agency of Ukraine for Civil Service). This is likewise a serious problem in Georgia. Solutions targeting Grand Theft were introduced in both Ukraine and Georgia under the IAP (Istanbul Action Plan) with the most impactful being an asset declaration system. This section shall compare Ukraine and Georgia's asset declaration systems, why Ukraine's implementation has been more successful, and what can be learnt from it.

In September 2016, Ukraine implemented the Unified State Register of Declarations of Persons authorised to perform functions of the state, or local self-government electronic asset declaration.<sup>196</sup> This was a program of the NACP (National Agency for Corruption Prevention) to collate the asset declarations of all civil servants, split into two phases of declarations. The first phase of declarations, lasting from the 1st September to 30th October 2016 was designed for those 'holding responsible and especially responsible positions' under article 50 of the CPL (Law on Prevention of Corruption in Ukraine) the Complete examination of declarations.<sup>197</sup> This first phase involved declarations from persons including the President of Ukraine, the Prime Minister of Ukraine, and Cabinet Ministers, among others detailed under article 50, which has now been supplemented by amendments according to Laws No. 889-VIII of December 10, 2015, Law No. 1022-VIII of March 15, 2016, No.1798-VIII of December 21, 2016, No. 2704-VIII of April 25, 2019, Law No. 140-IX of October 02, 2019, and Law No. 263-IX of October 31, 2019.<sup>198</sup> The second phase of declarations, from the 1st of January 2017, was designed for other members of the civil service, mainly lower-level bureaucrats. As of the 4th round OECD monitoring report in 2017, the electronic declaration forms have been effective in making transparent the assets of those most susceptible to corruption across the Ukrainian civil service. The 4th round monitoring commented on the positive statistics that the NACP was verifying 313 declarations of 214 persons, with 39 fully verified at the time of writing. The NACP was also made aware, since the start of 2017, of 19,229 failures to submit

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<sup>196</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan' (Anti-Corruption Reforms in Ukraine, 13 September 2017) < <https://www.oecd.org/corruption/acn/OECD-ACN-4th-Round-Report-Ukraine-ENG.pdf> > accessed 14 September 2021

<sup>197</sup> Ibid. 65.

<sup>198</sup> Venice commission, 'UKRAINE LAW ON PREVENTION OF CORRUPTION' (EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW, 1 December 2020) <[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2020\)079-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2020)079-e)> accessed 18th September 2021

declarations and 4064 late submissions of declarations, with 6296 declarations being reviewed.<sup>199</sup> More specifically, from January to August of 2017, the National Police of Ukraine sent administrative protocols to court for 542 delayed submissions, 8 counts of false asset declaration, and 142 counts of failure to notify of significant changes in assets. In light of this, the court imposed administrative liability on 290 persons, the majority of which were civil servants and local government officials. In terms of actively pursued criminal investigations, an important part of Ukraine's anti-corruption strategy, stemming from the electronic asset declarations, since the start of September 2017, the government informed the network that 1133 criminal proceedings were undertaken as a result of a failure to submit or submission of false asset declarations, with 81 being sent to court.<sup>200</sup>

For the years 2018, 2019, and 2020, a total of 2,422,146 declarations were made to the NACP.<sup>201</sup> These are openly available declarations which disclose the wealth and assets of persons ranging from top government officials, down to civil servants. Fundamentally, the e-asset declaration forms which are required to be submitted by all are crucial in Ukraine's fight against speed money and other forms of corruption. The use of e-asset declarations enables transparency and the accountability of those in public office and has been one of the largest steps Ukraine has taken in its fight against corruption.

Its effects on corruption are difficult to holistically measure as of now, given that policy implementation is ongoing, however the prospect is hopeful. Modernising developments as of 31st December 2020 have ensured the NACP's monitoring of e-asset declarations in developing the ease of access to vast amounts of data and ability to quickly check all documents of a declarant. Further recommendations would include making information easily accessible to anti-corruption agencies that rely on cooperation to prosecute corruption and increasing the ability to fully analyse a larger number of the asset declarations. This would further expand and enforce the measures already taken in response to corruption.

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<sup>199</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan ' (Anti-Corruption Reforms in Ukraine, 13 September 2017) < <https://www.oecd.org/corruption/acn/OECD-ACN-4th-Round-Report-Ukraine-ENG.pdf> > accessed 14 September 2021

<sup>200</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan ' (Anti-Corruption Reforms in Ukraine, 13 September 2017) < <https://www.oecd.org/corruption/acn/OECD-ACN-4th-Round-Report-Ukraine-ENG.pdf> > accessed 14 September 2021

<sup>201</sup> National agency for the prevention of corruption, 'Uniform State Register Of Declarations' (National Agency for the Prevention of Corruption, 26 September 2021) <<https://public.nazk.gov.ua/>> accessed 26 September 2021

Like Ukraine, Georgia similarly introduced an online asset disclosure system in 2010.<sup>202</sup> Despite Georgia's asset disclosure system performing well over the past decade, there are still fundamental shortcomings in its ability to root out corruption. The largest problem with Georgia's asset disclosure system is that it still does not cover a breadth of public officials. Unlike in Ukraine, as the 4th round IAP monitoring report for Georgia points out, out of the 40,000 public officials in Georgia in 2016, only 5,600 of them were required to submit asset declarations.<sup>203</sup> In 2016, this disclosure system was aimed towards the higher levels of the civil service and government officials, including the President, Prime Minister, members of Government, their deputies, members of Parliament, members of the Supreme Representative Bodies of Autonomous Republics, Governors, mayors, heads of local administrations, members of municipalities, heads of state-owned enterprises, heads of non-entrepreneurial legal entities founded by state or local self-government, heads of legal entities of public law and their deputies, judges, management posts in the prosecution service.<sup>204</sup> Moreover, the system for the enforcement of punishments remains weak and patchy. In terms of the application of fines for false information or incorrect disclosure, only 2 persons were fined in 2016 for providing false information on their asset declaration.<sup>205</sup>

If Georgia is to effectively stamp out speed money corruption, then recommendations could include increasing the scope of declarations over the entirety of the civil service. Looking forward, all regular prosecutors, Municipal Council Faction Deputy Chairpersons, members of city councils, ministerial

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<sup>202</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan ' (Anti-Corruption Reforms in Georgia, 15 September 2016) <<https://www.oecd.org/corruption/anti-bribery/OECD-ACN-Georgia-Round-4-Monitoring-Report-ENG.pdf>> accessed 12 September 2021

<sup>203</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan ' (Anti-Corruption Reforms in Georgia, 15 September 2016) <<https://www.oecd.org/corruption/anti-bribery/OECD-ACN-Georgia-Round-4-Monitoring-Report-ENG.pdf>> accessed 12 September 2021

<sup>204</sup> Ibid. 35.

<sup>205</sup> Ibid.

advisors, investigators and all other civil servants not yet covered should be required to submit declarations.<sup>206</sup>

The next failure of Georgia's asset disclosure system rests in the practical lack of sanction. As the 4th round monitoring report points out, this is a failure that stems from the lack of a proper verification service which, according to Transparency International, results in an extremely poor sanctioning of violations of requirements concerning assets and interests disclosure.<sup>207</sup> In order to address this shortcoming, the Georgian Parliament adopted amendments to the Law on Conflict of Interests and Corruption in Civil Service on the 27th October 2015, which initiated a dedicated monitoring system for verifying asset declarations, to be fully operational in 2017.<sup>208</sup> This supervising role was given to the CSB (Civil Service Bureau) with the agreement that the CSB would verify roughly 10% of all asset declarations, including 5% to be selected randomly by software, and 5% to be selected by a Permanent Commission, the Commission being set up by the director of the CSB and 5 non-governmental representatives. In 2017, when the verification service for asset declarations came into force, up to 80% of declarations were found to be in violation.<sup>209</sup>

A final problem with Georgia's asset declaration system and verification service is that whilst the verification seeks to confirm the accuracy and completeness of declarations, it fundamentally fails to either reveal instances of conflict of interests and instances of corruption.<sup>210</sup> According to Decree N81 (February 14, 2017) of the Government of Georgia on the Approval of the Instruction on the Review of Public Official Asset Declarations, the verifications service should both fulfil its purpose of checking submitted declarations for accurateness and completeness, yet simultaneously reveal and prevent instances of

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<sup>206</sup> Transparency international, 'The Georgian Asset Declaration System is in Need of an Update' (Transparency International Georgia, 29 September 2020) <<https://www.transparency.ge/en/blog/georgian-asset-declaration-system-need-update>> accessed 14 September 2021

<sup>207</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan' (Anti-Corruption Reforms in Georgia, 15 September 2016) <<https://www.oecd.org/corruption/anti-bribery/OECD-ACN-Georgia-Round-4-Monitoring-Report-ENG.pdf>> accessed 12 September 2021

<sup>208</sup> Ibid. 36.

