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WORKSHOP ON CORRUPTION AND HUMAN RIGHTS IN THIRD COUNTRIES

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DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION

DIRECTORATE B

POLICY DEPARTMENT

WORKSHOP

CORRUPTION AND HUMAN RIGHTS IN THIRD COUNTRIES

Abstract

Defined as abuse of public trust for personal gain, corruption is present in all countries. The participants of this workshop discussed various ways that corruption is linked to human rights violations and examined specific challenges in individual countries such as South Africa, Angola and Russia. The recommendations for the EU included supporting civil society activists more effectively, developing international standards for the independence of anti-corruption bodies, establishing a UN Special Rapporteur, setting anti-corruption benchmarks for bilateral cooperation and monitoring the links of corrupt countries with EU Member States.

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This workshop on ***'Corruption and human rights in third countries'*** was requested by the European Parliament's Subcommittee on Human Rights.

BASED ON PRESENTATIONS OF:

Gareth SWEENEY, Transparency International
'Linking acts of corruption with specific human rights'

Rafael MARQUES DE MORAIS, Journalist and Angolan anti-corruption campaigner
'Corruption in Africa and the Impact on Human Rights: Angola: A Case Study'

Julia PETTENGILL, Research Fellow, Henry Jackson Society, London, Founder and Chair, Russia Studies Centre
'Impact of corruption on human rights in Russia'

The exchange of views / hearing / public hearing can be followed online:
http://www.europarl.europa.eu/activities/committees/homeCom.do?language=EN&body=DROI

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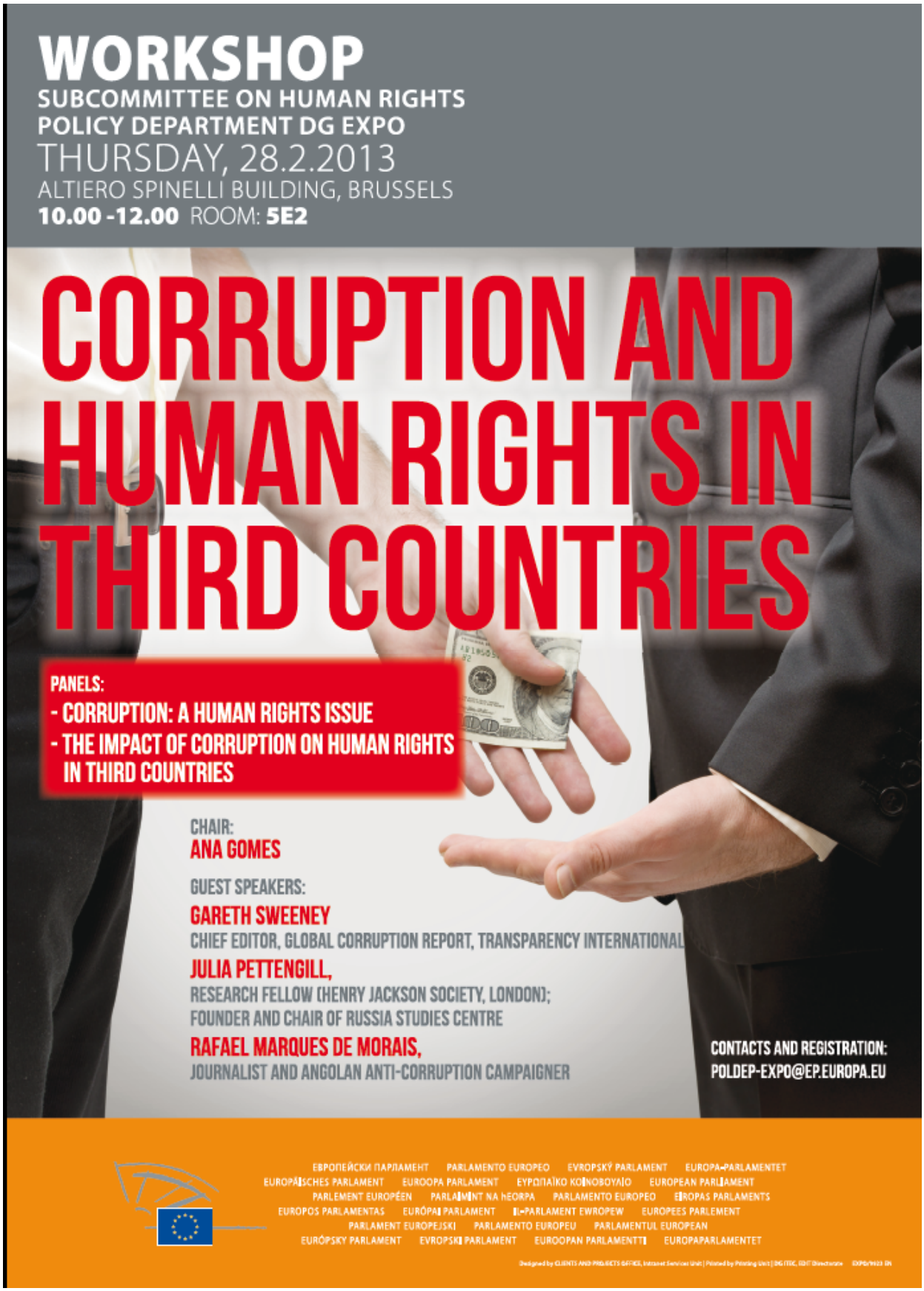
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PANELS:
- CORRUPTION: A HUMAN RIGHTS ISSUE
- THE IMPACT OF CORRUPTION ON HUMAN RIGHTS IN THIRD COUNTRIES
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Subcommittee on Human Rights
Policy Department - DG EXPO

Workshop on

Corruption and human rights in third countries

Thursday, 28 February 2013

10.00 - 12.00

Room: ASP A5E - 2

European Parliament, Brussels

Programme

Chaired by:

