

## CORRUPTION FIGHTING AND PREVENTIVE MEASURES IN KYRGYZSTAN: TODAY AND TOMORROW

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### *I n t r o d u c t i o n*

W e all know from international experience that higher incomes and higher investments in the economy, as well as longevity are mainly observed in countries with effective and fair state institutions where functionaries move up the career ladder thanks to their personal merits and where there are clear rules of promotion. In these states, citizens are equal before the law while state strategy and the juridical base remain free from the influence of those who pursue their own interests and where independent civil society and the media add to the cabinet's accountability.

Today Kyrgyzstan, as well as all the other relatively poor CIS members, should go on with their reforms: if slowed down, coupled with the continued accumulation of foreign debts, they run the danger of sliding into even greater poverty.

According to a group of international experts who analyzed the social and economic situation in our republic, its irrational public administration is the main obstacle on the road to reform and a source of the still growing shadow economy and corruption. Administrative reform designed to make the system more rational and more transparent is urgently needed. No economic growth and no effective efforts at combating poverty are possible without improving the quality of public administration. Without this foreign aid will remain useless.

The paper based on information supplied by a group of international experts looks at international anticorruption experience, identifies the causes of this evil and the spheres of its manifestations, speaks about the tasks the government of the Kyrgyz Republic is facing, and assesses the real state of affairs in this sphere.

## The Impact and Reasons for Corruption as Registered by the International Community

### How Corruption Influences Economic Growth and Development

Corruption slows down economic development because it leads to:

—Lower levels of domestic and foreign investments;<sup>1</sup>

<sup>1</sup> P. Mauro, "The Effects of Corruption on Growth," *Quarterly Journal of Economics*, Vol. 110, No. 3, 1997, pp. 681-712; S.-J. Wei, "How Taxing is Corruption on International Investors," *Working paper No. 6030*, National Bureau of Economic Research, Cambridge, Massachusetts, 1997.

- Distorted development of companies and expansion of informal economy;<sup>2</sup>
- Distorted public expenditures and investments and deterioration of physical infrastructure;<sup>3</sup>
- Lower public revenues and weakened rule of law presented as a public good;<sup>4</sup>
- Excessive centralization of the government;<sup>5</sup>
- Oligarchic “takeover” of the government by corporate elite, “purchase” of laws and strategies of the government, which undermines the output growth and investments growth in the enterprise sector;<sup>6</sup>
- Wrong dislocation of intellectual resources,<sup>7</sup> including not full use of the key segments of society, such as women.

It was quite recently that researchers turned their attention to an empirical analysis of corruption causes; the results obtained so far say that corruption is merely a symptom of much more deeply embedded institutional problems.

### **Lack of Political Rights and Civil Freedoms**

Corruption and lack of political rights (democratic elections, the judicial power branch, opposition parties, and civil freedoms, which include independent media, freedom of speech, and freedom to gather) are two sides of the same coin. In fact, their negative correlation is high at 0.67 percent. There is more and more evidence that civil society has acquired effective anticorruption instruments. Studies of countries with transitional economies have revealed that corporate groups “capture” strategies and laws when full civil freedom is absent.<sup>8</sup> International empirical data have also confirmed that corruption can be defeated by electing more women to parliament and by granting women broader civil rights in all other spheres of public life.<sup>9</sup> Autonomy limited to budget decentralization is another anticorruption instrument.<sup>10</sup> Certain facts confirm that there is a direct link between corruption and the power of the law.

### **Public Finance and Regulation**

Together with the above-mentioned factors, a large amount of public property in the country’s economy raises the degree of corruption. In such states, industry is over-regulated and pays too high

<sup>2</sup> S. Johnson, D. Kaufmann, and P. Zoido-Lobatin, “Regulatory Discretion and the Unofficial Economy,” *American Economic Review*, Vol. 88, No. 2, 1998, pp. 387-392.

<sup>3</sup> V. Tanzi and H. Davoodi, “Corruption, Public Investment, and Growth,” *Working paper No. WP/97/139*, International Monetary Fund, Washington, D.C., 1997.