<sup>209</sup> Ibid. 38.

<sup>210</sup> Transparency international, 'The Georgian Asset Declaration System is in Need of an Update' (Transparency International Georgia, 29 September 2020) <<https://www.transparency.ge/en/blog/georgian-asset-declaration-system-need-update>> accessed 14 September 2021

conflict of interest and corruption.<sup>211</sup> As Transparency International state, it seems that most resources are dedicated to the former.<sup>212</sup>

Taking 2019 as a case study, there were 569 verifications of submitted asset declarations. Of these, 257 were shown to be violations. The CSB has seven different types of violations that contraventions are classed into, yet all these types of violations come under the accuracy and completeness of data. Despite the fact the frequency for ‘incomplete or inaccurate declaration of income and remuneration’ was 68.4% and ‘incomplete or inaccurate declaration of bank accounts’ was 57% for 2019, it remains that violations are classified as to the accuracy or completeness of data, with hardly any violations pertaining to corruption, conflicts of interest or illicit enrichment.<sup>213</sup> Ultimately, with only 1 case out of 569 in 2019 being forwarded to investigative bodies, Georgia’s asset declaration system is not performing the correct function.

Although the above assessment of Georgia’s asset declaration system is somewhat negative, it is important to note that not only has Georgia’s wider specific anti-corruption strategy thoroughly decreased the level of speed money and petty theft corruption across Georgia, but this is a concrete judgement given due to a helpful variety of monitoring mechanisms that other countries under the IAP have not implemented. In 2012, Georgia’s Anti-Corruption Council adopted their specific Monitoring Tool for implementation of their anti-corruption plan. In participation with 14 public agencies responsible for the implementation of the plan, the tool consists of categories of activities to be carried out under the Action Plan, indicators of implementation, responsible agencies, partner organisations, risks, timeframe for implementation and for monitoring.<sup>214</sup> The tool is a crucial mechanism for analysing the effects of the implementation of anti-corruption strategies, and tracking progress over time, highlighting areas where already implemented anti-corruption strategies are not having the desired effect on corruption.

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<sup>211</sup> Ibid.

<sup>212</sup> Ibid.

<sup>213</sup> Ibid.

<sup>214</sup> Transparency international, 'The Georgian Asset Declaration System is in Need of an Update' (Transparency International Georgia, 29 September 2020) <<https://www.transparency.ge/en/blog/georgian-asset-declaration-system-need-update>> accessed 14 September 2021

Recommendations that could be made surrounding Georgia's fight against speed money and petty theft include, continuing to develop the monitoring mechanism put in place for asset declarations by assessing cross-agency access to information, but most importantly carrying out sanctions in practice by reforming the verification system to target actual instances of corruption and conflicts of interest rather than the systematic checking of data.

### **iii. COMBATTING GRAND THEFT IN BRAZIL: MIXED LESSONS FROM OPERATION CARWASH**

Brazil sought to combat endemic Grand Theft through targeted operations, which has achieved some success, but also revealed institutional limitations on policy maker and lawmakers' ability to curtail Grand Theft.

Brazil launched Operacao Lava Jato (Operation Car Wash) - a criminal investigation - in March 2014. It was a collection of several criminal cases prosecuting individuals charged with bribery and money laundering, of which 157 had been convicted until 2018.<sup>215</sup> It centred around contracts to do with Petrobras, the majority state-owned oil company, where it was found that bribes and laundering allowed company executives and politicians to accumulate a massive amount of wealth. Specifically, contracts that Petrobras entered into involved illicit kickbacks of 1-2% of Petrobras officials, which in turn allowed money to go into the hands of legislators from mostly the Partido Progressista (Progressive Party), although many other politicians in the governing coalition were also implicated.<sup>216</sup> Ultimately, a large-scale contract fixing and bribing scheme was uncovered, revealing the extent to which grand theft had become commonplace in the state-owned enterprise.

The biggest positive legacy of Operation Carwash was a series of reforms to public procurement under the new five-year Anti-Corruption Plan. The most recent New Public Procurement Law, approved in April 2021, is tailored to combatting Grand Theft.<sup>217</sup> It sets out a provision that maintains major contracts (of value over 200 million reais) be subject to a compliance program within six months of the signing of

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<sup>215</sup> Sérgio Moro, 'Preventing Systemic Corruption in Brazil' [SUMMER 2018] 173(3) *Daedalus* 157-169

<sup>216</sup> Sérgio Moro, 'Preventing Systemic Corruption in Brazil' [SUMMER 2018] 173(3) *Daedalus* 157-169

<sup>217</sup> *Ibid.*

the contract.<sup>218</sup> Aside from which, the 2020 Anti-Corruption Plan also established 142 actions that are aimed at reducing corruption in the nation.<sup>219</sup> Specific solutions within the plan include amendments planned for the Clean Company Act, the 2014 anti-corruption law outlining penalties and leniency agreements for businesses having committed corruption related crimes, and the view to update regulations relating to the evaluation of corporate compliance programs.<sup>220</sup> Although the effects of the five-year Anti-Corruption Plan cannot be fully grasped yet, the Plan alongside the new legislations is certainly a positive first step, which has already prompted companies to take actions against corruption within.<sup>221</sup>

This reflects the importance of the judiciary in combatting Grand Theft. And indeed, the judiciary has contributed to the effort in other ways. In overruling the 2008 provision surrounding the presumption of innocence, Brazil's Supreme Court has enabled the immediate enforcement of a criminal conviction, ensuring guilty persons, specifically those that can afford to appeal endlessly, can serve prison sentences when they are handed down and affirmed by a court of appeal.<sup>222</sup> This is a significant improvement for anti-Grand Theft efforts because up until 2016, usually court cases drag on until it has reached a final decision which cannot be appealed, which enables wealthy or politically connected defendants to drag out a case indefinitely until the prosecution has to drop it.

Two other potentially illuminating progresses made during Operation Carwash should be noted. Firstly, in trying cases under both public and media scrutiny, the Judiciary has enabled a transparent approach that has strengthened anti-corruption efforts in the judicial sphere. Law enforcement and prosecutors

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<sup>218</sup> Leopoldo Pagotto, 'New Public Procurement Law Focuses on Environmental, Social and Governance Compliance' (*International Bar Association*, 4 August 2021) <<https://www.ibanet.org/june-2021-new-public-procurement-law>> accessed 14 October 2021

<sup>219</sup> Carlos Ayres, 'Anti-corruption in Brazil: Current Status and the Next Steps' (*Global Investigations Review*, 15 October 2021) <<https://globalinvestigationsreview.com/review/the-investigations-review-of-the-americas/2022/article/anti-corruption-in-brazil-current-status-and-the-next-steps>> accessed 18 October 2021

<sup>220</sup> Carlos Ayres, 'Anti-corruption in Brazil: Current Status and the Next Steps' (*Global Investigations Review*, 15 October 2021) <<https://globalinvestigationsreview.com/review/the-investigations-review-of-the-americas/2022/article/anti-corruption-in-brazil-current-status-and-the-next-steps>> accessed 18 October 2021

<sup>221</sup> V Check Global, 'The Legacy of Operation Car Wash and Brazil's Compliance Environment in 2021', <<https://vcheckglobal.com/news/operation-car-wash-brazil-compliance-environment-2021/>>

<sup>222</sup> Sérgio Moro, 'Preventing Systemic Corruption in Brazil' [SUMMER 2018] 173(3) *Daedalus* 157-169



could imitate this to create an atmosphere of public scrutiny to increase the political stake for obstruction of justice for powerful persons implicated, whilst improving the flow of information.