Ana Gomes MEP (S&D), DROI/AFET Rapporteur on 'Corruption in the public and private sectors: the impact on human rights in third countries'

Introductory remarks

Ana Gomes MEP (S&D) - DROI/AFET Rapporteur

Michal Tomasz Kamiński MEP (ECR) - DEVE Rapporteur for opinion

1. panel - Corruption: a human rights issue

1. **Gareth Sweeney,** Chief Editor, Global Corruption Report, Transparency International**,**
   on linking acts of corruption with specific Human Rights
2. **Marco Panigalli,** Head of Unit Budget, External audit, Informatics - European Commission, DG ECHO – Humanitarian Aid and Civil Protection
   on humanitarian operational issues when dealing with 'high-corruption' rated countries
3. **Jean-Louis Ville,** Head of Unit, Governance, Democracy, Gender, Human Rights - European Commission, DG EuropeAid,
   on EU policy and action to fight corruption while safeguarding Human Rights

   Debate open to Members and audience

2. panel - The impact of corruption on human rights in third countries

4. **Andrew Feinstein**, Director, Corruption Watch, South Africa Republic (video message)
   on corruption in trade and its impact on human rights in third countries
5. **Julia Pettengill,** Research Fellow, Henry Jackson Society, London
   Founder and Chair, Russia Studies Centre
   on impact of corruption on human rights in Russia
6. **Rafael Marques de Morais,** Journalist and Angolan anti-corruption campaigner
   on impact of corruption on human rights in Angola

   Debate open to Members and audience

Summary

Conclusions by the Chair and DEVE Rapporteur for opinion
The exchange of views / hearing / public hearing can be followed online:
http://www.europarl.europa.eu/activities/committees/homeCom.do?language=EN&body=DROI

SUMMARY

The workshop 'Corruption and human rights in third countries', organised for the Subcommittee on Human Rights (DROI), took place on 28 February 2013 in the European Parliament, Brussels. The workshop was held in anticipation of the forthcoming AFET/DROI report, 'Corruption in the public and private sectors: The impact on human rights in third countries, and was chaired by the committee's rapporteur, MEP Ana Gomes. The workshop aimed to facilitate discussion about the various challenges in the area of corruption in third countries and the impact on human rights, while also exploring how the protection of human rights could be used to fight corruption and build good governance.

Mr Gareth Sweeney (Transparency International) underlined the advantages of linking corruption to human rights: firstly, understanding corruption as violation of human rights provides a strong incentive for action; secondly, more developed human rights protection mechanisms can be engaged. Mr Sweeney concluded that the EU could extend the scope of the EU Guidelines on Human Rights Defenders to protect anti-corruption activists and whistleblowers. The EU could also initiate the development of international standards on the independence and effectiveness of anti-corruption agencies and support the establishment of a UN special rapporteur on corruption and human rights.

Mr Marco Panigalli (European Commission - DG ECHO) explained that, in order to prevent corruption, DG ECHO has established a framework agreement with its partners — NGOs, UN agencies and other international organisations. To ensure transparency, a wide network of technical experts has been created; auditors constitute the last instance of the control system.

Mr Jean-Louis Ville (European Commission - DG DEVCO) emphasised that corruption is a global phenomenon and that the EU's efforts to tackle the problem are therefore both internal and external, as outlined in the Commission's communications of 2003 and 2011. The fight against corruption is part of broader efforts to enhance good governance while also promoting human rights. The Commission supports reforming public administrations and improving business environments and the activities of non-state actors in individual countries. The Commission has also established transparent global frameworks for extracting and trading natural resources and raw materials. Among the projects financed through the EU's geographical instruments and the EIDHR, Mr Ville cited Nigeria as a successful example.

Mr Andrew Feinstein, a former Member of the South African Parliament and currently Director of Corruption Watch in London, described the dynamics of corruption in South Africa via a video message. Corruption there has led to billions from the state budget being deviated to purchase arms. This has in turn created a lack of funding for medicines and led to the deaths of thousands of people from AIDS. Funding has also been needed — but not provided — for education, housing and promoting employment. To hinder investigations into corruption, parliamentary committees and judiciary bodies have been pressured.

Turning to Russia, Ms Julia Pettengill (Henry Jackson Society) argued that the dissolution of the institutions, the failure of 'cleansing' state security forces and the lack of international scrutiny after the collapse of the Soviet Union had provided a fertile ground for corruption. She suggested that the European Union engage with civil society and include benchmarks for human rights and corruption when negotiating the Partnership and Cooperation Agreement. Ms Pettengill also recommended highlighting specific cases — such as the imprisonment of former Yukos CEO Mikhail Khodorkovsky and the members of the band Pussy Riot — in dialogues with Russia, and adopting a Magnitsky initiative at the EU level to hold the Kremlin accountable for corruption and human rights violations.

In Angola Mr Raphael Marques said, public duties are openly mixed with business interests. One of the most illustrative examples he provided was the transfer of the state-owned shares in a cement company

to the portfolio of the President's daughter, Isabel dos Santos, the first female billionaire in Africa. He noted the high levels of international complicity, and argued that the International Monetary Fund had failed to hold individuals accountable for looting funds. Mr Marques also drew attention to the close links between Angola and Portugal and called on the EU to make it clear that none of its Member States can be used as a money-laundering platform. The EU should also, he said, circulate a list of persons entrusted with prominent public functions in Angola to increase transparency.