<sup>4</sup> S. Johnson, D. Kaufmann, and A. Shleifer, “The Unofficial Economy in Transition,” *Brookings Papers on Economic Activity*, Washington, D.C., No. 2, 1997.

<sup>5</sup> R. Fisman, R. Gatti, “Decentralization and Corruption: Evidence across Countries,” *Policy research working paper No. 2290*, World Bank, Development Research Group, Washington, D.C., 2000.

<sup>6</sup> J. Hellman, G. Jones, and D. Kaufmann, *Far from Home: Do Transnationals Import Better Governance in the Capture Economy*, World Bank, Washington, D.C., 2000.

<sup>7</sup> K.M. Murphy, A. Shleifer, and R.W. Vishny, “The Allocation of Talent: Implications for Growth,” *Quarterly Journal of Economics*, Vol. 106, No. 2, 1991, pp. 503-530.

<sup>8</sup> See: J. Hellman, G. Jones, D. Kaufmann, op. cit.

<sup>9</sup> See: D. Kaufmann, “Challenges in the Next Stage of Anticorruption,” in: *New Perspectives on Combating Corruption*, Transparency International and the World Bank Institute, Washington, D.C., 1998.

<sup>10</sup> See: P. Collier, “On the Economic Consequences of Civil War,” *Oxford Economic Papers*, No. 51, January 1999, pp. 168-183; R. Fisman, R. Gatti, op. cit.

taxes; laws and trade restrictions are arbitrarily applied. A monopolized economy creates an even higher corruption level.

### Civil Service

The level of corruption depends on the civil servants' professional skills, their training, personnel management, and promotion prospects. Contrary to what is commonly believed, wages do not strictly correlate to corruption: higher wages do not reduce the level of corruption. Quite often a small group of high-ranking politicians or bureaucrats are guilty of corruption. It should be said that in some countries, the higher wages paid key bureaucrats are absolutely justified, yet if isolated this measure can hardly stem corruption. The use of meritocratic approach when hiring, promoting, or firing civil servants reduces corruption. The obvious gap between the inefficiency of higher wages and excellent results demonstrated by meritocratic approach calls for deeper empirical research into corruption in the countries resolved to defeat this evil.

The 1999 National Human Development Report compiled together with the UNDP in Kyrgyzstan says that corruption appears when obligations are vague and responsibilities are limited.

## **Fighting Corruption in Kyrgyzstan**

Despite the loud political statements by those who ruled the country before 24 March, 2005 and their frantic efforts to make their anticorruption efforts look plausible, at least from abroad they were assessed as inadequate by the experts of many organizations, including those of Transparency International. In the last years of the old regime, the corruption level reached frightening proportions: in the absence of concrete data based on quantitative estimates, this is mainly confirmed by sociological polls. There are no indicators, assessment methods, or institutional structures able to undertake such estimates. The Comprehensive Development Framework (CDF) of the Kyrgyz Republic up to 2010, endorsed in 2001, addressed the problems of corruption and governance efficiency. A Conscientious Administration Council under the chairmanship of the country's prime minister and a secretariat, as its working structure, were set up to pursue the aims outlined in the CDF. Businessmen and NGO members were invited to sit on the Council to make civil society part of the process. This approach, however, imposed from above, failed to produce the desired results: the government influenced the decision-making, while many of the suggested measures were too formal; they were not properly monitored and their indices were too vague and hard to assess. By early 2005, the Council ceased to exist.

Today, there is a lot of discussion about an anticorruption agency and a corresponding integrated program, two measures suggested by the previous regime. The program patterned on international experience is expected to cover the following fields: improving public administration, which calls for intensifying administrative reform, revising wages and salaries, and creating work ethics for civil servants; and creating a competitive private sector coupled with economic de-regulation, elimination of the shadow economy, and tax reform. This also calls for changes in the political sphere which include a checks-and-balances system, political rivalry, and transparency. The judicial system, institutional structures and state expenditure policies need reforms as well; civil sectors should also be involved.

