

## The Typology of Post-Communist Corruption

The boundaries of corruption are hard to define and depend on local laws and customs. The first task of policy analysis is to disaggregate the types of corrupt and illicit behavior in the situation at hand and look at concrete examples.

*Robert Klitgaard, Controlling Corruption*<sup>1</sup>

Post-communist corruption has many subtypes, some of which are institutionalized. Aside from petty acts like bribing traffic cops or building inspectors, there is the grand corruption of exercising illicit influence at the highest levels of government. Post-communist corruption also includes the stripping of public assets by self-serving officials who, at times, transform entire public institutions into private fiefdoms. Although the extent and specific mix of corrupt practices differs from one post-communist country to another, they are similar across the region. This suggests that corruption is rooted in systemic features of the preceding regimes and the transition from them. A typology clarifies what these systemic features are and provides a list of corrupt acts.

When talking about corruption, people often think only of bribery, but it exists in many other forms, such as extortion, profiteering from procurement, and institutional capture. These often involve the accessory acts of fraud, dereliction of duty, and the violation of multiple laws. Corrupt privatization or procurement deals tend to include collusion or blackmail and the corruption of others, including legislators or journalists. One needs to look beyond the simple act of illicit self-enrichment or bribery and ask what else this act is linked to.

The categorization of corrupt acts in the post-communist region at times calls for new concepts, such as when scholars from the World Bank Institute coined the term “state capture.” Other concepts useful for the understanding of political corruption in post-communist states include corruptive over-regulation and predatory licensing requirements, power grabbing by collu-

sive networks, deliberate dereliction of oversight and legislative duty, and the use of *kompromat* (compromising material) to undermine investigations.

Differentiation is at the root of all comparative analysis. In addition to differentiating among similar-looking corrupt acts, such as bribery, by their scope and effects, one needs to ask whether these acts are incidental or systemic, that is, whether they emerge from the moral failing of an individual or from an institutional failing. The latter are more difficult to deal with, especially if they involve a network of people.<sup>2</sup> Corrupt acts can be ranked by their political costs. The types of corrupt practices are listed in Table 2.1 and the political damage each inflicts on the public is assessed throughout the text. Surveys show that the citizens of post-communist countries are much more critical of the misconduct of politicians than of street-level officials.<sup>3</sup>

Many analyses of post-communist corruption focus too much on how private citizens or businesses corrupt public officials and pay insufficient attention to the reverse. The corruption of the public sector by private interests presupposes a Western-type business world that in fact has been slow in emerging. During the transition from state-controlled command economies, post-communist officials themselves often initiate corrupt deals. There is a difference between public money being misused for private gain and private money being misused to influence public policy. There is a difference between corruption of the state by outside forces and corruption by the state itself. If officials initiate corruption, the political costs are much higher, especially if entire state institutions become extortionist. Then they not only prey on the public, but also fail to serve their official purpose. Thus a study of traffic police in Hungary found that “a considerable proportion of police time and effort is devoted to corrupt money collection instead of maintenance of order.”<sup>4</sup> In cases like these the public pays a dual cost, one consisting of money and the other of the public good of orderly and safe traffic.

### Level I. Everyday Interaction between Officials and Citizens

***Bribery of public officials to bend rules.*** Corruption in everyday encounters between officials and citizens typically involves bribes to officials to break rules and regulations. Surveys of households in post-communist countries show that payments to police, particularly the traffic police, and the health services, account for about half of all bribe expenses. Bribes associated with the educational system, especially its higher levels, are also common.<sup>5</sup> Such bribery is a more or less an open social secret, yet some cases have been proven in court. One example involves the selling of admissions examination materials for the prestigious Legal Faculty of Prague’s Charles University in 1999.<sup>6</sup> Cases like this suggest that new cohorts of lawyers and other

professionals are socialized into corrupt behaviors. The resulting bribery carries the social cost of universities focusing on the sale of grades and diplomas rather than the production of knowledge. Also, educators extorting students by selling grades or forcing them into private tutoring constitutes misuse of authority over dependent individuals.<sup>7</sup>

The latter example illustrates that “a bribe is not a bribe, is not a bribe,” meaning that it has costs beyond the exchange of money and these social costs vary depending on the case in question. Instances where individual citizens initiate the giving of a bribe—for example, to a traffic officer—are politically less consequential than instances where public officials—for example, a group of police officers—extort bribes from citizens in an organized manner. When an individual driver bribes a traffic cop, this indirectly undermines public safety, but when police officers demand bribes for drivers licenses, both public safety and the rule of law are systematically undermined.<sup>8</sup> There is even more political damage if the bribe taking is institutionalized, as for example when employees of a public agency collaborate to extort bribes and then divide the spoils, often according to a set formula. A study of Russia in the late 1990s reports that police officers who received bribes were part of an organized scheme and passed part of their bribes up the law enforcement hierarchy.<sup>9</sup> A highly publicized case in Poland involved a team of police officers in a provincial town who forced money from farmers coming to market.<sup>10</sup>

Once this happens, official rules and laws will have been replaced de facto and a new political regime will exist in this specific administrative office. If unofficial rules and payments start to dominate public institutions, the political regime of an entire state will be changed. If corruption affects just a few branches of public administration, the extent of political damage will depend on what branches are involved. The damage is less serious if corruption involves the de facto purchase of public services such as health care or access to higher education. The legitimacy and functioning of the state are much more seriously damaged if judicial decisions are for sale, because the rule of law is at the heart of democracy and whenever it is undermined, accountability is undercut. When a judge takes a bribe, the most significant aspect is the undermining of justice, which is more serious than a surgeon in a state hospital taking an unofficial “fee” to expedite a surgery. The corruption of the tax collection service probably is somewhere in the middle range of political damage, although the bribing of building, fire, and sanitary inspectors can also be highly damaging to the public if they lead to unsafe conditions.