1. LINKING ACTS OF CORRUPTION WITH SPECIFIC HUMAN RIGHTS

by Gareth SWEENEY, Transparency International

Acts of corruption as human rights violations

The link between corrupt acts and human rights is often clear; sometimes less so. Corruption can constitute a direct human rights violation when the intent of the act is precisely to restrict human rights, for example bribing judges in order to deny due process and fair trial, or buying votes to undermine peoples' right to political participation. Often the intent may not be to violate human rights, but the effect is the same, as when doctors demand payments for services that should be free. Often a corrupt act may indirectly lead to human rights violations, such as bribing local officials to dump illegally, subsequently impacting on the right to heath of locals, or fixing public tenders and endangering the lives of citizens. It can also be reasoned (and has been successfully), that the failure to adequately plan against corruption, for instance in the embezzlement of public funds for service delivery, also constitutes a failure of the state to adequately fulfil human rights.

The effect of corruption on human rights

It is important to frame the issue in its proper context and recognize that anti-corruption and human rights are not always synonymous. There are countries where perceptions of corruption are low, anti-corruption preventive mechanisms are in place, and yet human rights records are poor. Indeed, anti-corruption investigations and prosecutions, when not carried out in accordance with human rights standards, can conflict with fundamental rights of privacy, due process, fair trial and so forth. Nor do all acts of corruption impact on human rights (private-to-private corruption for instance). But what is clear is that where corruption is pervasive and systemic, it is effectively impossible for human rights to be respected, protected and fulfilled.

Corruption diminishes public trust and weakens the ability of government to respect and protect human rights. It cannot provide for the security of the person when security forces are compromised, or assure fair trial when the judiciary is prone to undue influence. Nor can states progressively realise rights when the maximum of available resources have been siphoned off to corruption.

Systemic corruption perpetuates and widens inequality when those who are connected and can afford to pay climb the ladder, and those without are denied opportunity. In the widest sense, corruption obstructs national development, and even this can be understood as an obstacle to the right of all peoples to 'to freely pursue their economic, social and cultural development'.[1] At its worst, corruption completely undermines the rule of law, fosters a culture of impunity and thwarts any opportunity to protect human rights.

Why link corruption to human rights?

The immediate question, from a practitioner's standpoint is what is the practical advantage of linking corruption to human rights? The first advantage, for me, is one of people's engagement. The traditional perspective that corruption obstructs political, social and economic development is important, but it is equally important in my view to extend this understanding beyond assessments of economic and political effects, and to increase the focus on the impact of corruption on *people*.

The human rights approach is by its definition a people-centred approach, founded on the principle of human dignity. A cursory cross-reference of anti-corruption and human rights conventions amply

[1] For an interesting approach see C. Raj Kumar, 'Corruption and Human Rights Promoting Transparency in Governance and the Fundamental Right to Corruption-Free Service in India', 17(1) Columbia Journal of Asian Law, 2003.

illustrates this divergence of approach. It is my personal view that presenting corruption primarily as an obstacle to economic and social development can appear an abstract goal and limit its potential resonance with the public conscience. Understanding a corrupt exchange as a violation of your rights is a powerful incentive for action, and the chances of engaging the broader public in demanding their rights are amplified.

This shift in thinking in terms of human rights responsibilities and obligations, coupled with increased public accountability, should also bring about a policy shift towards the development of rights-based anti-corruption strategies and indicators.

The second clear advantage, building from the first, is the opening up of the vast and more evolved human rights machinery at the national, regional and international level to the anti-corruption movement. Much can be gained from engaging these processes, as recommended below, and to date this is critically underutilized.

What is being done?

Recent world events, from the Arab Spring to mass protests in China, Russia, India, Slovenia, Iraq and Azerbaijan in the last 12 months, have shown that popular movements do not distinguish between anti-corruption or human rights in their demand for social justice and the rule of law. Policymakers need to follow suit by breaking down the conceptual and institutional barriers and better synergizing anti-corruption and human rights efforts.

Research is focusing more on this synergy. Transparency International's forthcoming Global Corruption Report on Education, for example, positions education not only as a development goal but as a fundamental human right, and argues that anti-corruption strategies must be framed accordingly. Public interest litigation is being used for the first time to hold governments accountable under human rights law for acts of corruption.[2] And while various international initiatives have been sporadic and peripheral in the last decade,[3] there is now a genuine momentum at the global level. Morocco, on behalf of 132 states, addressed the UN Human Rights Council in June 2012 on what it saw as the 'increasingly' negative impact of corruption in undermining national initiatives to improve citizens' lives.[4]

On the basis of this intervention, an expert panel discussion will take place on 13 March at the Human Rights Council to see what should be done. It is my hope and expectation, and I will come back to this, that Morocco and co-sponsors (including your colleagues Poland and Austria) will find a way to ensure that corruption becomes a fixed issue on the Council's agenda.

[2] *SERAP* v. *Nigeria*, suit no. ECW/CCJ/APP/12/07, judgment no. ECW/CCJ/JUD/07/10, ECOWAS Community Court of Justice (CCJ), 30 November 2010.

[3] See for example Report of the seminar on good governance practices for the promotion and protection of human rights (Seoul, 15 - 16 September 2004) (E/CN.4/2005/97); Report of the United Nations Conference on anti-corruption, good governance and human rights (Warsaw, 8 - 9 November 2006) (A/HRC/4/71) and reports of the Sub-Commission Special Rapporteur on corruption and its impact on the full enjoyment of human rights, 2004-2005.

[4] 'Cross-regional statement on corruption and human rights', delivered by Morocco on behalf of a group of 132 States to the UN Human Rights Council, 26 June 2012.

What more can be done?

I would like to close by providing some ideas on policy options that could be taken forward by the EU from a more operational standpoint, with the intention of supporting individuals or institutions in third countries. The starting point is the need to promote the understanding that the anti-corruption movement and the human rights movement share the same end goals. This opens the door to opportunity.

The obvious entry point is for civil society to engage the UN and regional human rights processes (the UN treaty bodies, for example, are an obvious untapped resource), and this is something that I hope Transparency International can do in the future. However, there are two other areas where the advances of the human rights framework could quite easily and directly support the development of the anti-corruption framework in-country: common standards on the role and responsibilities of national human rights institutions, and the protection of human rights defenders.