Secondly, in Operation Carwash, the prosecutors skilfully used offers of plea bargains in exchange for key witnesses' cooperation. This enabled more efficient deployment of resources and more accurate identification of persons implicated in Grand Theft. However, going forward, prosecutors must be careful since in Operation Carwash several high-profile convictions were later overturned by the court on technicalities.<sup>223</sup>

However, the case of Brazil also revealed critical institutional limitations to curtailing Grand Theft under mixed regimes with limited oversight and transparency. In 2019, the Supreme Court of Brazil issued an injunction which effectively paralysed the Financial Intelligence Unit's ability to share intelligence and transaction information with the Federal Police and prosecution service. The Financial Intelligence Unit until then had operated the AML (anti-money laundering) system which gave crucial data and insight for Operation Car Wash, arguably providing the most necessary information needed to indict and prosecute individuals implicated in the scandal. Hence, the injunction halted all criminal investigations that were based on evidence of the sort provided by the Financial Intelligence Unit.<sup>224</sup> This reveals the persistence of backdoor dealings despite the progresses.

Additionally, as V Check Global points out, despite the Operation has achieved a change of attitudes on corruption and compliance, in the short and medium term the Operation has not been very successful.

Firstly, after seven years of near-constant Car Wash revelations, the Brazilian public opinion towards corruption had gradually turned into one of exhaustion and apathy.<sup>225</sup> Secondly, after leaked messages indicating the Car Wash judge Sergio Moro's potentially-improper influence in high profile investigations, in Transparency International's 2020 Corruption Perception Index, Brazil's score decreased by five

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<sup>223</sup> V Check Global, The Legacy of Operation Car Wash and Brazil's Compliance Environment in 2021, <<https://vcheckglobal.com/news/operation-car-wash-brazil-compliance-environment-2021/>>

<sup>224</sup> Moro.

<sup>225</sup> V Check Global, The Legacy of Operation Car Wash and Brazil's Compliance Environment in 2021, <<https://vcheckglobal.com/news/operation-car-wash-brazil-compliance-environment-2021/>>

points, dipping below Pre-Car Wash days.<sup>226</sup> These reflect that in a partially transparent system with limited political accountability and prevalent Grand Theft, public support for anti-corruption drives may be limited by cynicism and exhaustion. Hence, policy makers and prosecutors should not expect seismic shifts but rather incremental progress.

## **ii. TACKLING ELECTORAL AND JUDICIAL ACCESS MONEY IN UKRAINE AND GEORGIA**

Solutions for combatting illicit Access Money in party and campaign donations focus mostly on sanctioning violations of financing rules and placing limits on the amount of donations one can give to either campaigns or parties. Compared to Ukraine, Georgia is leading the way in fighting access money corruption in the realm of donations.

In Georgia, electoral legislation and amendments since 2011 have enabled a more transparent and accountable party financing operation. Specifically, three areas of reform have made the most impact on combating access money corruption. Firstly, legal entities were prohibited to finance political parties/election campaigns, secondly, limits were imposed on incomes and expenses, and thirdly, limitations were introduced for donors.<sup>227</sup>

To expand on the first two reforms above, unlike Ukraine and other countries under IAP monitoring, donations by legal persons in Georgia are completely prohibited for any legal person.<sup>228</sup> A limit of no more than 560 Euros per year per person for membership fees to any political party is also imposed, again leading the field of those countries under IAP monitoring. In terms of limits on maximum donations, Georgia again remains the most successful at preventing access money corruption in this sphere, with a maximum donation of 28,000 Euros per natural person per year which is made even more transparent by the fact that donations of this kind can only be carried out by bank transfer, dissimilar to the rest of the

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<sup>226</sup> *ibid.*

<sup>227</sup> OECD, 'Anti-Corruption Reforms in Eastern Europe and Central Asia PROGRESS AND CHALLENGES, 2016-2019' (FIGHTING CORRUPTION IN EASTERN EUROPE AND CENTRAL ASIA, 29 September 2020) <<https://www.oecd.org/corruption/Anti-Corruption-Reforms-Eastern-Europe-Central-Asia-2016-2019-ENG.pdf>> accessed 20 September 2021

<sup>228</sup> *ibid.*

IAP countries.<sup>229</sup> In pursuit of more transparency, Georgia has also mandated that information relating to donations to political parties, including both natural and legal persons be made public, being published by the 1st of February every year also including their financial declarations alongside an opinion piece by an external, independent author.<sup>230</sup>

Regarding sanctioning violations of party financing and campaign financing rules, since 2011, Georgia has had some of the strictest sanctions for such violations among the IAP countries. Georgia's Law on Political Unions of Citizens provides for confiscation of donations and the removal of state funding for a number of years depending on the severity of the violation.<sup>231</sup> Specifically, if a donation of value between 833 – 6,250 Euros to a party is found to be in violation, the party in question will have their state funding removed for one year.<sup>232</sup> Furthermore, if a donation of value between 6,250 – 20,833 Euros to a party is found to be in violation, the party will receive no state funding for two years, if the value exceeds 20,833 Euros, the party will not receive state funding for a four year period. Relating to a party's financial declaration, if it has not been received by the 1st of February each year, then that party will also receive no state funding for a one-year period.

A further piece of legislation, the Code of Administrative Violations of Georgia, sets out fines for the acceptance of a monetary or in-kind donation to a political party. For accepting donations, the fine can be between 417 Euros to 625 Euros, if the donation has a value of more than 2,100 Euros, a fine between 1,250 Euros to 2,083 Euros can be administered. Article 204 within the Code of Administrative Violations of Georgia also provides for fines and up to two year's imprisonment for a failure to maintain accounts and related documentation pertaining to said political party.<sup>233</sup>

Recommendations that can be made regarding Georgia's restrictions on donations and party or campaign financing include, making sure that the strict framework in place for sanctions is thoroughly enforced,

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<sup>229</sup> Ibid.

<sup>230</sup> Ibid.

<sup>231</sup> OECD, 'Anti-Corruption Reforms in Eastern Europe and Central Asia PROGRESS AND CHALLENGES, 2016-2019' (FIGHTING CORRUPTION IN EASTERN EUROPE AND CENTRAL ASIA, 29 September 2020) <<https://www.oecd.org/corruption/Anti-Corruption-Reforms-Eastern-Europe-Central-Asia-2016-2019-ENG.pdf>> accessed 20 September 2021

<sup>232</sup> Ibid.

<sup>233</sup> Ibid.

and increasing the role civil society plays in cultivating a culture of integrity perhaps involving a code of ethics for political parties.

In comparison, Ukrainian political donations and campaign financing regulations are lax in comparison to the tight regulations surrounding political financing in Georgia, resulting in a possibility for a higher level of access money corruption. Solutions for combatting access money corruption in Ukraine as an IAP country in the domain of party and campaign donations focus again on sanctioning violations of financing rules and placing limits on donation values.

In Ukraine, in terms of membership fees, there was no limit on the value of membership fees payable to a political party in 2013.<sup>234</sup> Furthermore, where Georgia prohibited donations by legal persons, Ukraine still allowed for donations by legal persons except for those by state/local self-government bodies, state-owned enterprises, institutions with government or municipal share, foreign entities, and charitable or religious organisations.<sup>235</sup> Most importantly however, as of the 2nd round OECD IAP monitoring report, Ukraine had imposed no limit on the maximum value of donations, as well as there being no restriction on how that donation can be received. In terms of lobbying regulations, unlike Georgia, Ukraine had no regulations regarding lobbying during the time the 2nd round monitoring report was written.<sup>236</sup>

Recommendations for Ukraine in the sphere of party and campaign financing include sharpening restrictions on limits to donations and access to political parties by the country's elites and increasing the severity of sanctions for political parties that break donation and campaign financing restrictions.

However, despite success in Georgia's restrictions around political party and campaign financing, Georgia's efforts to increase judicial independence and integrity to check Access Money remain substandard in comparison to Ukraine. This has resulted in lacklustre enforcement of existing rules.

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<sup>234</sup> OECD, 'Anti-Corruption Reforms in Eastern Europe and Central Asia PROGRESS AND CHALLENGES, 2016-2019' (FIGHTING CORRUPTION IN EASTERN EUROPE AND CENTRAL ASIA, 29 September 2020) <<https://www.oecd.org/corruption/Anti-Corruption-Reforms-Eastern-Europe-Central-Asia-2016-2019-ENG.pdf>> accessed 20 September 2021

<sup>235</sup> Ibid.