***Deliberate over-regulation, obfuscation of rules, and disorganization*** are related to bribery, but are separate corrupt acts of officials who want to in-

duce the public to offer more bribes. Extortionist bureaucrats deliberately obfuscate and expand the number of rules, procedures, regulations, and fee-paying requirements.<sup>11</sup> Excessive regulation, often paradoxically combined with excessive discretion on some issues, costs money, time, and energy and thus elicits bribes.<sup>12</sup> Self-serving bureaucrats also have an incentive to hold short office hours, withhold information, and aggravate the bureaucratic process as much as possible, because this makes it more likely that citizens will look for illicit ways to overcome the obstacles put before them. As noted by Susan Rose-Ackerman, bureaucrats tend to behave like monopolists, who profit from increasing prices created by scarcity.<sup>13</sup> Or, in the words of Robert Klitgaard, “corruption thrives on disorganization.”<sup>14</sup> Chaos and obfuscation also provide a shield behind which to hide in the case of investigations, as those bureaucrats who are interested in using their office for enrichment are well aware. In contrast, it is in the interests of the citizenry to work toward efficient public organization and the de-monopolization of governance.

Corruption by over-regulation can also be due to self-important bureaucrats getting satisfaction from wielding power. Whatever their motives, officials engaging in deliberate disorganization have a stake in preventing reformers from effectively cutting red tape. In those instances when they have prevailed, the defense of turf and self-serving use of office have become systemic features of post-communist public administration. Hungarian scholar Andras Sajo goes so far to say that in post-communist states the regulatory system is enacted to create opportunities to extort bribes.<sup>15</sup>

***Misuse of licensing and inspection powers.*** Every state issues licenses to professionals and for specific activities that involve the public good, such as public safety or the protection of the environment. Yet licensing is susceptible to corruption, especially during the transition from communism as established systems are changed and new needs arise. In the case of Russia, a number of scholars have concluded that many licensing officials and inspectors make it a habit to extort businesspeople. Besides the withholding of crucial certificates and permits, a common tactic is to deliberately have contradictory rules so that businesses have no choice but to break one or the other law: an example is that police authorities require that all jewelry stores install bars on their windows, but fire inspectors decree that windows must not be barred.<sup>16</sup>

At times inspectors become predatory. Eighty-seven percent of Russian businesspeople surveyed in 1997–98 noted extortionist bureaucratic pressures and cited the demand for bribes for licenses and permits as the main example.<sup>17</sup> A comparative study of shopkeepers in Russia and Poland found that on average, shopkeepers in Moscow were inspected by 3.9 different

agencies, resulting in nineteen visits per year. Shopkeepers in Warsaw were inspected by an average of 2.6 agencies, whose officials came to the shop only nine times per year.<sup>18</sup>

A study of Ukraine in 1999 found that the average business owner spends fifty-five days registering a business, though it may take up to ninety days. There are twenty-six agencies authorized to inspect businesses and impose fines for infractions of rules, yet these rules are not published. In addition, the inspectors refuse to tell the business owner what the fine is for; the way to get a license faster and to avoid official fines is to bribe.<sup>19</sup>

## Level II. Interaction within Public Institutions

Many of the corrupt deals found in the post-communist region are initiated by self-serving bureaucrats who use their power over the resources under their purview to enrich themselves and their cronies rather than work for the public good. A systemic context for the self-enrichment of officials has been that during the communist era the state owned practically everything: real estate and enterprises, service companies and infrastructure, land and natural resources. The transition to private ownership and a market system has involved huge and manifold assets and provided much opportunity for private enrichment for those in charge. This has included the assets of the many quasi-public organizations, such as sports and cultural clubs, universities, labor unions, and the Red Cross, all of which have had to make a transition to becoming genuine civic associations.

The self-enrichment from public resources comes in many forms including extravagant civil servant spoils, influence peddling, and profiteering from illicit privatization and procurement deals (see Table 2.1). These practices typically occur in collusion with other officials and can turn public institutions into private fiefdoms serving the whims of entrenched lords. The extraction of spoils, rents, and tributes tends to be systematic, since formal rules have to be broken repeatedly and on a long-term basis. To sustain the accumulation of corrupt profits and power, the perpetrators have to become skilled in cover-ups, deception, and the corruption of others involved in the transactions. Therefore the consequences involve more than misdirection of public monies and assets—a hidden political regime is substituted for the formal one. Below are some examples of the many practices of self-enrichment and asset stripping.

***Diverting public funds for civil servant spoils.*** One practice is to divert money into hidden “second” budgets that can equal the official budgets of ministries or state offices. Quite often the salaries of state officials and civil



servants are supplemented with hidden second salaries and bonuses. Bonuses typically involve five extra monthly salaries, and second salaries can also be significant. After a scandal about unauthorized expenditures in the State Chancellery of Latvia, a state audit found that additional pay, “although not exactly illegal, in some cases meant a 300% addition to salary.”<sup>20</sup> Bonuses and special salaries are paid at the discretion of supervisors. This discretionary power often forms a tool to force compliance and even collusion in corrupt practices. Second salaries are agreed upon between the supervisor and an individual employee, who often has to sign a statement that he or she will not divulge this to anyone. This secrecy about how public money is used indicates that the people involved realize what they are doing is illicit and possibly illegal.

