# UNDERSTANDING STATE CAPTURE

In the common understanding, corruption is often referred to either as bribery practice or as major embezzlement/plundering of public monies. The former type of bribery is usually called administrative or petty corruption, and the latter is grand corruption (which also includes bribes paid at higher level within public tender, for example).

There is also a third form of corruption, less known but still very pervasive, found often but not exclusively in transition countries: state capture. State capture occurs when the ruling elite and/or powerful businessmen manipulate policy formation and influence the emerging rules of the game (including laws and economic regulations) to their own advantage. The captured 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 extract substantial private gains from the absence of clear rule of law. State capture can be further refined by distinguishing between types of institutions subject to capture (Legislative, Executive, Judiciary, regulatory agencies, public works ministries) and the types of actors actively seeking to capture (large private firms, political leaders, high ranking officials, interest groups).

For instance, captor firms can receive extra advantages not only in the form of sales increases, but also in the provision of public goods, such as property rights, by purchasing individualized protection of their property rights from the state. This however comes at a significant social cost: if politicians and bureaucrats can minimize their political risks by selling privately such public goods to a few individual firms in exchange of economic revenues, they have little incentive to provide the public at large with open access to these goods. Therefore the level of insecurity of property rights is much higher for the average firm and the ordinary citizen. Why is state capture more present in transition countries than elsewhere? There are several factors at stake here.

One of them is that most of those countries have undertaken partial economic reforms, which have produced market distortions and have hence generated a pattern of concentrated gains and dispersed losses in the short term. A small group of people is able to extract considerable rents from those distortions. Such distortions include, for instance, state-owned enterprises sold at low prices to politicians, or new laws designed in a way of favouring specific economic actors in a given sector at the expense of free and fair competition for all. Concentration of both economic and political power is also likely to lead to serious state capture, which usually goes hand in hand with a weak civil society.

Transparent governance reforms are therefore highly needed to better share the power in the society, both horizontally and vertically, and to put in place very clear conflict of interests rules. State institutions should have safeguards to prevent them from being "owned" by specific individuals enjoying a high discretionary power. On the other hand, a vocal civil society, provided that basic civil liberties are ensured, would point at governance deficiencies, call for better accountability and responsiveness from the side of the government. In such difficult contexts, the feasibility of any type of governance reforms should be assessed against the background of power relations and rent-seeking behaviour of the various stakeholders involved. Any reform to improve the institutional, economic or political framework, which might undermine stakeholders' highly concentrated advantages, is likely to be strongly opposed by them. They also have the political influence to succeed in doing so. Therefore, the feasibility of reforms is ensured only if relevant answers are given to the following questions derived from political economy analysis: what are the incentives of captured officials to accept changes related to reforms, and how could they be willing to loose private benefits for the sake of social good? New incentives ought to be found in order to possibly instil a behaviour change in those actors.

As far as politicians are concerned, the fear of social instability, which usually follows a period of bad governance or the risk of loosing the next election, could potentially have an influence on mitigating vested interests within state institutions. Criminal lawsuits are another strong negative incentive working in the sense of better governance. But since the justice sector is often captured as well, this comes unfortunately as a last resort. International pressure or reward (such as joining the European Union) can be a very powerful tool, as demonstrated in the case of the new EU member states, which have undertaken major and rapid endeavours in the realm of governance in order to reach the goal of entering the EU.

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