<sup>236</sup> Ibid.

Solutions Georgia introduced in order to combat judicial subservience and perversion included the development of Georgia's HCoJ (High Council of Justice), procedures regarding the appointment, tenure, promotion, assessment and dismissal of judges, case assignment, media access to judicial proceedings, restrictions on employment, asset disclosure, and disciplinary measures and sanctions.<sup>237</sup>

Georgia's High Council of Justice is designed according to the constitution to appoint and dismiss judges. Despite improvements in the recent decades, appealing HCoJ decisions is not guaranteed, and transparency into the workings of the HCoJ remains lacking, with conflicts of interest being a major issue.<sup>238</sup>

Regarding procedures for appointing and promoting judges, Georgia's system is a meritocratic one, regulated by the Constitution of Georgia and the Organic Law on General Courts. As mentioned above, it is the role of the HCoJ to appoint judges. For the Supreme Court of Georgia, the chairperson and judges are elected by the Georgian Parliament on the recommendation of the President of Georgia. The opportunity for Access Money comes by way of the HCoJ's practically 'unlimited authority' in determining appointment criteria for new judges.<sup>239</sup> This is due to the fact that selection is one through a secret ballot, one without any monitoring system in place to ensure transparency and objectivity in decision making, where political bias and Access Money corruption can take place.<sup>240</sup> This sentiment is shared by the NGO Human Rights Education and Monitoring Centre, arguing that HCoJ decisions have lacked sufficient argumentation and objectivity, calling into doubt the reliability and political impartiality of such decisions.<sup>241</sup>

In terms of sanctions for breaking regulations regarding the position of judges, although Georgia has strict regulations surrounding bribery, abuses of power, and other illegal activities, Georgia's application of

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<sup>237</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan ' (Anti-Corruption Reforms in Georgia, 15 September 2016) <<https://www.oecd.org/corruption/anti-bribery/OECD-ACN-Georgia-Round-4-Monitoring-Report-ENG.pdf>> accessed 12 September 2021

<sup>238</sup> Ibid.

<sup>239</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan ' (Anti-Corruption Reforms in Georgia, 15 September 2016) <<https://www.oecd.org/corruption/anti-bribery/OECD-ACN-Georgia-Round-4-Monitoring-Report-ENG.pdf>> accessed 12 September 2021

<sup>240</sup> Ibid.

<sup>241</sup> Ibid.

solutions, although present, are virtually never performed in practice. Disciplinary penalties for judges who break regulations, include rebukes, reprimands, severe reprimands and dismissal.<sup>242</sup> Disciplinary proceedings for judges are commenced by respective chairpersons. The Chairperson of the Court of Appeals deals with disciplinary measures against judges of the Court of Appeals, the Chairperson of the Supreme Court of Georgia for those against judges sitting in the Supreme Court of Georgia, and the HCoJ for all judges in the General Courts of Georgia. Although the framework is in place for the disciplining of judges at different levels in the Georgian judiciary, throughout the whole of 2013, 2014 and 2015, not a single case of sanctions for judges had been recorded, reflecting the fact that such sanctions are empty in term of their application, a sentiment shared by NGOs in Georgia.<sup>243</sup>

Recommendations for Georgia regarding judicial independence and integrity include making the inner workings of the HCoJ more transparent and monitoring the non-guaranteed appeal aspect of the HCoJ, ensuring that a legal framework is established for the exact procedures regarding the appointment, promotion and dismissal of judges, and strictly enforcing and developing new sanctions for breaking regulations governing judges.

In contrast, solutions adopted by Ukraine after their 2015 judicial reforms have managed to decrease Access Money in the judiciary. After presidential decree number 276/2015, the Strategy on Reform of the Judiciary, Justice and other Related Legal Institutes was adopted during May of 2015. The strategy was one comprising two stages, the first, legislative changes, the second, addressing constitutional changes and institutional frameworks.<sup>244</sup> Reform of the justice system is now complete, with the Law on the Judiciary and the status of judges coming into force at the end of September 2016, and the Law on the High Council of Justice coming into force at the beginning of 2017.

Of the constitutional changes, one of the most important is the fact that now all judges are appointed by the President with a binding submission of the High Council of Justice following a meritocratic and competitive selection procedure. Criteria for the selection of judges was also updated, making sure that

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<sup>242</sup> Ibid.

<sup>243</sup> Ibid.

<sup>244</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan' (Anti-Corruption Reforms in Ukraine, 13 September 2017) < <https://www.oecd.org/corruption/acn/OECD-ACN-4th-Round-Report-Ukraine-ENG.pdf> > accessed 14 September 2021

eligibility assessments, including professional integrity, ethics and competence are paramount in judicial selections. Further changes include the fact that judicial dismissal now must be approved by the High Council of Justice, and the previous limit on tenure has been terminated, resulting in all judges being appointed for life, an important step in combating Access Money. The High Council of Justice itself has also been reformed, with judges being elected by their peers.

Specifically, the grounds for dismissal of judges were clarified and expanded in scope, with dramatic consequences. New important grounds for dismissal include violating incompatibility regulations, systematic neglect of duties, and breaching the obligation to prove the legality of sources of assets.<sup>245</sup> Data from dismissals of judges from 2015-2016 showcases the extent of the impact of such reforms. 6 dismissals were recorded due to conviction court decisions entering into force in 2015, and 17 dismissals were recorded due to conviction court decisions entering into force in 2016.<sup>246</sup> For dismissals recorded as a result of judges having broken their oath of office, 282 were dismissed in 2015, and 22 were dismissed in 2016. For those dismissals recorded as conclusions made by the TSC (Temporary Special Commission on Auditing Judges of General Jurisdiction) 20 were recorded in 2015, and 9 in 2016. Specifically for the Supreme Court of Ukraine and judges of High Specialised Courts, for breaking the oath of office, 1 judge was dismissed in 2015, and 2 were dismissed in 2016. Data for the resignation of judges should also not be overlooked, as 362 resignations were recorded in 2015, and 1449 were recorded in 2016. The Ukraine 4th round monitoring report on corruption notes that interlocutors asserted that many judges resigned as a result of both the new qualification assessments and the fact that many didn't want to publicly declare the legality of assets and holdings, implying a significant check on corrupt activities.<sup>247</sup>

A second solution that has helped combat Access Money has been a reform of the remuneration of judges. A full theoretical underpinning supporting this type of solution and the following empirics is provided in Section V. Looking at the increase in funds allocated for the judiciary in Ukraine and specific courts, Ukraine over the past five years has taken an important step in reducing access money corruption risks. For the year 2016, the court system in Ukraine received only 54% of the funding the judiciary requested,

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<sup>245</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan' (Anti-Corruption Reforms in Ukraine, 13 September 2017) < <https://www.oecd.org/corruption/acn/OECD-ACN-4th-Round-Report-Ukraine-ENG.pdf> > accessed 14 September 2021

<sup>246</sup> Ibid.

<sup>247</sup> Ibid. 82.

by 2017 this had increased to 74%.<sup>248</sup> The 2016 Law On the Judicial System and Status of Judges provides for the remuneration of judges and sets out conflicts of interest and regulations surrounding other remunerated positions judges may not hold, as well as detailing official salaries and surcharges associated with judicial positions.<sup>249</sup> Accordingly, the Law on the Judicial System and Status of Judges provides for the financial independence of judges, arguably the most important aspect of combatting access money corruption in the Justice of Ukraine. In terms of data for the specialised and state courts of Ukraine, the steady increases in remuneration show an effective and sustained effort to reduce corruption in this sphere. For 2016, the approved annual budget allocated to the functioning of all courts in Ukraine was 219,392,178 Euros, by 2018 this had increased to 440,663,131 Euros.<sup>250</sup> More specifically, the annual budget allocated to gross salaries was 17,878,926 Euros in 2016 and had increased to 256,664,853 Euros in 2018.<sup>251</sup> The OECD Fourth round monitoring report also notes that not only were the number of court facilities increasing across the country, so were their conditions.<sup>252</sup> Base salary rates for judges were also outlined in the 2016 Law On the Judicial System and Status of Judges, mandating that for judges of local trial courts, the base salary is 30 minimal salaries, for judges of the appeal and specialised courts, 50 minimal salaries, and for those Justices of the Supreme Court, 75 minimal salaries.<sup>253</sup> The above proportional increases in remuneration for judges, and the increases in allocated funding overall for the judiciary are helping Ukraine to retain Judicial impartiality and independence, making it harder for corruption to gain a footing in the judiciary of Ukraine.