Officials use many other spoils to enrich themselves and their cohorts. Public outrage tends to focus on visible and grating instances of overspending, such as the purchase of luxury cars, pompous receptions, or spurious foreign travel such as the fall 2000 revelation that the Hungarian Ministry of Agriculture “had spent large amounts on irregular activities, including several trips to the Far East.”<sup>21</sup> This is just the tip of the iceberg. There are other hidden benefits carried over from the communist era during which personal well-being was tied to the workplace. Places of employment were in charge of providing access to apartments, cars, special shops and cafeterias, vacations, sports facilities and saunas, better medical and day care, burial plots, and many other benefits. In this employment culture, formal salaries mattered much less than nonmonetary payments and privileges dispersed by the bosses. These practices continue depending on specific country and workplace, with the misuse of official cars, travel, and dachas typically being seen as “normal.” These illicit “fringe benefits” explain why many officials of the former communist regimes were eager to retain their positions, despite very low formal salaries. The opening to the West and foreign aid provided new opportunities for illicit profit making in the form of consultants fees, travel to foreign conferences and meetings, scholarships for study abroad for oneself or for one’s children, and access to foreign businesspeople and politicians.

***Mismanagement and profiteering from public resources*** take many forms. One practice with long-term consequences involves the exploitative use of natural resources and the environment by state-appointed managers and their political friends. Examples include the deforestation of a large part of East Central Europe for the sake of timber exports, the breaking of rules about hunting rights for well-paying clients, and the dumping of nuclear waste.

Those in charge at times embezzle public assets outright. In 1993 and 1994 alone, Russian generals are believed to have embezzled the equivalent of almost \$65 million from officially authorized military property sales intended to help pay for military housing.<sup>22</sup> Other favorite targets of misuse

Table 2.1 **Typology of Corrupt Acts**

**Level I. Everyday Interaction between Officials and Citizens**

1. Bribery of public officials to bend rules
  - citizen-initiated
  - initiated by individual official
  - organized extortion by group of officials
2. Obfuscation and over-regulation by officials
  - in order to extort more bribes
  - in order to enhance power and control
3. Misuse of licensing and inspection powers by officials  
(partial overlap with subcategories of 1 and 2)

**Level II. Interaction within Public Institutions**

1. Self-serving use of public funds
  - bonuses and hidden salaries
  - overspending on luxury cars, travel, receptions, equipment, etc.
  - appropriating cars, apartments, dachas, etc.
2. Profiteering from public resources
  - selling off environmental assets
  - leasing offices, equipment, etc. for personal gain
  - using public employees for private work
  - quasi-privatization of state-owned enterprises and property
  - paying exorbitant board of directors' fees to self/cronies
3. Malpractice and profiteering from privatization and public procurement
  - steering business and assets to self and cronies
  - disregarding conflicts of interest
  - breaking rules of competitive bidding
  - taking kickbacks and bribes
  - corrupt government subsidies and tax write-offs
4. Influence-peddling, manipulation of personnel decisions
  - engaging in nepotism, clientelism, favoritism
  - extorting favors from subordinates or job candidates
  - sabotaging personnel reform to preserve turf

**Level III. Influence over Political Institutions**

1. "State capture," e.g., de facto takeover of state institutions
  - building of personal fiefdoms
  - exploiting public institutions for enrichment of self and network
2. Forming secret power networks to collude in corrupt acts
3. Undermining elections and political competition
  - illicit campaign and party financing
  - buying hidden political advertising
  - secretly creating spheres of influence for exploitation
4. Misuse of legislative power
  - "selling" laws to private interests
  - blocking anti-corruption legislation
  - deliberately passing poor laws
  - dereliction of duty to oversee executive branch
  - ineffective parliamentary investigations
5. Corruption of the judicial process
  - "selling" court decisions
  - false prosecution, scapegoating
  - lack of prosecution
6. Misuse of audits and investigatory powers
7. Using kompromat for political blackmail
8. Corruption in and of the media

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involve official cars, computers, various types of supplies, and equipment. Some practices endanger lives, such as when crucial police or military equipment is sold or rented out on the black market. The Russian Northern Fleet is reported to have rented out its most advanced rescue equipment to private oil companies and was therefore handicapped in rescuing the *Kursk* submarine.<sup>23</sup> There is no mention of who received the payment for this deal.

Another practice involves the renting out of public space, such as state-owned enterprises, transportation systems and harbors, parks and land, office and apartment buildings, sanatoriums and vacation homes, stores and restaurants, universities and schools. The last are an example of publicly owned real estate that one usually does not think of as such, yet many school officials have rented out space to private firms. One can argue that this does not constitute corruption if the rent is used for the upkeep of the school, but lack of transparency in such dealings suggests that this has rarely been the case.