The **scope of the definition of human rights defenders**, being 'individuals, groups and organs of society that promote and protect universally recognized human rights and fundamental freedoms' should extend to include anti-corruption activists and even whistleblowers where the case relates to the protection of human rights. The former most often do not see themselves as HRDs, whistleblowers even less so, but this is changing. This work is often in fact the very definition of what you refer to as 'combating cultures of impunity'.

The EU can actively reference and promote the recognition of anti-corruption activists as HRDs, and require EU Heads of Mission to monitor the situation of anti-corruption activists and whistleblowers in third countries and support and assist them in accordance with **the EU Guidelines on Human Rights Defenders**. [EU member states could also invite Ms Margaret Sekaggya, the UN Special Rapporteur on Human Rights Defenders, to dedicate her annual thematic report to this issue.]

The huge growth of statutory anti-corruption authorities (ACAs) over the last two decades is comparable to that of national human rights institutions (NHRIs), but their quality varies. When NHRIs are not credible, fail to uphold their mandate, or are restricted in the exercise of their functions, they can be held to account under international peer review. There are no equivalent international standards for anti-corruption bodies [5] and no accreditation processes through which to measure performance.

The EU would be well served to **initiate the development of international standards on the independence and effectiveness of ACAs**, drafted intergovernmentally with the aim of final adoption by the UN General Assembly, equivalent to and with the same robust scope as the Paris Principles for national human rights institutions.[6] The ambition should be that such principles would be used as a benchmark of accountability through peer review performance assessments, possibly through the International Association of Anti-Corruption Agencies (IAACA), in the way that the Paris Principles provide the backbone for the International Coordinating Committee of National Human

[5] The recently drafted Jakarta Principles (27 November 2012) provide a very useful starting point, but are relatively slim and are not internationally adopted principles. The EPAC/EACN Anti-Corruption Authority Standards are fare more detailed, but have limited regional scope. There are also only limited reference to the role of ACAs in relation to human rights (two footnote references to the Paris Principles).

[6] Addressing for example composition and appointments process, financial autonomy, scope of functions, and parliamentary responsibility to address recommendations.

Rights Institutions (ICC).[7] We should, I would hope, be able to refer to 'A status ACAs' in the next decade.

In the interim, the EU could encourage dialogue between national anti-corruption and human rights agencies in understanding their common role and establishing working relations, and organize a workshop bringing NHRIs and ACAs together to share experiences and agree on standards for national-level collaboration.

What can be done in the near future? EU member states [through our encouragement] can **support the establishment of a UN special rapporteur on corruption and human rights**, with a mandate to produce annual reports on the linkage between corruption and human rights at the sectoral level, to strengthen the connections between anti-corruption and human rights mechanisms globally, regionally and nationally [in the manner for instance that the UN Rapporteur on counter-terrorism has achieved], to undertake country visits and submit summary reports and recommendations to the UN Human Rights Council, and to be able to receive and respond to individual communications alleging human rights violations as a result of corruption.

The latter is an achievable goal for 2013, and would provide a very good foundation for finally bringing together two movements that, to quote Morocco, have 'for too long been working in parallel rather than…together'.

[7] See European Agency for Human Rights, *Handbook on the Establishment and Accreditation of National Human Rights Institutions in the European Union*, p43, at http://fra.europa.eu/sites/default/files/fra-2012_nhri-handbook_en.pdf.

2. CORRUPTION IN AFRICA AND THE IMPACT ON HUMAN RIGHTS: ANGOLA: A CASE STUDY

by Rafael MARQUES DE MORAIS, Journalist and Angolan anti-corruption campaigner

Introduction

Rather than addressing corruption in Africa, in general, this brief paper focuses on a particular case study, Angola. The rationale for this analysis lies in the paradoxical combination of the following factors: for the past decade, the country has had the fastest growing economy in the world[8]; it is the third-largest economy in Sub-Saharan Africa; it ranks among the most corrupt regimes worldwide and has some of the lowest levels of human development. In recent years, the national oil company Sonangol and Politically Exposed Persons (PEP's) have invested billions of euros in the European Union, particularly in Portugal.

On February 14, the National Assembly passed Angola's 2013 state budget - the largest ever, to the tune of USD 69 billion. Such a record-high budget and the country's steady economic growth have the potential to transform the lives of Angolans. It is estimated that two-thirds of the 19 million Angolans still live on less than USD 2 a day.

A closer inspection of the state budget highlights a disturbing pattern, repeated from previous years, of open corruption and investments on the police, military and intelligence apparatus, which is bent to result in repression and human rights abuses.

For a better understanding of the phenomenon, this presentation highlights, first, the country's legal framework on corruption and the institutional initiatives and responses to the scourge. It then addresses corruption in the public and private sector, how they intersect, overlap and impact both human rights and development. Furthermore, it provides recommendations on how the European Union can help to fight corruption in Angola.

The Legal Framework and International Efforts

In November 2009, President José Eduardo dos Santos reiterated that corruption was the country's biggest problem and announced a 'zero tolerance' policy against it. Within six months, the National Assembly passed comprehensive legislation to combat corruption. The 'Law on Administrative Probity' harmonized the previous legislation that was dispersed in a number of different laws since 1990. The law prohibits public servants from receiving gifts, money, assets or other economic benefits, such as a commission, a percentage or gratification in a business deal. Moreover, the Penal Code defines as a crime the acts of private enterprises that engage in private business ventures with public officials. Angola has also incorporated into its domestic laws the Southern Africa Development Community's (SADC) 'Protocol Against Corruption,' the African Union's 'Convention on Preventing and Combating Corruption,' and the United Nations' 'Convention against Corruption.'