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<sup>248</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan ' (Anti-Corruption Reforms in Ukraine, 13 September 2017) < <https://www.oecd.org/corruption/acn/OECD-ACN-4th-Round-Report-Ukraine-ENG.pdf> > accessed 14 September 2021

<sup>249</sup> Ibid.

<sup>250</sup> Council of Europe, 'Evaluation of the judicial systems (2018-2020 cycle) Ukraine' (The European Commission for the Efficiency of Justice, 29 September 2020) < <https://rm.coe.int/en-ukraine-2018/16809fe0cb> > accessed 03 October 2021

<sup>251</sup> Ibid.

<sup>252</sup> OECD, 'Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan ' (Anti-Corruption Reforms in Ukraine, 13 September 2017) < <https://www.oecd.org/corruption/acn/OECD-ACN-4th-Round-Report-Ukraine-ENG.pdf> > accessed 14 September 2021

<sup>253</sup> Council of Europe, 'Evaluation of the judicial systems (2016-2018 cycle) Ukraine' (The European Commission for the Efficiency of Justice, 29 August 2018) <<https://rm.coe.int/ukraine/16808d02b1>> accessed 02 October 2021



Recommendations that can be made encompassing judicial integrity and independence include, but are not limited to, continuing to monitor and increase the salary of judges at different levels of the judiciary and launching investigations regarding the resignations of judges at points of judicial reform.

#### **IV. TACKLING CORRUPTION IN AUTHORITARIAN STATES**

For reasons very similar to the mixed regimes section, instead of having countries that have low levels of corruption overall, this section shall emphasise areas and incidences where some countries succeeded in tackling certain problems better than others, which will hopefully enable our readers to draw specific albeit diffused lessons.

Additionally, often the structure of political power in authoritarian regimes prohibit substantial reform lest there are leaders with strong political will in overcoming systematic inertia, and thus inevitably, many of the solutions this section shall suggest will be contingent upon suitable windows of opportunities. Nevertheless, when such opportunities arise, the strategies this section studies and presents will likely be useful.

##### **i. ANTI-CORRUPTION AGENCIES (ACAS) COMBATTING GRAND AND PETTY THEFT**

Similar to Singapore, Hong Kong during the 1960s/70s (when it remained a colony run by the UK) also underwent some of the most dramatic and successful anti-corruption efforts, led by independent and empowered anti-corruption organisations such as the Independent Commission Against Corruption (ICAC).

The ICAC approach was centred around 3 guiding principles, enforcement, public education and therefore building up political will alongside longer-term work promoting the institutional change of Hong Kong government structure.<sup>254</sup> It reported directly to the Governor of Hong Kong, which

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<sup>254</sup> Melanie Manion, *Corruption by Design Building Clean Government in Mainland China and Hong Kong* (Harvard University Press 2004)

circumvented any embedded corruption present in Hong Kong's government. Singapore's Corrupt Practices Investigation Bureau (CPIB) adopted a similar direct reporting strategy (directly to the Prime Minister).<sup>255</sup> In other words, centralised, powerful and lean institution, together with strong political will to combat corruption from the top, were part of the keys to the success of these two small city states.

In comparison, Saudi Arabia's National Anti-Corruption Commission or the Nazaha reports also directly to the King and has made substantial progress on beating low and mid-level bureaucratic abuses but as expected little on Grand Theft: no member of the Royal Family has ever been investigated by the Nazaha, with little appetite among the House of Saud to curb its own corruption barring for power consolidation.

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The Abu Dhabi Accountability Authority (ADAA), smaller in scope, is another anti-corruption agency sharing similarities with the ICAC and CPIB was created predominantly to tackle various issues of corruption in the UAE's vast public sector following the Great Recession and collapse in oil prices which came with it.<sup>257</sup> The ruling Emirati family saw the Great Recession as a key warning sign of the need to diversify the economy of the UAE and invigorate innovation especially in the private sector. The ADAA therefore was and remains a key part of the UAE's effort to reduce corruption and create a welcoming environment for foreign business, being given the powers to thoroughly audit, review and investigate those from SOEs. However, the ruling Al Mualla family, as expected, has never been implicated by the ADAA.

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<sup>255</sup> Koh Teck Hin, 'National Corruption Strategy: The Singapore Experience' (Resource Materials Series no.86, *United Nations Asia and Far East Institute*, 2007)

<sup>256</sup> Kaunain Rahman, 'Saudi Arabia: An Overview of Corruption and Anti-Corruption' (Transparency International Anti-Corruption Helpdesk, 23rd January 2020) <<https://knowledgehub.transparency.org/helpdesk/saudi-arabia-an-overview-of-corruption-and-anti-corruption>> accessed 19 October 2021

General culture of Gulf States elaborated on in Saudi problem section

<sup>257</sup> OECD, 'State-Owned Enterprises in the Middle East and North Africa: Engines of Development and Competitiveness?', (OECD Publishing, Paris, 2013)

While in a starkly different setting, there is a comparison to be drawn between Xi's 'Tigers and Flies' approach, with the ICAC specifically focusing in its early days on catching 'Big Tigers', conducting what were effectively show trials on major figures, perhaps most notably the former Hong Kong police superintendent Peter Godber, who had fled to Britain only to be extradited.<sup>258</sup> The fact that 'Tigers' could include those with strong ties with the UK appeared to help boost confidence among the locals of Hong Kong that the ICAC would be able to tackle corruption across society. China's anti-corruption efforts have also recognised the importance of targeting major political figures as they signal to the public that the government is concerned about fighting corruption across all levels of society rather than being seen as unjustly targeting lower-level corruption only allowing elites to escape consequences.<sup>259</sup>

Due to the insulated nature of the political elite, in authoritarian states, there is often a fine balance to be struck between power consolidation and tackling high level corruption. Comparing Russia and China's effort at cracking down on high level corruption, one may find that reforms in Russia garnered less popular support, since it was believed that political manoeuvring and power consolidation was much more dominant than anti-corruption; in comparison, as argued by Ang and others, Xi's approach of combining 'Tigers and Flies' differentiates the reforms of the two leaders and might have invoked more popular legitimacy. Xi's targeting of 'Tigers' appears to have real successes in critical areas of Chinese corruption such as tackling corruption in land auctions, which have appeared to reduce the Grand Theft Chinese princelings (those with strong links to the CPC) have engaged in.<sup>260</sup> While the problems with China's land auctions persists, alongside previous evidence it is demonstrated that a large-scale campaign targeted at political elites can certainly succeed when given backing. This is as a window of opportunity quite distinct to authoritarian states: tackling Grand Theft could easily align with power consolidation.

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<sup>258</sup> This is most strongly referring to the size difference, the decentralisation of China's local governance is elaborated in China problem section, and means it is hard to extrapolate ACA and crackdown efficacy with city states of Singapore/Hong Kong where direct control can be exerted

<sup>259</sup> Xu Shaowei, and Nie Shaolin. "为什么一些群众对反腐败成果认同程度低" (Why is it that some masses have a low estimation of results in the anti-corruption effort?). (1994)

红旗文稿 (Red Flag Manuscript) , no. 20: 22–24.