A common practice is to misuse public labor, such as military officers using conscripts to build private dachas.<sup>24</sup> Individuals on the public payroll often “rent out” themselves for secondary jobs, shortchanging the clients in need of their services on their official full-time jobs. This includes police officers working as private security guards, surgeons taking on private patients from abroad, and professors at state universities giving privately paid lessons instead of scheduled university lectures. In 2001 the Polish Audit Chamber noted that the widespread practice of public agencies outsourcing their functions, often to their own employees, is inherently vulnerable to corruption.<sup>25</sup> In Romania similar practices are widespread and often lead to conflicts of interest such as when employees of the Ministry of Finance hold supplementary jobs as auditors or accountants in private firms, “thereby ensuring the protection of the firms that hired them.”<sup>26</sup>

A subtype of the mismanagement of public assets involves the quasi-privatization of state-owned enterprises where state-appointed managers act as if they owned them. Usually there is very little public accountability. If there is any oversight at all, it is engaged in by politically appointed boards of directors receiving huge payments that are, again, hidden from the public eye. In Romania the media have covered “the apparently universal practice of state secretaries and other senior officials sitting on the administrative councils of companies where the State is shareholder.”<sup>27</sup> Many of these cases also involve blatant conflicts of interest.

***Malpractice and profiteering from privatization and public procurement*** often overlap with other corrupt acts, such as the bribing of politicians, lawmakers, and even judges. They involve huge sums of public monies. Al-

though the prices that the state receives from privatization deals typically are far too low compared to their real value, the prices that the state pays in procurement typically are much too high. According to a study conducted by the World Bank, misprocurement on large state contracts in Poland can mean that market prices are exceeded by a factor of two or three.<sup>28</sup> Illicit profiteering from privatization and procurement often involves highly sophisticated schemes that are hard to detect and even harder to prove. The media throughout the region report new scandals on a daily basis, yet few cases are ever brought to a satisfactory conclusion by investigators, the courts, or the media themselves. The inability of the authorities to check what appear to be clear cases of corruption is a source of public frustration and forms an argument many use to justify their own illicit acts such as not paying taxes or engaging in low-level corruption (see Chapter 4).

Suspect privatization and procurement deals mean that officials steer profitable assets or contracts to themselves, their cronies, or whoever provides the highest bribe. This involves the sidestepping of rules about competitive bidding and conflicts of interest. At times public institutions purchase faulty products or products they do not need. In 2001 the Czech Ministry of Defense signed a contract for \$16.7 million without a tender to purchase parachutes from a firm that did not legally exist. The inventor of the parachute was also an employee of the ministry department responsible for the purchase. The parachutes turned out to be unsafe, resulting in the death of a soldier.<sup>29</sup>

Throughout the region, procurement involves many scandals involving blatant conflicts of interest, for example high-ranking officials of the Moscow city government sitting on boards of numerous companies doing business with the city.<sup>30</sup> The taking of bribes and kickbacks is typically worth 5 to 10 percent of the value of the contract, but the cost to the public can be even higher if firms collude among themselves. In Sofia, rampant collusion is said to raise the price of contracts by around 20 percent on average.<sup>31</sup> A European Union monitoring report notes that in Romania “corruption appears to be systemic in public procurement, ranging from collusion and strong patron-client networks to standard bribery.”<sup>32</sup>

Privatization has been another locus of corruption where huge gains can be made. After the communist regimes nationalized nearly everything in the early years of their rule, the state owned most land, real estate, enterprises, shops, and other property. One of the biggest issues in the transition to a market economy and democracy has been how to privatize many of these assets. All too often state property funds and privatization agencies have acted with little transparency and there have been numerous suspect deals, most of which will never be untangled. Privatization throughout the region

has been marked by conflicts of interest, collusion, fraudulent assessments, and other corrupt behaviors. As noted by Czech scholar Ivan Miklos, in the initial privatization phase in the early 1990s, privatization also involved such criminal activities as blackmail, extortion, intimidation, fraud, forgery, pilfering of assets, and loan and bank fraud.<sup>33</sup> Many deals amounted to little more than looting.

Corrupt privatizations abound across the region, including in Estonia, which is ranked as one of the least corrupt states formerly under communist rule. The city of Tallinn sold its Central Market to individuals connected to the market's governing body for half its market value, losing close to one million euros.<sup>34</sup>

Other aspects of corruption during privatization are examined in more detail in Chapter 5, but here it is important to note that "corruption has played a key part" in the process of privatization, as summarized by the comprehensive study of corruption in the post-communist region conducted by the World Bank.<sup>35</sup> The specific techniques differ from case to case, yet the common denominator is that public officials responsible for privatizing public assets for the sake of the public good have chosen instead to concentrate on their personal enrichment. This has tainted the image of all politicians, since few among them made a visible effort not only to avoid personal involvement, but to look for effective countermeasures to constrain their colleagues. The lack of preventive work by more honest politicians is a significant part of the corruption experience. Besides the economic costs of such practices, there are political costs to the public, such as loss of trust in public representatives and state institutions.

Although corruption in privatization and procurement has been covered relatively well in various reports, corrupt state subsidies and tax relief have rarely been investigated. Huge sums of money are involved, for example in Poland, where widespread abuse of tax relief provisions in the mid-1990s included 40 percent of corporate tax revenue.<sup>36</sup> Another example involves the tolerance of rampant tax evasion by alcohol producers in Romania, who make huge contributions to parliamentary candidates. "It is estimated that only ten percent of total alcohol production is officially taxed. In addition to tolerance of tax evasion, after the elections the same companies received huge tax exemptions and debt rescheduling."<sup>37</sup> An illustration of governmental ministries being involved in the corrupt allocation of subsidies comes from the Czech Republic, where state officials referred applicants for subsidies to consultancy firms to which they had relationships.<sup>38</sup>

***Nepotism, clientelism, and the political "selling" of positions*** occur as separate corrupt acts as well as the means to facilitate other corrupt dealings.