The reality, however, shows institutional practices that run counter to any idea of political will and legal order to tackle corruption, especially at the high echelons of power. A climate of impunity pervades the country's political and economic structures, despite any improvements in the legal framework.

President Dos Santos has maintained the status quo of earmarking substantial funds, in the budget for the presidency, to two of his children's private television and marketing companies. This year's allocation reaches USD 110 million, in a flagrant show of corruption and nepotism. This is besides

[8] http://www.economist.com/blogs/dailychart/2011/01/daily_chart

endowing his inexperienced son Filomeno José dos Santos with a USD 5 billion purse from the country's oil, as the de facto head of the controversial Angolan Sovereign Wealth Fund. By law, the father's appointment of the son is a clear case of nepotism and corruption.

Unencumbered, President Dos Santos has also kept the tradition of (re)appointing for high-level official posts individuals under criminal investigation for serious corruption crimes. This is the case of the former minister of Information, Manuel Rabelais, accused by the Court of Accounts and the Office of the Attorney-General of looting millions of dollars and significant state assets. Last October, the President appointed him as his top media and propaganda adviser, with the post of Secretary of State at the Presidency. Mr. Dos Santos granted him immunity from prosecution and therefore total impunity.

From this brief overview, it is clear that tighter anti-corruption legislation can only be enforced in a democratic environment. This means the functioning of checks and balances among state institutions, an autonomous judiciary, and freedoms of press and expression to mirror civil society's scrutiny over the powers that might be. In spite of having held peaceful elections last year, the Angolan political regime lacks such failsafe tenets for a functioning democracy.

Hence, international mechanisms to combat corruption and systematic human rights abuses in Western Europe and the United States are determinant factors. A string of current high profile criminal investigations of senior Angolan government officials and immediate family members in Portugal, for money-laundering, fiscal fraud and other illicit activities provide a critical reminder. Government officials plunder their country and let their people suffer while stashing much of their ill-gotten gains in Europe. It is essentially in Europe that African leaders and their families try to emulate and surpass the richest and the vain in mundane spending for luxury goods. For this to happen, for instance, Angolan PEP's need corrupt banking channels, corrupt European government officials, businesspeople and lawyers to facilitate and legitimize such operations.

It is also important to note that the European Union establishes as PEP's 'the natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons.'[9]

Overlapping Public Office with Private Business Interests

Contrary to the conventional practice in Africa, in which government officials try to conceal their private interests through proxies, Angola distinguishes itself for the transparency of the business interests of its ranking officials and their immediate families.

Government officials and other relevant public officials overlap their public duties with their private business interests, and often use their offices to advance their business dealings.

The most tragic example of such overlapping has occurred in the diamond-rich areas of the Lundas, in the northeast of Angola. Nine generals, led by the minister of State and head of the Intelligence Bureau at the Presidency, general Manuel Hélder Vieira Dias 'Kopelipa', are the shareholders of the diamond mining company Sociedade Mineira do Cuango and of the private security company Teleservice. On behalf of these companies, private security guards, often supported by the Angolan Armed Forces, have been committing atrocities in the region against local communities and artisanal miners. Among the gruesome abuses suffered regularly by the local populations of the Lundas are extortion, torture, unlawful imprisonment, and assassinations.

Recently, the generals sued, in Portugal, the author for exposing them in a searing report 'Blood Diamonds: Corruption and Torture in Angola' as being the moral authors of crimes against humanity

[9] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32005L0060:EN:NOT

committed in the Lundas. In February, the generals lost their case as the Portuguese Public Prosecutor's Office dismissed the criminal complaint on the grounds that the information contained in the report was of public interest and protected by freedom of expression. Nonetheless, the ranking officers admitted being the rightful shareholders of such companies. In spite of their clear involvement in gross human rights violations, and blatant acts of corruption, these same generals continue to use the proceeds of their crimes to invest and enjoy life in the European Union, particularly in Portugal. In Angola, Teleservice continues to protect some E.U. embassies and multinationals.

Angolan diamonds remain much sought in the European Union and in the United States. The Angolan regime remains a leading member of the Kimberley Process, the system supported by the United Nations to root out blood diamonds from the international markets.

Recently, the state newspaper Jornal de Angola, the only daily paper in the country, celebrated Forbes' ranking of President José Eduardo dos Santos's daughter, Isabel dos Santos, as the first female billionaire in Africa. It stated that it was a testament of how the government was fighting poverty and making Angolans rich. Yet a brief investigation undertaken by the author demonstrates how her fortune derives from her father's presidential decrees for her family's benefit and illicit enrichment. In one particular case, in 2005, the state bought 49 percent of the shares in the cement company Nova Cimangola, for USD 74 million, and soon after those shares where transferred to her business portfolio. The state lost what it had invested.

It is through this kind of corrupt schemes that a successful investment formula is being internationalized by Angolan PEP's. As an illustration, some reputable Portuguese investors had to associate themselves with Isabel dos Santos to gain access and privilege in the Angolan market. In return, the same partnerships yielded joint investments in Portugal, and vice-versa. A case in point is that of billionaire Américo Amorim that had joined ventures with Isabel dos Santos in Nova Cimangola and Banco BIC. Meanwhile, Isabel dos Santos entered into the shareholding structure of Portuguese oil company Galp, funded by Sonangol and through Américo Amorim, and both have established Banco BIC in Portugal as well. Isabel dos Santos is, by EU and international definition, a PEP.