<sup>260</sup> Ting Chen and James Kai-sing Kung, 'Busting the "Princelings": The Campaign Against Corruption in China's Primary Land Market' [2019] 134(1) *The Quarterly Journal of Economics* 185-226

## ii. STATE CONTROL, ADMINISTRATIVE REFORMS, PROFIT SHARING AND INVESTMENT-COMBATTING PETTY THEFT AND SPEED MONEY

While closer to a prophylactic step rather than a solution to corruptions per se, for authoritarian countries with large state sectors, the Chinese experience under Deng and the late USSR/Russian privatisation provide critical lessons for any attempt to allow for market liberalisation and privatisation.<sup>261</sup> In the case of Russia, the extensive regime change that occurred during the late 1980s and early 1990s alongside few constraints on asset appropriation enabled the emergence of a class of oligarchs who seized much former state assets in the process of rapid privatisation. In comparison, China is seen as having much less regime change alongside controls to prevent asset appropriation.<sup>262</sup> Instead, since the 70s and the 80s, there have been a set of bottom-up democratising economic reforms which helped to increase competition, restrain individual authority, and improve bureaucratic accountability.<sup>263</sup>

The level of corruption in Russia skyrocketed after 1991, with apparatchiks described by Olson as ‘roaming bandits’ with no commitment to the organisations/resources they managed.<sup>264,265</sup> China’s corrupt officials, in contrast, were closer to ‘stationary bandits’ with the incentive still to manage local economies for greater returns. Hence the first lesson should be that if market liberalisation is to happen, it must be controlled and pragmatic if Grand and Petty Theft are to be kept under check. However, this is not always possible, especially under authoritarian constraints.

### *Administrative reform*

Administrative reform in the 90s under Zhu Rongji has critically helped tackling local level corruption (predominantly Petty Theft and Speed Money) whilst improving government efficiency in China. One of the key reforms was establishment of the Treasury Single Account allowing for the improved tracking of payments and hence tracing of misused or embezzled funds when combined with the establishment of

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<sup>261</sup> Its ramifications in the context of corruption are explored in detail in Russia’s section

<sup>262</sup> Andrew Walder and James Kai-sing kung, 'Elite Opportunity in Transitional Economies' [2003] 68 *American Sociological Review* 899-916

<sup>263</sup> Yuen Yuen Ang, 'Autocracy with Chinese Characteristics' (*Foreign Affairs*, 16 April 2018) <<https://www.foreignaffairs.com/articles/asia/2018-04-16/autocracy-chinese-characteristics>> accessed 16th October 2021

<sup>264</sup> Explored in the section ‘Prevalent Theft and Historical Legacies in Russia, page tbc’

<sup>265</sup> Mancur Olson, *Power and Prosperity: Outgrowing Communist and Capitalist Dictatorships* (New York: Basic Books 2000)

Treasury Disbursement Centres across the country. By the mid-2000s, the usage of official funds was very well documented by central governments. Not only was this key in tackling corruption but also critically helped to reduce the time needed to conduct government payments. Other substantial measures included the strengthening of rules over procurement, separation of accounting firms from government agencies, managed divestment of the military's side business and the enactment of a new civil service law.

In recent times, while Xi's anti-corruption drive has mainly been visible for its mass disciplining of officials both low and high ranking, there has also been continued focus on various administrative reforms, such as a move towards electronisation of financial transactions and general e-government, with similar previous reforms for cashless fine/fee paying helping to substantially reduce low level theft. To combine such enforcement with clear institutional change sets the platform for some sort of more sustainable anti-corruption effort. Additionally, central government has attempted to exercise even greater oversight as service providers are monitored with computer programs and even video cameras.<sup>266</sup> Overall, modernising administration and controlling petty corruption allows for greater investment as well as economic growth while simultaneously the level of access money is not usually affected much by these reforms.

Meanwhile, though, as studied, Saudi Arabia's bureaucracy enjoys very low levels of petty corruption, with 3 million employees in a nation of just 19 million native residents, it is overwhelmingly seen as being a greatly bloated and over-funded system. It is clear that efficient and clean bureaucracies are certainly not the same concept. However, very few countries have the resources of the Gulf rentier states, yet even these Gulf nations have realised the harms of such excessive and wasteful spending, which they are now struggling to curtail.<sup>267</sup> In the next section, this paper shall elaborate on means and mechanisms of curtailing public sector corruption and ensuring bureaucratic efficiency.

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<sup>266</sup> Bertelsmann Stiftung, 'BTI 2020 Country Report — China'. (Bertelsmann Stiftung, Gütersloh, 2020)

<sup>267</sup> Jim Krane and Kristian Coates Ulrichsen, 'The 'New' Saudi Arabia, Where Taxes Triple And Benefits Get Cut' (*Forbes*, 13 May 2020) <<https://www.forbes.com/sites/thebakersinstitute/2020/05/13/the-new-saudi-arabia-where-taxes-triple-and-benefits-get-cut/>> accessed 11th October 2021

### *Profit sharing*

One of the critical mechanisms used in China to combat low level theft is profit sharing. Profit sharing works through giving benefits derived off of local economic growth meaning that for lower-level bureaucrats, it is more beneficial to expand the formal tax base and reap the dividends of economic development in the long run. Ang found that around 76% of Chinese Civil Servant wages were from mechanisms along the line of profit sharing, which has hence been greatly elevated by China's breakneck economic growth.<sup>268</sup>

As Ang concludes, although it could encourage Access Money by encouraging an environment prioritising only the quantity of growth rather than its quality, profit sharing may be beneficial for poorer autocracies as it discourages the petty corruption that are more detrimental to economic growth. However, profit sharing must be combined with stringent regulation, enforcement and administrative capacity building if it is not to be turned into a cover for Grand Theft.<sup>269</sup> Despite these caveats, profit sharing is easier to carry out than rigorous reforms or centralising control. While China's profit-sharing model is certainly not an exemplar, it gives key lessons on how a transitory approach to anti-corruption can occur alongside providing insight into the possibility of using incentives linked to the community in the reward of public servants. China's model has specifically used monetary incentives related to growth, but there is no reason to not consider other possible alternatives that may reduce the link to Access Money.

### **iii. SYSTEMATIC AND INSTITUTIONAL DIFFICULTIES IN TACKLING CORRUPTION**

Russia's aforementioned high budget transparency shows that transparency is not enough in itself to tackle issues of grand theft<sup>270</sup>. This is further supported by the fact that Russia's transparency is not a legacy which was overwhelmed by the rapid rise of corruption upon the dissolution of the USSR, but rather

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<sup>268</sup> Ang (2020) p88

<sup>269</sup> OECD, 'Corruption in the Extractive Value Chain: Typology of Risks, Mitigation Measures and Incentives, OECD Development Policy Tools', (OECD Publishing, Paris, 2016)

<sup>270</sup> Fisman, R. (2017) Corruption: what everyone needs to know / Ray Fisman, Miriam A. Golden. New York, NY: Oxford University Press, [2017].

substantial reforms made since 2012.<sup>271</sup> Yet these seem to have very little impact. Similar to many Gulf states, Russian institutions are often too weak to successfully tackle Grand Theft, indicating the need for systemic reform strengthening regulatory enforcement of laws and harnessing the benefits of transparency. In other words, despite Russian auditors being seen as generally highly competent, lack of enforcement power means corruption is simply not consistently prosecuted or investigated.<sup>272</sup> Additionally, with the normalisation and gradual moderation of corruption, increasingly it has been normalised and accepted in Russia as reflected in opinions.<sup>273</sup> With the failings of Putin's anti-corruption laid out above, the lack of civil society involvement means it is difficult to generate the political will to back the needed reforms and empower Russia's institutions to fight corruption.<sup>274</sup>

Strong political will could make a difference, and examples of these are found extensively throughout the paper, from China's administrative reforms in the 1990s to the UAE's ADAA followed by the Great Recession. However, reforms often clash and are overwhelmed by other goals of the leader, especially since power struggles are often violent and position of power vulnerable. The general untouchability of royals barring power struggles for the Gulf states or Putin's consistent bypassing of democratic institutions are two examples amongst which. Perhaps the issue is best summarised by the classic quote attributed to a former CPC official Chen Yun who stood at the head of its conservative movement allegedly saying, "Fight corruption too little and destroy the country; fight it too much and destroy the Party."<sup>275</sup>

This might make a sustained anti-corruption effort seem impossible. Yet, there is some evidence that solutions, when tailored to the country's circumstances, may be possible. For the Gulf States, the absolute monarchies have consistently excluded civil society from participating in politics and with the

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<sup>271</sup> Tatiana Vinogradova, 'Transparency of Extra-Budgetary Funds in Russia' (International Budget Partnership, 2014)

<sup>272</sup> Bertelsmann Stiftung, 'BTI 2020 Country Report — Russia. (Bertelsmann Stiftung, Gütersloh, 2020)