High-level appointments to offices in charge of significant public assets are a prime target. Examples include financial, economic, and transportation ministries; privatization agencies; the management of state-owned enterprises; harbors and other infrastructure facilities; and customs and tax inspectorates. A 1998 World Bank study of Albania, Georgia, and Latvia found that the prices of “high rent” public positions were “well-known among public officials and the general public, suggesting that corruption is deeply institutionalized.”<sup>39</sup>

The misuse of power to make job appointments can occur at all levels of public administration and in all sorts of institutions, including state universities, the diplomatic corps, state-owned media, the judicial system, and the armed forces. Corruption again takes the form of commission as well as omission. Often the candidacies of people who present a reform alternative—be they local reformers or Western-trained professionals—are undermined. Networks of old comrades or schoolmates guarantee that friends retain their positions. Rhetorical arguments that “nobody else is available,” or that special experience is a job requirement, mask a self-serving and cynical agenda whereby the empowerment of new and well-trained personnel is prevented to preserve turf.<sup>40</sup> An example is the refusal of many post-communist agencies to recognize foreign academic degrees, even if they are conferred by world-famous universities. Other examples include the deliberate prevention of new training programs designed to produce competitive alternative cadres by scholars who made their careers under the old regimes.<sup>41</sup>

The misuse of power over personnel decisions takes other forms as well, including the use of appointments as bribes or the threat of firings as blackmail, to make someone collude in corruption.

### Level III. Influence over Political Institutions

***Institutional capture.*** Many forms of corruption occur at the highest levels of politics. A core phenomenon is that of institutional capture, or “state capture,” which refers to the de facto takeover of entire state or public institutions, typically by an elite cartel of political and business oligarchs. The concept was coined by scholars at the World Bank Institute, who noted that it involved “so-called oligarchs manipulating policy formation and even shaping the emerging rules of the game to their own, very substantial advantage.” They block any policy reforms that might eliminate these advantages, and as a result, “the capture economy is trapped in a vicious circle in which the policy and institutional reforms necessary to improve governance are undermined by collusion between powerful firms and state officials who reap substantial private gains from the continuation of weak governance.”<sup>42</sup>

“State capture” is the systematic high-level corruption that establishes a hidden political regime at odds with the constitutional purpose of state institutions. Analysts note that the capturing may be done not only by private firms or narrow interest groups, but also by political leaders. Furthermore, “distinctions can be drawn between the types of institutions that are captured—the legislature, the executive, the judiciary, or regulatory agencies.”<sup>43</sup> The capturing goes hand in hand with other corrupt acts, for example decisions by law enforcement agencies and the judiciary whether to pursue investigations of suspicious acts. Political oligarchs also engage in illicit party financing, buying of media, and various schemes to neutralize political competitors. Allegations about institutional capture tend to focus on ministries dealing with financial and economic matters. Since powerful people are involved and much is at stake, this form of corruption is especially difficult to prove and fight.

Extreme cases of state capture involve the de facto takeover of public institutions not just for business interests, but for outright criminal activity. This consists of the strategic penetration of executive institutions by criminal networks. For instance, a case of alleged institutional takeover implicated drug-fighting offices in some Central Asian states. Another example involves Georgia in 2000, where an international investigation found that “the police, the customs and the courts, those very agencies responsible for fighting corruption, are most widely affected by it.”<sup>44</sup> In Romania, an investigative journalist was told by an unsuccessful candidate for the post of head of the Customs Authority that the “price” to secure the post was \$1.3 million.<sup>45</sup> Many observers believe that in Russia some security services run substantial criminal enterprises and represent a separate form of organized crime. As one analyst has argued, “the problem is not simply corruption, such as bribe taking, that infects the public sphere, but actual criminal activity by governmental and law-enforcement agencies.”<sup>46</sup> An example is a scandal in early 2002 when several Russian newspapers alleged that high officials had organized a scheme to illegally import furniture for sale in a chain of warehouses in Moscow.<sup>47</sup>

*The forming of hidden power networks to collude in corrupt acts* is a form of post-communist corruption that is quasi-institutional and systemic. As noted by Andras Sajo, “clientelist corruption is a form of structural corruption, which should be distinguished from discrete individual acts of corruption.”<sup>48</sup> This needs to be emphasized, because many commonly used definitions of corruption are so narrow that they do not capture phenomena such as patron-client and other illicit network relationships.<sup>49</sup> The forming of secretive political cartels is a corrupt practice in and of itself. These corrupt networks are

predatory groupings that search for ways to use public institutions for their private gain, often through illegal party financing and state capture. Even in Slovenia, one of the best-ranked post-communist countries, reports speak of “networks of clientelistic or nepotistic social relationships that are corrupt but not characterized by direct exchanges of money or benefits.”<sup>50</sup> One example mentioned is the influence of personal connections on criminal proceedings, particularly during investigations. Another involves political influence on the media through personal connections and multiple board memberships across banks as well as media and other companies, many of which remain under state control.<sup>51</sup>

Networking has been used in an exploitative and corrupt way both by old comrades’ cliques and the newly privileged managerial class. Interestingly, some authors also see a constructive side to post-communist networking in that it mobilizes social capital.<sup>52</sup> Thus, the main questions to be asked in any specific case are whether a political network serves the public good or is self-serving, and whether it honors the law and other rules governing the political system.