Figure 1

**Comprehensive Strategy of Fight against Corruption and Improvement of Public Administration**

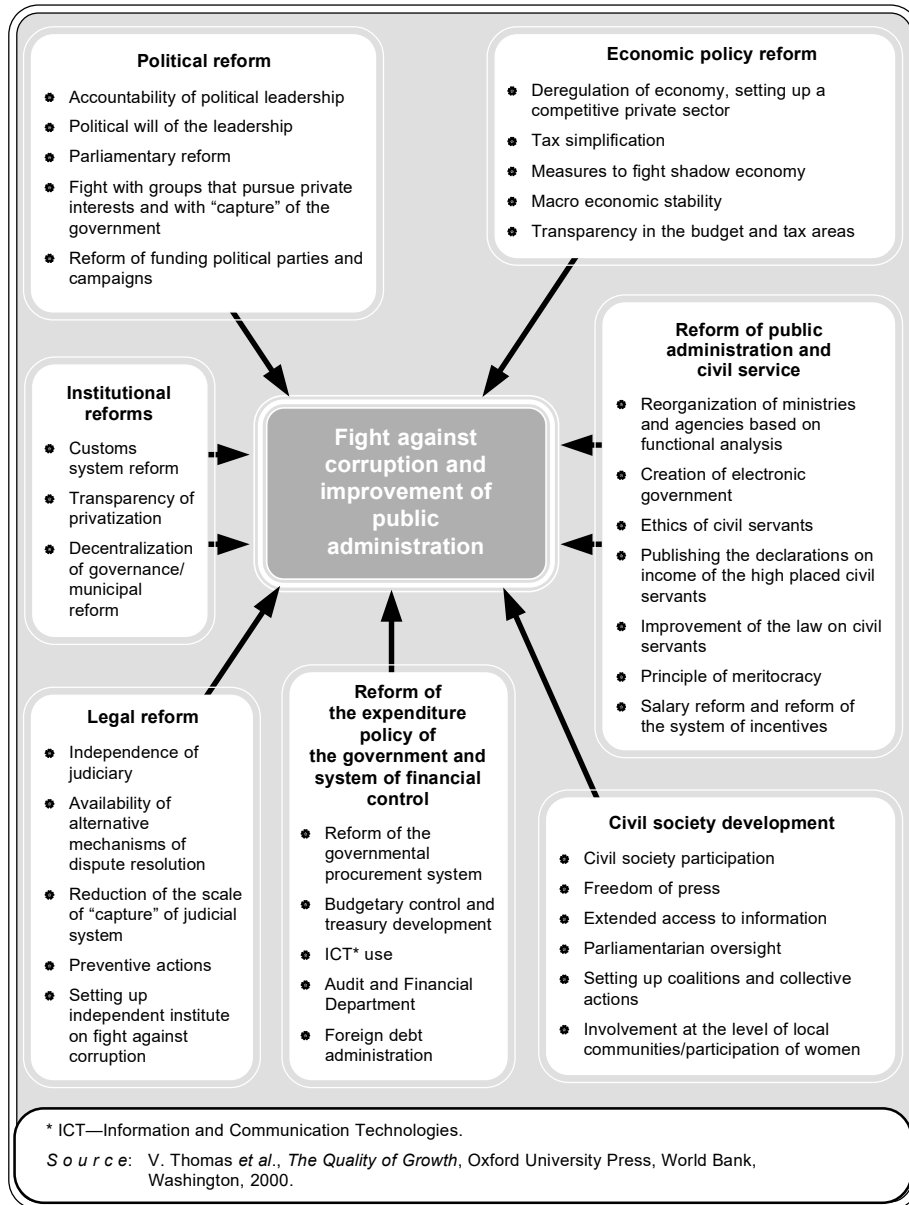


Figure 1 shows how to fight corruption in all spheres and improve public administration.

A systemic approach alone can produce important results—in its absence, the level of corruption in various spheres, in the law enforcement bodies in particular, increases. Success demands not only that the country's leaders demonstrate political will, but also considerable resources and donor support. I should say that such support is felt in many spheres—the time has come to coordinate and rationally re-distribute resources and exclude parallel efforts.