<sup>273</sup> E.N. Kofanova and V.V. Petukhov, 'Public Opinion of Corruption in Russia' [2006] 47(6) Russian Social Science Review 23-45

<sup>274</sup> Michelle Man, 'Political Corruption in Russia: An Evaluation of Russia's Anti-Corruption Strategies, 1991-2009' [2009] 2 POLIS

<sup>275</sup> Evan Osnos, 'China's Fifteen-Billion-Dollar Purge' (*The New Yorker*, 2nd April 2014) <<https://www.newyorker.com/news/news-desk/chinas-fifteen-billion-dollar-purge>> accessed 9th October 2022

relative seriousness of grand theft's consequences reduced for the general public, political pressure is again highly dependent on power consolidation and economic diversification from oil.<sup>276</sup>

For both Saudi Arabia and China, the one section they rank slightly higher in for Vdem is in their score for deliberative democracy at 29th and 20th lowest in the world (their other scores generally in the lowest 15 or 10). Deliberative democracy as defined by Vdem as involving “the core value that political decisions in pursuit of the public good should be informed by a process characterised by respectful and reason-based dialogue at all levels”.<sup>277</sup> This appears very different to the concept of civil society involvement which appears to fit far better into Vdem's participatory democracy measure which “embodies the values of direct rule and active participation by citizens in all political processes”. Yet the higher deliberative democracy values represent that the Chinese and Saudi governments at least have the mechanisms for dialogue contribution which may be an opening for some sort of civil society involvement.

Indeed, China has experimented with and continues to experiment with schemes that involve further participation of civil society in the decision-making process. Years on from the democratising reforms in Wukan village and during Xi's consolidation of CPC power, it may appear to many that China's democratising reforms may have little future. Yet as argued by Tomba, what Wukan represents rather than any substantive move towards democracy was one about civil participation addressing the land reforms and rural malaise so strongly linked to corruption. China has recently embarked on a major programme to get grassroots opinions to shape its draft laws.<sup>278,279</sup> With Xi's anti-corruption initiative leading to further open government information regulations, helping with a slow increase in budget and other administrative transparency which have allowed for the rise of civil society involvement, it is

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<sup>276</sup> Kaunain Rahman, 'Saudi Arabia: An Overview of Corruption and Anti-Corruption' (Transparency International Anti-Corruption Helpdesk, 23rd January 2020) <<https://knowledgehub.transparency.org/helpdesk/saudi-arabia-an-overview-of-corruption-and-anti-corruption>> accessed 19 October 2021

<sup>277</sup> V-Dem Institute, 'Methodology', (V-Dem, 2021) <[https://www.v-dem.net/media/filer\\_public/4e/1c/4e1c47ae-4800-436a-bbf1-c5fb50798bd3/methodology\\_v111.pdf](https://www.v-dem.net/media/filer_public/4e/1c/4e1c47ae-4800-436a-bbf1-c5fb50798bd3/methodology_v111.pdf)> Accessed 12th October 2021

<sup>278</sup> Luigi Tomba, 'What Does Wukan Have to Do With Democracy?' (*Chinoiserie*, 2nd February 2017) <<https://www.chinoiserie.info/what-does-wukan-have-to-do-with-democracy/>> accessed 2nd October 2021

<sup>279</sup> Fan Yiyang, 'Grassroots Opinions Are Shaping China's Draft Laws' (*Sixth Tone*, 13th September 2021) <<https://www.sixthtone.com/news/1008489/grassroots-opinions-are-shaping-chinas-draft-laws-->> accessed 1st October 2021



perfectly plausible that people could be involved in budgetary basics as projects relating to draft laws have occurred.<sup>280</sup>

## V. CIVIL SERVICE REFORM: A PANACEA TO SPEED MONEY?

Although, as presented, the problem of corruption tends to be conditioned by political systems, and the policy tools available to tackling corruption can also vary across systems, nevertheless there are some inter-system similarities and overlaps in both the problem and available solutions. One important solution that could be applied across political systems is civil service wage reform, which has been repeatedly mentioned in the sections above.

T. Aidt's recent study<sup>281</sup> of bribery provides a simple and elegant solution to speed money which could realistically be implemented in all political systems. This section aims at elaborating on how civil service wage reform should be undertaken to tackle corruption by using Aidt's model to provide policy options for a 'benevolent' set of government official(s) that are concerned with eradicating the corrupt acts of the lower-level bureaucrats political tasks are allocated to.

Aidt's tax collection framework is helpful to understanding the competing economic incentives a bureaucrat faces in choosing whether to accept bribes. This provides a theoretical rationale for two policy approaches: a more strict and effective punitive system; paying a greater 'efficiency' wage to civil servants. Empirical studies of implementations of these policies will be referenced to support a crucially conjunctive approach, and this will be theoretically rationalised with a 'stable equilibrium' model of corruption. Importantly, it is assumed that there is sufficient state capacity to enact these top-down policies effectively, and this is more likely the case in authoritarian or mixed regimes, though the correlation is not determinative.

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<sup>280</sup> Dimitar D. Gueorguiev, Edmund J. Malesky, and Jonathan R. Stromseth, *China's Governance Puzzle: Enabling Transparency and Participation in a Single-Party State*, (Cambridge University Press, 2017)

<sup>281</sup> Aidt, T.S. (2003) 'Economic Analysis of Corruption: A Survey', *The Economic Journal*, 113(491), pp. F632–F652.

However, it should also be noted that the theoretical framework offers only a starting point to thinking about civil service reform. This is because accepting bribes is only partially a rational calculation. Factors such as kinship and gift giving culture could massively complicate the framework. Hence, further research is needed to improve our understanding of how to resolve the Speed Money problem.

## I. THE THEORETICAL MODEL

To mimic the construction of the model, we suppose only profit-making firms (proportion ' $h$ ') are liable to pay a 100% tax rate on profits ( $t = \pi$ ). However, in exchange for a bribe  $b$  the firm can avoid this burden and instead only incur the cost of the bribe, with a transaction cost represented by  $0 < k < 1$ . The benevolent government discovers corrupt acts with probability  $p$ , where the collector is fined  $f \geq 0$  and immediately dismissed, to consequently earn a wage  $w_0$  in the private sector. If discovered, the firm must pay a penalty  $g$ . Analysing the tax collector's incentive structure, they will accept a bribe if the expected gain of doing so exceeds the return to honestly (earns the normal civil service wage  $w$ ) – resulting in the necessary condition:

$$(1 - p)b + p(w_0 - w - f) > 0$$

$$\text{Given } b = \max\{k(\pi - pg), 0\}$$

Rewriting the above condition in terms of  $w$ :

$$W < b((1 - p)/p) + w_0 - f$$

Essentially, an efficiency wage raises civil service wage levels enough such that this condition no longer holds and thus make it economically irrational for a civil servant to accept bribes in this model. This is because the potential future salary loss given  $p$  is increased to an extent where the short-term bribe temptation is no longer worth it. This dynamic shift would be more pronounced in theory in poorer countries where the civil service wage is below subsistence requirements and thus taking bribe salary supplements is a necessary survival tool instead of a slight purchasing power trade-off although empirical evidence for this is mixed.

A more efficient punitive system aims to increase  $g$  and  $f$  through a stricter legal system and increase  $p$  through a more efficient monitoring system. This effectively constitutes the ‘stick’ in the incentive restructuring instead of the greater wage ‘carrot’. While this is perhaps the more intuitive way to reduce corruption – longer and harsher punishments obviously would act as a deterrent, this needs to be evaluated in terms of costs of improving these institutions and whether or not the enforcers themselves are corrupt.

## ii. CASE STUDY

The case of Singapore<sup>282</sup> shows that these policies can yield practical success, but premised on certain specific conditions, as will be demonstrated from a comparative analysis of Indian wage increases.