Post-communist countries differ in the extent to which the old power holders survived the change of regimes and continue to hold on to accumulated power, but in many instances there has been a marked continuity in elite composition.<sup>53</sup> The Russian banking network is a prime example of extensive elite survival, since “on a scale from one (party secretary at the local level) to ten (party secretary in the Central Committee) the banking elite gets an average of eight.”<sup>54</sup> Although one would assume that at least some leading cadres survive regime change, the core issue is the extent to which old elites continue to work in an organized and collusive manner and deliberately exclude counter-elites, thus limiting the citizenry’s choice of representation. Peter Eigen has said that “corruption gives rise to oligarchy,” but one could also reverse the statement and say that oligarchy gives rise to corruption.<sup>55</sup>

As in all patronage networks, those active in the post-communist region function on the basis of benefit and obligation; that is, rules of reciprocity. Corrupt networks tend to self-perpetuate, since members have a strong motive to keep non-corrupt individuals out of politics or to try to co-opt anyone slipping through their net. Fear of disclosure is another motive for perpetuating the network and its dealings, and thus many decisions are made with the consideration of protecting implicated officials, be they in someone’s own network or involved in a collusive quid pro quo. In addition, any renegade member has to fear severe retribution.<sup>56</sup>

It would be important to learn more about the internal workings of these networks, but such research is by its nature highly problematic. It appears that special rules of silence, similar to those previously imposed on KGB

personnel as well as on Gulag victims, exist and are enforced. Nevertheless, there are occasional revelations such as when the president of Romania stated in 2001 that “in the past four years, we have witnessed a growing complicity between the structures of organized crime and high officers in the Police, Gendarmerie, and secret services, judges, and politicians. This complicity represents a great threat for the national security.”<sup>57</sup>

***The undermining of free elections*** through illicit party financing and electoral slush funds appears to be widespread. In Slovakia, more than one-third of public officials interviewed in 2000 reported that “political payoffs to benefit political parties or a political campaign” are frequent.<sup>58</sup> Payoffs often are linked to power oligarchies that own media or pay for hidden political advertising in supposedly objective media. Such practices are especially problematic if candidates pay journalists for image-building interviews that are presented as neutral reportage. Another corrupt practice that undermines democratic elections involves candidates who seek election for the sake of parliamentary immunity from prosecution, as has been reported in several cases. A European Commission report states that according to estimates as many as half of Romanian members of parliament bribed political parties to be placed in a favorable position on their candidate lists, many doing so to gain immunity from legal prosecution.<sup>59</sup> Similar practices have been reported for Russia.<sup>60</sup> Grigory Yavlinsky, himself a prominent politician and former member of the Duma, has commented that “the large number of criminals running for Duma seats to gain immunity is repulsive. How can a legislature fight corruption when its members have their own deals on the side?”<sup>61</sup>

The post-communist states tend to have proportional electoral systems, and elections typically result in several parties having to form a coalition government. This process can involve constructive negotiation and policy compromise, but also the division of spoils and spheres of interest that specific parties can exploit without interference by their coalition partners. This has been alleged to be a common practice in city government.<sup>62</sup> Political coalitions can be based on the division of spoils and fiefdom building, but elite cartels are held together by the possibility of mutual blackmail over past misdeeds as well as by a joint interest in holding off economic and political competition.

To the degree that secretive power networks limit political competition they seriously undermine democratic development. Just as market economies cannot function properly if monopolies or cartels rule, democracies cannot function if collusive power blocs capture the political market. Competition in elections and decision making is a hallmark of democracy, and it

is also a crucial means of empowering those candidates and programs that best represent the public good—as defined by the citizenry.

**Misuse of legislative power.** Bribery may occur when legislators at various levels of government have the power to select candidates for desirable positions. Researchers also speak of laws being “purchased” by business or criminal interests, meaning that legislators are bribed to pass specific laws. Romania has been reported to be seriously affected by state capture, particularly through the purchase of parliamentary votes and political party funding.<sup>63</sup> In addition to this active corruption of legislators, there also is passive corruption in the sense of omission and dereliction of duty. Many post-communist parliaments and regulatory bodies have been derelict in their public duty to pass not only effective laws and regulations on party financing, conflicts of interest, money laundering, off-shore assets, the review of income declarations of public officials, but even a corruption law itself. As argued by Louise Shelley, the corruption of the privatization process in Russia resulted, in part, from the deliberate absence of laws that could have prevented individuals from promoting their interests at the expense of others and the larger financial good of society.<sup>64</sup> Conflict-of-interest laws have been especially slow in being written. At the same time many state officials have profited from their positions as regulators of the economy by starting private businesses in the area that they themselves regulate.<sup>65</sup>

Most post-communist legislatures have been passive when asked to pass laws on witness protection, sting operations, and similar programs that are crucial for anti-corruption struggles. At times, drafts of promising laws have been deliberately blocked. Yet this does not mean that there is no anti-corruption legislation—often there is plenty of it, just not the right kind. More than twenty laws to fight corruption were passed in Ukraine between 1992 and 1999, and seven government ministries and departments were assigned to implement these laws, yet “no one is actually doing the fighting.”<sup>66</sup> Whenever real anti-favoritism measures are proposed, the beneficiaries of the existing system mobilize, thus, “the more promising the measure, the less likely it will be implemented.”<sup>67</sup> Nevertheless, legislators and governments are eager to create the appearance of anti-corruption to further mask illicit dealings. According to Hungarian legal scholar Andras Sajo, post-communist regimes deliberately use dubious laws and legal standards to provide supposed democratic legitimacy to governmental sleaze, which arguably is worse than doing nothing.<sup>68</sup>