Where should the efforts of systemic corruption fighting be applied?

### **Political Reform**

The new leaders who came to power after the events of 24 March, 2005 stated that fighting corruption would become one of the political linchpins. It is hard to say so far what the new authorities want and what they can do: today they are limiting themselves to bringing to light instances of corruption and other economic crimes perpetrated by the old regime.

The checks-and-balances system, which includes, among other things, full accountability of all branches of power and political parties, is an effective instrument for fighting corruption. The country is living through constitutional reform, while the political structures are suggesting that the mechanism should be strengthened by redistributing power and responsibility between the president and the government and by increasing the role of political parties in public administration. So far these statements have not been put into practice, while the present situation speaks of the absence of clear procedures and norms of accountability of the political leadership. Its political statements notwithstanding, it has failed to offer effective and comprehensive anticorruption measures in view of the professionally weakened civil service. In the absence of a system of monitoring and assessment of administrative reform, it is impossible to estimate the efficiency/inefficiency of the changes. This weakens the leaders' political determination and arouses mistrust towards the numerous programs announced by the people in power.

Experience has taught us that in the absence of party lists, the archaic election procedure allows all sorts of candidates without clear political programs and party responsibility to win seats in the representative structures of all levels. Such deputies, engrossed in pursuing their interests, tend to forget about their election promises.

The present parliament, the product of a scandalous election that, in fact, triggered a regime change, is fairly wobbly. It has not yet acquired all its working structures (transfer from a one- to two-chamber legislature), while its staff is as weak as before. This affects the quality of the laws and the regulatory base, which is full of loopholes for conflicts of interests and corruption. An institution of preventive assessment of draft laws has not yet been created.

### **Transformation of Economic Policy**

In the past five years, economic deregulation has been receiving much attention: if resolved, this problem might improve the investment climate and attract direct investments. Until this happens, major investments will continue coming into the country through international financial institutions and donor states under government guarantees, which endangers the repayment of foreign debts. A Council chaired by the republic's president was set up which included foreign investors and big Kyrgyz businessmen; its secretariat was instructed to draft so-called "investment matrices" designed to limit state interfer-

ence in the economy. Obviously limited regulatory and controlling functions of the state in the business sphere were expected to narrow down the corruption range. According to officials, the programs were fulfilled, but no tangible results were detected, probably because the ministries and other state structures executed the Council's decisions in a formal way. The weak legal base is another reason: numerous loopholes allow bureaucrats to invent new branch instructions and limitations to replace the annulled ones.

Today, a new Tax Code is being elaborated because the old one, very progressive for its time, became obsolete in the last nine years and burdened with numerous amendments and addenda. The new code will lower the overall taxation level, institute competitive rates for the main taxes, cut down the total number of taxes, and improve tax administration. The authors are convinced that a simpler and, therefore, understandable taxation system, fewer taxation privileges, and a broader tax base will threaten the shadow economy and help fight corruption in the taxation sphere.

The measures designed to maintain and consolidate macroeconomic stability and transparency in the fiscal sphere can be described as an obvious achievement of the past few years. The budgetary hearings started in parliament in 2002 with the participation of civil society are gradually becoming the norm. The budgetary process has already become more transparent, which makes it harder to defend subjective or group interests.

### **Institutional Changes**

There is fairly strong opposition, mainly represented by business circles wishing to preserve the old rules of the game, to reform in this sphere. In many areas therefore, such as the customs system, the changes are merely structural (unification with and later separation from the tax inspection service, or its transfer directly under government jurisdiction, etc.). Even though the Customs Code was coordinated with the WTO's requirements, the customs services remain one of the most corrupt.

Many hopes were pinned on decentralization of governance, yet things got no farther than the adoption of basic legal acts. The recent laws, including the one described as a priority—On Financial Support of Local Self-Government Bodies adopted two years ago—do not work. The large number of newly created local self-government bodies have neither the money nor the power to function properly. Under these conditions, money-distribution remains centralized, while the local communities cannot control this process.