To alleviate colonial-era corruption, Singapore introduced the Prevention of Corruption Act (POCA) in 1960, which improved the previous legislation with an array of features to more accurately define corruption in forms of ‘gratification’ and empower the force (CPIB) that seeks to control it. Specifically, focus will be given to the changes in PART III ‘Offences and Penalties’ initially the penalty was increased to five years imprisonment with up to a S\$10,000 fine, later increased to a S\$100,000 cap in 1989. This reflects an increase in our deterrence variable  $f$  identified in the incentive framework. Furthermore, specifically in terms of CPIB empowerment this included rights for corruption officers to arrest and search (section 15), investigate ‘any bank account, share account or purchase account’ of any suspects (section 17) and power to investigate bank books of civil servants and those of their close family members (section 18). This all acts to increase the value of the monitoring variable  $p$  as now given any amount of corrupt ‘gratuities’ more will be identified and punished, reducing expected financial gains for corrupt civil servants. Importantly however, economic growth allowed in the 1980s the PAP government to fully realise the complementary ‘carrot’ part of the strategy in terms of salary improvements. This began with a non-pensionable allowance in 1972 with five further pay increases until 1994 where the ‘White Paper on Competitive Salaries for Competent and Honest Government’ was introduced to justify benchmarked salaries according to the top four earners in ‘accounting, banking, engineering, law, local manufacturing companies and multinational corporations.’ This propelled Singaporean civil service salaries to one of the

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<sup>282</sup> Quah, J.S.T. (2001) ‘Combating Corruption in Singapore: What Can Be Learned?’, *Journal of Contingencies and Crisis Management*, 9(1), pp. 29–35. doi:[10.1111/1468-5973.00151](https://doi.org/10.1111/1468-5973.00151).

highest globally. Importantly, a competitive wage differential to the private sector has the added benefit of preventing ‘brain drain’ of the highest quality civil servants, while also reducing the need for salary supplementation to maintain an appreciable standard of living. This is a ‘prime example’ of this pay hike strategy succeeding. As a part of a comprehensive anti-corruption policy set first initiated by the PAP in 1960, with pay rises beginning in 1972. Singapore has transformed from a corruption culture during its colonial period to now taking a third ranking on the corruption perceptions index. Its public official salaries are now also among the highest in the world (Quah 2001)

The correlation between bribery/petty theft and public/private sector wages could be observed across political systems, which should not be of surprise since civil servants are essential to almost any functional modern state, and since the pursuit of higher wages remains a consistent incentive across systems. Through analysing situations in Russia from 2004-2013, Schulze et al (2016) found a strong and statistically significant effect of relative public to comparable private sector salary on registered bribery cases by the police per 10000 public officials, while qualifying this relationship as one with significant diminishing returns. Likewise, studying the United States, Goal and Rich (1989) found a statistical significance at the 0.05 level for an increase in relative private sector earnings leading to greater bribe taking by officials, using bribery convictions as a proxy. The prevalence of problems with similar roots potentially opens doors to similar solutions.

In seeking to achieve such an efficient equilibrium which reduces corruption, accountability, government commitment and a change in social expectations are keys across all systems; however, state capacity is a point of potential systematic divergence, although political systems are not determinative. In other words, the key factor determining the success of this recourse is not political systems per se but whether states have the capacity to combat corruption by themselves without external mandate.

A ‘weak state capacity’ can manifest itself in both authoritarian states and democratic states. By nature of an authoritarian state more discretion is given to the political elite to implement own policy without accountability or a need for a majority convergence of party representatives typical in democratic states, however if the political elite themselves are also corruptible then the same issue occurs. This empirically can be most clearly seen in the success of the British backed ICAC in Hong Kong in 1974 who acted on citizen leads to arrest bribe-taking police officers and with educational campaigns and a harsh commitment to change, the low-corruption reputation of the British government helped translate into an overall

changing social and expectation climate for corruption in Hong Kong, who would otherwise have been unlikely through its own limited authoritarian government. This contrasts directly with Singapore whose largely authoritarian government made a commitment to depart from the inherited British colonial anti-corruption policy in search of a stricter and more comprehensive aforementioned (and also successful) policy set of their own.

## OVERALL SUGGESTIONS AND CONCLUSION

In studying the different nature of corruption, this paper has found that although political systems per se are not determinative, they provide the context and the institutional structure in which corruption develop. Consequently, in different political systems the source of and available recourses to corruption tend to differ and strategies diverge, this divergence is especially obvious when it comes to high-level corruption (Grand Theft and Access Money).

However, this paper has also found that when it comes to corruption at the lower level (Petty Theft and Speed Money), both problems and solutions tend to converge more or less. Additionally, when it comes to enforcing policies introduced to tackle divergent problems, often countries with different political systems could find themselves to be dealing with the common issue of weak institutions.

Policy suggestions in this section shall thus be given separately in instances where they diverge or converge. Since more specific suggestions directed at specific issues and/or specific countries has been given in the course of exploring and outlining solutions, these suggestions shall be given in the form of general recommendations.

### I. DIVERGENCES

In democracies, high-level corruption tends to arise where institutional oversight and accountability to voters are weak, and where de facto corruption becomes legalised. Where corruptions occur, they tend to be more secretive and ambiguous in nature, instead of openly vicious. Theoretically, democracies have the institutional advantage of built-in mechanisms for accountability and thus tendency towards transparency. However, this advantage is often not harnessed as information is not made public and as

certain branch(es) of the government becomes too powerful or unaccountable. Moreover, in democracies it is more difficult to single-handedly enforce sweeping anti-corruption reforms. Thus, to tackle high-level corruption in democracies, the key is to improve and harness horizontal and vertical accountability. This could be done through:

- Setting up oversight officials and legislative committees to have more horizontal accountability, like introducing Ombudsman
- Making official information accessible to the public to foster vertical accountability like New Zealand has done in the 80s
- Further ensuring or improving judicial independence
- Where possible, foster a participatory political culture through education or otherwise, and preserve media impartiality

In the grey area between democracies and authoritarian regimes, states are often confronted with the dilemma that there is neither enough bottom-up accountability, nor sufficient top-down ability to enforce sweeping reforms. When tackling high-level corruption, this tends to leave mixed regimes dependent on a strong and independent judiciary to supplement lack of accountability and political will, thus the course of actions tends to be limited. Available solutions are:

- Introducing strict limits on party donation to reduce private influence on politicians
- Ensuring judicial independence by outlawing arbitrary dismissal of judges by the executive branch
- Continue to amend and develop anti-corruption plans in line with international standards and domestic suggestions
- Leverage public exposure and public opinion to achieve a cultural attitude shift
- Consider using plea bargain in major investigations implicating multiple individuals

In authoritarian states, bottom-up accountability is largely unavailable as political elite tend to be highly protected and insulated, power centralised, and transparency lacking. Thus, one of the fundamental difficulties in tackling high level corruption is to have the political will and ability to do so in the first place. Where tackling corruption aligns with the leadership's interest, authoritarian states could be relatively well-placed to introduce rapid and sweeping reforms, although enforcement and political interests remain structural problems, making the drive precarious. Moreover, tackling corruption at the

highest level is institutionally unlikely. Nevertheless, where such opportunities arise, states could benefit from:

- Independent anti-corruption agencies directly reporting to the leadership similar to the ICAC in Hong Kong or CPIB in Singapore in their early days to bypass potentially cumbersome and corrupt administrative structure
- Administrative reforms improving tracking of funds, strengthening rules over procurement, and tightening requirements for usage reporting
- Encourage profit sharing at the local level and align bureaucrats' personal interests with economic development, if low level corruption proves more prevalent and harmful

## II. CONVERGENCES

When it comes to low level corruption in countries with different political systems, both problems and solutions tend to converge. This should not be surprising since regardless of political systems, if policies are to be implemented and daily matters managed, a clean and efficient civil service is crucial. Corruptions in this regard arises when civil servants are incentivised to engage in corrupt acts either due to low wages or low cost. This could be addressed and remedied by:

- Introducing formal, rigorous selection processes for civil servants
- Raising civil service wage to the extent that it is comparable to private sector offers and bribes becomes less attractive; WHILST
- Introducing a more efficient punitive system by passing stricter laws and regulations, as well as ensure effective monitoring of civil servants
- Where possible, foster respect around the civil service and a professional code of honour to further curtail the incentive to break regulations for bribes

Certainly, underlying the issue of corruption is usually complex historical legacies and socioeconomic issues, and it is nearly impossible to eliminate corruption regardless of how clean the system may be due

to the deeper socioeconomic roots. However, such long-term difficulties should not prevent discussions on mitigating the problem in the short run.



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