International Complicity

What makes corruption so dispiriting in Angola and swiftly wears down local initiatives to address it are the levels of international complicity. In 2011, the International Monetary Fund (IMF) revealed that USD 32 billion went missing from the State's accounts from 2007 to 2010.[10] The government justified the diversion of the funds on Sonangol's quasi-fiscal operations, and that such funds, from oil revenues, were not deposited into the treasury accounts as required by law.[11] A legal requirement has been in place since 1989, establishing the procedures for Sonangol to deposit the oil revenues, taxes and royalties into the treasury's accounts.[12] Furthermore, Sonangol had to submit yearly financial reports to the Court of Audits, as required by law.[13] The company's executives' failure to comply with this law for years, is a criminal act sanctioned by the President. The IMF ignored the Angolan legislation and legitimized the lack of individual responsibilities for the looting of the funds. More importantly, the IMF helped the government to dampen the outrage by stating that 'for sure, there will be excellent technical explanations' on the missing USD 32 billion.[14] And for sure, the Angolan government put forward some 'technical explanations'. It said that Sonangol used USD 18.2 billion for 'housing projects,

[10] IMF, December, 2011:9.
[11] Presidency's statement of January 17 2012.
[12] See Diário da República, I Série, nº17, 1989:130.
[13] Lei Orgânica e do Processo do Tribunal de Contas (Lei 13/10), Art.
[14] *Jornal de Angola,* January 21, 2012.

railway rehabilitation, infrastructure for special economic zones, and […] other infrastructure.' This vague justification was enough for the IMF, who also did not care that further USD 4.2 billion remained unaccounted for. Without a credible and detailed explanation or an independent audit, the IMF proceed to make a final payment to Angola under a previous loan agreement, thus giving a clear indication to the regime that looting of its people's resources is not a problem. This level of corruption is staggering, by all standards - USD 32 billion amount to 25 percent of the country's gross domestic product. This degree of international complicity is no less appalling.

What can Angolan anti-corruption laws accomplish in the face of such complicity from the world's leading financial institutions?

The European Union has major influence on the board of the IMF and it has remained quiet about this case.

President Dos Santos is ultimately accountable for the missing funds. He solemnly promoted the then CEO of Sonangol, Manuel Vicente, who was the material operator of such hole in the State's accounts, to the post of vice-president in 2012.

Authoritarianism

The unremitting criminal behaviour by Angolan senior officials can only be sustained by a police State and more corruption. The allocation of more than 18 percent of the current USD 69 billion State budget to defence and security is a good example.

Also, the arbitrary use of such forces to commit human rights abuses to safeguard private business interests, further erodes the morale and the supposed unity of the army and the police as the pillars of the regime.

At the beginning of the month, more than 500 soldiers and police officers, supported by seven helicopters and lethal equipment, were used to subdue a neighbourhood in Luanda, while it was being levelled to the ground. The land in question, as it is emerging, will serve the private interests of senior members of the Presidency. They are the only ones with the real power to command such an operation. As a consequence, more than 5,000 people were left homeless and tens were arrested. Summary trials convicted up to 40 detainees of illegal land occupation, without due process. The convicted included visitors and relatives of the evicted dwellers, who could in no circumstance be accused of illegal land occupation.

Recommendations

International complicity is the critical component for the maintenance of corruption and the authoritarian State. This is the point of leverage the European Union can effectively address to help promote changes and the rule of law in Angola.

As corrupt Angolan investments have become a lifeline for many Portuguese companies, and for the nearly 200,000 Portuguese citizens living and working in Angola, the Portuguese government has become hostage of the tantrums and blackmails of Angolan PEP's. The most recent threats came from the Angolan Attorney-General, João Maria de Sousa, who is also being investigated in Portugal on suspicion of money-laundering activities. He openly threatened Portuguese interests in the country, while the Angolan press printed vitriolic attacks against Portugal and openly recommended that Angolan investments should be directed elsewhere. This kind of reaction and pressure has become recurrent whenever Angolan PEP's face criminal investigations in Portugal. Their Portuguese partners also use the same reasoning to excuse the status quo, further justified by the country's current economic crisis.

However, these threats mask a different reality. Most Angolan PEP's are extremely dependent on Portuguese managers, lawyers and qualified employees to keep their operations running. Such are the cases of Isabel dos Santos, the vice-president Manuel Vicente, general Kopelipa and many others.

The United States has already taken action to discourage Angolan PEP's from entering its financial system for money-laundering activities and to deposit ill-gotten funds into its territory.

It is imperative that the European Union comes forth and makes clear to the Angolan regime that such threats against its Member State are unnecessary. Portuguese magistrates are simply complying with the anti-money laundering legislation, which is in keeping with the EU directives, and similar to the Angolan legislation.

It is also necessary that the European Union publicly makes clear that none of its member-States can be used as money-laundering platform for the Angolan regime. It should reiterate that any such attempts will be promptly investigated and prosecuted, according to the EU's legislation. Furthermore, it should encourage the Portuguese government to not interfere with the independence of its judiciary, and let justice run its course.

The EU should produce and circulate a list of Angolan PEP's among its member states for greater scrutiny by its financial institutions, markets and governments.

3. IMPACT OF CORRUPTION ON HUMAN RIGHTS IN RUSSIA

by Julia PETTENGILL, Research Fellow, Henry Jackson Society, London, Founder and Chair, Russia Studies Centre

Both corruption and human rights are widely acknowledged to be key problems for the Russian Federation, and the political causes of both phenomena are closely interlinked.

According to the Transparency International Corruption Perceptions Index, Russia ranks among the most corrupt countries in the world - 33rd out of 176 countries surveyed. And according to the American NGO Freedom House's annual Freedom in the World survey, political freedom has steadily declined over the past thirteen years, from a ranking of 'partly free' in 2000 to 'not free' in 2013.

The roots of these closely related problems lie in the deficiencies of the post-Soviet transition. After the collapse of the Soviet Union, the breakdown of institutions made the country particularly vulnerable to corrupt activities and to the disintegration of the democratic developments necessary to protect human rights.

The absence of a process of lustration of the state security forces, as took place in other post-communist societies, enabled the perpetrators of human rights abuses to obtain positions of power and wealth in the post-Soviet era. The failure of institution-building and lax international scrutiny during the 1990s distorted the process of privatisation in the immediate post-Soviet period, which was why the oligarchs were able to gain control of much of the country's wealth and political influence.