### **Reform of Public Administration and Civil Service**

In recent years, the ministries and administrative structures were reorganized with the help of the UNDP and TACIS. Functional analysis methods were used to revise the tasks of most ministries and to issue recommendations on how to eliminate excessive rights and duties (including those performed by other structures as well) and avoid conflicts of interests. In the absence of a system of monitoring and assessment in the country, it was impossible to keep tabs on how these recommendations were carried out. It seems that this system can be created in the shortest time possible, if there is the political will to do so.

Decision-making based on international standards which use methods of assessing the regulatory impact of public policy may serve as an important anticorruption mechanism. In the absence of such methods, decisions become sub-standard and develop into fertile corruption soil. The new govern-

ment has already admitted that such procedures could and should be applied. An electronic system commonly known as “electronic governance,” which reduces the number of direct contacts between bureaucrats and the people, is another effective anticorruption instrument. To this end, Kyrgyzstan has moved beyond general conceptions and regulatory acts: there is a state portal (that should be further developed) with a list of services, which can be automatized in the near future; some of the decision-making procedures are being automatized.

An Ethics Commission for Civil Servants, which prior to 24 March, 2005 functioned under the president, was a purely formal structure that scored no victories in fighting corruption. The new leaders intend to set up a similar structure; today, with low wages and no guarantee of secure jobs in the civil service, this intention might remain a mere declaration. To score any successes in this sphere, the system of wages and salaries should be revised, and professional obligations and political involvement strictly delimited. Civil servants should be protected from political pressure and receive adequate guarantees under the law.

### ***Changes in the Legal Sphere***

Let me remind you that the judicial system, which largely depended on executive power, was one of the reasons for 24 March, 2005. To a certain extent, this sad state of affairs was caused by the judges’ low wages and the election procedure, the system’s underfunding, and other circumstances. Time and money are not enough to remedy the situation: the country’s leaders must demonstrate their political will. Today, the degree of “capture” of the judicial system is appalling, while judges are functioning under pressure from both the political and criminal communities.

On the whole, the law enforcement structures of Kyrgyzstan, which are expected to fight corruption, are breeding it: they themselves are highly corrupt (this is typical of many countries during political transformations). Independent polls carried out with the help of international organizations confirm the above; only the law enforcement bodies have escaped reform and criticism during the post-Soviet years. It should be admitted, however, that the old regime finally recognized that corruption could not be eliminated by force alone: it started looking for alternative methods and even tried to draft a program of preventive measures. These efforts, however, lacked the necessary drive and efficiency.

### ***Reform of the Expenditure Policy of the Government and System of Financial Control***

This can be classified as institutional reform, yet I have singled it out because this sphere is especially important for countries with transitional economies in which spending acquires new, fundamentally different features. At the transition stage, when the old laws no longer apply, but new ones do not exist, corruption in spending flourishes. Even though transition in the financial sphere is much more complicated and protracted than in other spheres, it must be reformed in the shortest possible time and with the best possible results. At the same time, such institutions as the system of public procurement, budgetary control, development of the treasury and auditing, financial regulation and foreign debt management cannot completely rule out corruption in the financial sphere. All procedures should be further improved to become more transparent and fully accountable.

*Development of  
Civil Society*

The republic has advanced far in this direction: the public is not only involved in decision-making; there is freedom of the press, wider access to information, parliamentary oversight, and the right to form coalitions and organize collective actions. Local communities, as well as women, are also involved. Quite often, though, pressure from the state has been so strong that civil society's involvement degenerated into a mere formality.

*C o n c l u s i o n*

Fighting corruption is important for any country wishing to develop socially and economically; it is especially important for states with transitional economies, in which corruption assumes specific forms and slows down progressive changes. Reform of the system of governance and greater efficiency of its institutions (which is directly related to fighting corruption) is especially important for Kyrgyzstan, which has practically no natural reserves. Recent years have demonstrated that the anticorruption struggle in the republic needs a systemic approach to be effective. Political will should be fortified by the use of effective instruments of monitoring and assessment (which should be created and applied), as well as a system of measures which includes both the use of force and preventive steps.