Confusing and contradictory legislation also promotes corruption, especially in Russia where a plethora of often conflicting laws and decrees emanates from a variety of jurisdictions.<sup>69</sup> Although this is partially the

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result of disorganization emanating from the transition process, it provides room for corrupt maneuvers. A variant of this misuse of lawmaking involves lawyers who become short-term legislators in order to create complicated laws and then return to private practice where they command high fees as the sole experts who can negotiate the same confusing laws.

***The corruption of the judicial process*** too takes many forms, some overlapping with previous categories, such as the de facto sale of favorable decisions by courts. For Russia, Louise Shelley speaks of “massive pay-offs to the police, procuracy, and judiciary.”<sup>70</sup> Selective or false investigations and prosecutions constitute other corrupt misuses of the judicial system. Revelations about corruption are often used in power struggles, rather than in promoting transparency in society.<sup>71</sup> The Russian Interior Ministry under Putin serves as a textbook case: Thirty criminal cases against officials in the Moscow city government were opened in August 2000 after Mayor Luzhkov opposed a new tax plan.<sup>72</sup> During corporate battles, executives “often bribe prosecutors and judges, who earn an average of about \$200 a month, to open baseless criminal investigations of their competitors or to let them snatch companies from their legitimate owners through forced bankruptcies.”<sup>73</sup> Practices like these mean that instead of rule of law, a country rules through law, that is, abuses laws and the legal system for political purposes.<sup>74</sup>

Worse even than absence of law is the abuse of law to promote corrupt deals. It has been reported that by 1996 in Bulgaria privatizations were routinely corrupted under the rule of law. If insiders lost out on their bid for a company, they merely went to court and had a friendly judge annul the auction. Slanches Dan, once a luxury spa for high-ranking communist apparatchiks, was clawed back by its managers through such dubious court proceedings.<sup>75</sup>

Another politically devastating form of corruption is judicial complicity in it. All too often, prosecutors decline to open investigations into cases where corruption is highly indicated, as evidenced by the many large banking and financial scandals that have plagued the post-communist region. When powerful players seem to be involved, prosecutors typically start to investigate only after a repeated public outcry and then fail to resolve the case. Lack of evidence is often cited as the main reason for discontinuation of cases, but at times ludicrous arguments are brought in as well, possibly to deliberately enhance public cynicism about the judicial system.<sup>76</sup> A court in Hungary in 2001 acquitted a powerful politician of bribery charges related to campaign financing, stating that although formally bribery was performed, “danger to society” could not be established and hence a crime could not be proven to have occurred.<sup>77</sup>

There is a curious paradox in the judicial prosecution of corruption. The naive observer may think that if just a few cases are prosecuted, this indicates a low level of corruption. In fact, just the opposite is likely to be true: the scarcity of prosecutions can indicate a very high level of corruption, including corruption that has overtaken the judicial branch as well. This seems to be the case in Russia. As one author notes, the relatively small number of corruption cases that have gone to court suggests that corruption plagues law enforcement agencies as well.<sup>78</sup> Similarly, if many corruption cases are brought to trial, this can indicate an active fight against corruption and a low level of it, or a decreasing trend line. Commenting on cross-country data that show that Singapore and Hong Kong have exceptionally high conviction rates for corruption, an analyst notes that these “exceptionally high conviction rates confirm the suspicion that such data, when aggregated, may tell more about the police and the judiciary than about corruption.”<sup>79</sup> This illustrates that numerical measures need to be treated very carefully as one tries to measure corruption levels.

*Misuse of auditing, investigatory, and oversight powers* to hide and promote corruption rather than fight it is related to judicial corruption, but can take special forms, including the corruption of anti-corruption agencies. This is an especially difficult issue to study, but accusations in this area have been frequent. A former head of the KGB’s analytical department has claimed that Russia’s Federal Security Bureau has become too riddled with corruption to fight it.<sup>80</sup> In addition to individual cases of delinquency, an entire anti-corruption agenda may become misdirected. This apparently happened in the case of the “Clean Hands” campaign launched in the Czech Republic in 1998, which drew enormously bad reviews and was terminated in May 2000 under suspicions of politically motivated decisions.<sup>81</sup>

Dereliction of oversight duty by offices of the procuracy, parliamentary investigation committees, the supervisory arms of ministries and central banks, tax authorities, general accounting offices, and similar bodies usually represents a passive form of corruption and collusion. As noted, the careful hiding of corruption is part of its definition and indicates that the perpetrators are well aware they are misusing the public power entrusted to them. Fearing exposure, they have an incentive to corrupt other officials, especially those charged with oversight duties. In order to check corruption it is therefore crucial that the separation of powers be taken seriously and that public and state institutions use various mechanisms to check on each other. Public oversight and the demand for accountability are core features of democracy and the rule of law. Unfortunately, this has emerged as one of the weakest links in the new post-communist democracies, be it due to inexperience or to deliberate neglect and collusion.