The chaos that resulted from this mismanagement set the stage for the re-emergence of authoritarianism under Vladimir Putin, and the marriage of public and private sector corruption under his personal authority. For example, in July 2000, Putin invited Russia's most significant oligarchs to meeting at the Kremlin where he informed them that they would be permitted to keep their wealth, provided they commit to paying their taxes and to stay out of politics. Those who were unwilling to accede to this arrangement, such as Vladimir Gusinsky, Boris Berezovsky and Mikhail Khodorkovsky, found themselves the subjects of criminal investigations, and saw their companies seized by the state and purchased by loyal Putin allies.

Putin cemented his power base by installing loyalists from his time in the St Petersburg mayoral office and the KGB at the heart of government, and using the United Russia Party to dominate and transform the state Duma into a 'rubber stamp' authority. This new elite became known as the siloviki, or 'strongmen,' and have been the enforcers and some of the chief beneficiaries of the fusion of public and private sector corruption.

Corruption and the further deterioration of the rule of law have gone hand in hand with the erosion of democracy and human rights in Russia. Perhaps the most significant element enabling the proliferation of both phenomena has been the absence of judicial independence. In 2012, Russia scored 6 out of 10 in Freedom House's 2012 Judicial Framework and Independence assessment. The widespread electoral fraud displayed during the Duma elections of December 2011 demonstrated once again the endemic political corruption of the Russian system. Incidentally, even these measures were barely able to deliver a parliamentary majority to United Russia, whose unpopularity is largely due to its association with corruption. Putin's re-election in March 2012 was also marred by fraud and an overall absence of genuine political competition.

Corruption and human rights violations are often linked in Russia because they derive from the same basic conditions: the unequal or ineffective application of the rule of law, and the resulting entrenchment of positions of power and diminishment of civil liberties.

Corruption has a general undermining effect on Russian society. It robs people of their dignity and agency, as well as their material assets, and entrenches inequality and the concentration of power. It also acts as a double or triple tax on the Russian economy: first through theft, secondly, through depriving the state of tax revenue, and, in most cases, third, by leaving the country to be deposited in foreign bank accounts.

Operating in an environment in which much of the state and private sector is linked or fused, corruption also limits competition, which drives up prices for consumers, and limits the incentives and opportunities for small businesses.

It is the poor who suffer disproportionately from measures that impinge on economic growth or reduce public spending on education, health and welfare services. Corrupt activities such as bribery also constrain the ability of ordinary Russians to access basic public services, with bribes commonly demanded for services including school placements and medical care.

Corruption also has more direct consequences for human rights in Russia, restricting, the exercise of the franchise, property rights, and the right to a fair trial and reasonable expectation of legal remedy.

Over the past decade, two cases have achieved almost totemic significance in illustrating the link between corruption and disrespect for human rights: the imprisonment of former Yukos CEO Mikhail Khodorkovsky, and the imprisonment and murder of the whistleblower attorney Sergei Magnitsky.

Looking at the Khodorkovsky case - when Vladimir Putin became president, Mikhail Khodorkovsky was the richest man in Russia and one of the most politically powerful men in the country. Khodorkovsky spearheaded projects promoting democratic reforms, while Putin focused his energies on consolidating power on a more statist model. He became an enemy of Putin when he refused to halt his political activities and directly accused the government of corruption.

In October 2003, Khodorkovsky was arrested on charges of tax evasion, fraud and embezzlement. The state successively increased its charges against Khodorkovsky and his partner Platon Lebedev to multiple counts of fraud and theft through corporate tax accounting schemes which Yukos, in common with almost every other large-scale Russian company, had employed to minimise its tax liability.

Khodorkovsky and Lebedev' s trial began in June 2004, and the pair were convicted and sentenced to nine years imprisonment in a Siberian labour camp. Shortly before the two men were to become eligible for parole, new charges were lodged and both men's sentences were extended to 2016. They have been designated prisoners of conscience by Amnesty International, and their trials have consistently failed to meet international standards of justice. Yukos' assets were stripped by the government and much of its holdings essentially re-nationalised via fixed sales to the state. Multiple claims by the defendants, stockholders and other relevant parties have been brought against the Russian government in international courts, including the European Court of Human Rights.

Moving to the Magnitsky case - Sergei Magnitsky was an attorney at Firestone Duncan in Moscow, working for the hedge fund Hermitage Capital Management. In 2007, he was tasked with investigating the seizure of documents from Hermitage by state officials, and uncovered evidence that the documents seized were used by state officials to execute a convoluted scheme to claim a $230 million tax refund.

In July 2008, Magnitsky and Hermitage filed criminal complaints based on this information, and a few months later, Magnitsky was arrested. He was subjected to physical and psychological torture in pre-trial detention, pressured to confess to stealing the $230 million and to blame the Hermitage CEO, Bill Browder, for the tax fraud, but refused. He was repeatedly denied medical care during his 358 days in jail, and died in prison on the 16th November 2009 at the age of 37 after repeated requests for medical

treatment were ignored. There was also evidence that Magnitsky had been beaten and possibly tortured in the hours before his death.

To date, none of the officials implicated in the tax fraud have been punished. In fact, several have been promoted, while Magnitsky is being tried posthumously for tax evasion. This kind of grotesque action is completely unprecedented - it didn't even happen under the Soviet Union.

Magnitsky's death and the apparent cover-up provoked widespread outrage in Russia, but demands for justice have been ignored by the government. Magnitsky has become a symbol of the power and danger of acting as a whistleblower in Russia, and of the confluence of corruption and human rights abuses in contemporary Russia.