**Using “kompromat” for political blackmail and coercion.** A politically damaging practice is to misuse investigative and judicial power to intimidate citizens and political rivals. This is a concrete legacy of the Soviet-type systems where lawbreaking became a means of coercion in the sense that everybody was bound to break the law somehow to survive and then could be picked out for prosecution if needed.<sup>82</sup> Recently, Keith Darden has outlined the systematic use of the threat of prosecution for political control on the basis of secret recordings in the presidential office of Ukraine. These materials suggest that state leaders deliberately encouraged corruption in order to secure compromising materials (kompromat) to use for political blackmail whenever needed. After first encouraging an atmosphere of impunity, state surveillance organs were used to document corruption among officials, and then compliance was secured by the threat of exposure and prosecution.<sup>83</sup> Darden describes how this method was used in the 1999 presidential election to get the vote out for Leonid Kuchma. He also argues that using kompromat as a tool of political pressure is common in Ukraine and other post-communist countries and has become an “institutional base of the blackmailing state.”<sup>84</sup>

Kompromat is most often used by corrupt individuals and networks to protect themselves against rivals. Yet this knowledge of guilt is mutual and therefore acts mostly as a deterrent to preserve the status quo. “There is only one adequate response to kompromat, i.e. counter-kompromat. To this, you can respond with a newer, even more powerful counter-kompromat.”<sup>85</sup> This is reminiscent of the arms struggle and peace being preserved by the implicit doctrine of “mutual assured destruction,” that is, when both sides in a struggle have powerfully destructive weapons, each side is careful not to start a battle. In the case of grand corruption, this is one more reason why few cases ever get to trial.

Thus corruption is perpetuated not only due to the common interests of many of the individuals involved, but also due to mutual blackmail, that is, many powerful politicians have compromising material on other politicians, which keeps collusion going.<sup>86</sup> Such a systemic explanation also fits the fact that many clearly illegal and corrupt activities have been conducted for years with impunity. In the real estate market in Russian cities, officially registered prices of real estate (subject to taxation) are often only a small fraction of amounts actually paid. The real prices are common knowledge, so that local authorities, if they really wanted to, could crack down.<sup>87</sup> They rarely do, suggesting both complicity and an institutionalized pattern of collusion.

Besides deliberate perpetuation, corruption tends to be self-perpetuating. Fear of exposure of previous corrupt dealings leads to additional corrupt acts, whether through blackmail or bribery to prevent investigations. Unless



there is a decisive and institutionally based break in the spiral of corruption, it is likely to pursue an upward trend.

**Corruption of and in the media.** Next to the judiciary, the media are the crucial player in promoting or hindering successful anti-corruption activities. There are many examples of individual journalists or media outlets having effectively exposed corruption, but there are also indications of occasional media collusion in cover-ups and other corrupt practices. This relates to both newly private and remaining state-owned media. The latter are now directed by public media oversight boards, but there often is little transparency of personnel and program decisions. As for private media, they tend to be controlled by business interests that have been capturing state institutions.<sup>88</sup>

Hidden advertisements for politicians and businesspeople frequently are cloaked in the mantle of public information. One also finds innuendo and false accusations being spread against political or economic rivals. The pay-off to journalists and editors may be in the form of tax favors or direct payments. As reported by the *Financial Times*, “stories are for sale in most of the Russian media, with a very few honorable exceptions. There are price lists available from public relations firms in Moscow, spelling out what different publications charge: one sum for a positive story, another for a bit of black propaganda and the highest price of all for a guaranteed news blackout.”<sup>89</sup>

## Conclusion

More than a decade after the beginning of the transition from communism, it has become clear that corruption is the key obstacle to democratic and economic progress in the post-communist region. The emerging research has begun to identify the roots of corrupt practices as well as promising strategies for combating them, but in order to do so successfully, a basic task is to identify and categorize what it is we are dealing with. A typology can do that. It helps us understand the nature, context, and political implications of post-communist corruption.

The typology presented here focuses less on the currency of corruption and more on the political nature of the corrupt act. “The misuse of public power for private gain” has political consequences that need to be spelled out and assessed. Analysts tend to focus on the “private gain” part of the definition of corruption, and to discuss the details of bribery and other forms of illicit profiteering. Although this is important, one needs to focus on the meaning of the “misuse of public power.” When officials in charge of securing the public good prefer to focus on their private good, the basic purpose of public institutions is undermined. This means that besides lost funds there is

a cost to the citizenry in terms of public safety, services, judicial enforcement of contracts and laws, and democratic representation. Not surprisingly, the public reacts with anger, distrust, and cynicism.

Corruption has three dimensions that affect the quality of politics: the currency of the corrupt act, its institutional aspects, and the consequences it has for the polity. “Currency” refers to the means of the illicit exchange. This can include bribery, profiteering, favoritism and nepotism, building collusive networks, extortion and blackmail, and other illegitimate or illegal dealings. The extent to which such practices pervade a country influences the quality of its politics. The political damage is less serious if bribery, for example, consists mostly of individual acts of citizens wishing to secure public services or circumvent red tape. Bribery is more damaging if it involves systemic extortion by officials and if it encourages institutional pathologies such as deliberate over-regulation or its opposite, the deliberate dereliction of oversight or legislative duty. Similarly, various forms of profiteering from public assets are less damaging if they originate from the avarice of individuals and much more damaging if they are due to systematic action by collusive networks. If so, then one can speak of an institutionalization of corruption and a change in the foundations of the political system.