Turning to the anti-corruption initiatives underway in Russia, civil society actors have struggled to engage ordinary Russians on the issues of democratic reform and human rights abuses, partly due to an entrenched apathy about the ability to effect change in Russia's political system, and also widespread suspicion about the motivations of these political activists.

But despite these challenges, corruption is an issue with perhaps the most potential to galvanise public opinion in Russia, because it affects so many people in so many different ways. This is part of the reason why Alexey Navalny has emerged as a key leader of the civil society movement for reform, and an opposition leader in his own right. His anti-corruption website, RosPil has been instrumental in uncovering cases of corruption implicating members of Russia's political and business elite, and uses clever investigative tactics to draw attention to corrupt practices.

Following Navalny's strategy, Russia's protest movement has increasingly focused on anti-corruption efforts. For example, Eduard Mochalov, a farmer-turned-muckraking journalist based in Chuvashia, publishes a monthly free newspaper called The Bribe detailing the activities of the corrupt officials in the region. Other opposition leaders, including Boris Nemtsov and Vladimir Milov have also campaigned to reform of the corrupt nexus between the state and private sectors. And although NGOs have come under increasing pressure from the government in recent months, organisations such as the Moscow branch of Transparency International continue to play a vital role in monitoring corruption within the country.

The link between corruption and human rights abuses is evident in the treatment Navalny has received because of his work. He is currently the subject of three separate criminal investigations, one of which also implicates his brother, Oleg. The obvious political motives for these cases and the lack of convincing evidence or procedural due process accorded to Navalny, and the persecution of his brother and colleagues is a clear indication of the state's willingness to concoct charges in an attempt to silence whistleblowers.

In terms of official efforts to combat corruption, the issue has clearly been identified as a threat to the stability of the current regime, in both the popular anger it provokes and in deterring foreign investment. As a result, the government is currently attempting to neutralise the political potency of this issue.

Legislative initiatives have formed a significant part of this campaign. This is at least partially motivated by the need to appear to conform to the OECD Anti-Bribery Convention, which Russia signed in 2012 as part of their attempt to join the organisation.

Last month, Putin introduced a bill banning federal and regional officials and other public figures from holding foreign bank accounts, bonds and shares, and from using family members as registered owners. Similar measures were passed during Medvedev's presidency, but were not effective, as officials routinely put their assets in the names of family members or other proxies.

There is good reason to be sceptical about whether these reforms will or can be enforced, as there is little incentive to keep wealth in Russia given the lack of protection for private property, and there are always ways to circumvent the law when there is no effective legal system to hold violators to account.

It seems more likely that corruption will be used as a cover for the purge of high-level officials. So far, the dismissal of former Defence Minister Anatoly Serdyukov is perhaps the clearest example of this. He was fired in November 2012 following the opening of a criminal investigation into his alleged theft of between $100-200 million through the sale of undervalued property by the ministry. However, Serdyukov was already an unpopular figure within the military, and it has even been suggested that his dismissal may have been motivated by a personal dispute over his alleged infidelities, as Serdyukov is married to the daughter of Putin's former mentor.

The lack of any attempt to undertake the type of systemic reforms needed to challenge Russia's culture of corruption indicates that such anti-corruption efforts will be insufficient. The increase in authoritarian measures rushed through the state Duma since the return of Vladimir Putin as president has belied any government suggestions to the contrary.

Turning to response options for the EU - perhaps the most significant way in which the institutions of the European Union and its constituent member states can positively influence Russia on these issues is by engaging with Russia's embattled but growing civil society movement.

Improved engagement with civil society actors at all levels would provide vital opportunities for mutual education, and would help Russia's opposition movement to develop political and diplomatic skills and increase their viability as sources of political competition. Independent organisations such as the EU-Russia Civil Society Forum provide a helpful platform for facilitating engagement, and bodies such as the European Instrument for Democracy and Human Rights can provide vital assistance to Russian civil society. This is particularly important given the increased difficulties faced by politically independent NGOs operating within Russia, and the increased risk to those bodies receiving funds from abroad following the passage of a new law requiring foreign-funded NGOs to register as 'foreign agents.'

Engagement with the Russian government over these issues under the aegis of the Partnership and Cooperation also forms an important plank of this effort, and the ongoing negotiations over building a more robust framework should include a commitment to a schedule of benchmarks indicating improvements on human rights and corruption. European representatives should engage in a robust dialogue with the Russian authorities on specific cases such as the ongoing imprisonment of Mikhail Khodorkovsky and the members of Pussy Riot at every level—from working groups to the biannual EU-Russia summit

As I said, corruption in Russia is a systemic problem, intimately tied to and perpetuating the circumstances which have led to the breakdown of human rights. Policy initiatives which tie the issue of corruption to the need for essential reforms including judicial independence, press freedoms, political competition and transparency should be taken into consideration.

MEPs Kristiina Ojuland and Guy Verhoefstadt have argued persuasively that the time is right for further engagement on these issues, with the European Parliament and Council of Europe taking a tougher line on Russian human rights abuses and corruption.

To that end, Ojuland and Verhoefstadt initiated the recommendation by the Parliament calling on the Council to establish common visa restrictions and sanctions in relation to the Magnitsky case, passed in October 2012. They have also proposed launching a new initiative similar to the Helsinki process involving leaders from Europe and the US, to address these issues and hold Russia to account for its failures.

The investigations launched by several member states and resolutions passed in relation to the Magnitsky case indicate that political momentum is building for a more robust response to this case and to human rights and corruption in general. Resolutions, recommendations and declarations regarding the Magnitsky case have also been passed by the UK, Holland, Poland, Italy, the OSCE and the Parliamentary Assembly of the Council of Europe.

If a Magnitsky initiative is put forward on an EU-wide level, it would have the potential to seriously undermine the Kremlin's ability to command loyalty via the patronage obtained through corruption, and hold it to account on a case involving both corruption and human rights abuses.

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