



Recasting Governance for Challenging Times

Miguel Schloss

President of Surinvest Ltda. & VirtusAtlas SpA (Chile), Trustee of Global Legal Information Network (GLIN) and Member of Bretton Woods (IMF-World Bank) Committee. Former Executive Director of Transparency International (Germany), and Director of Corporate & Budget Planning of World Bank (USA)
Email: m.schloss@sur-invest.com

Article History

Received: 1 March, 2021


Revised: 13 April, 2021

Accepted: 12 May, 2021

Published: 18 May, 2021

Copyright © 2021 ARPG & Author

This work is licensed under the Creative Commons Attribution International

 **CC BY: Creative Commons Attribution License 4.0**

Abstract

For the better part of the last twenty years, a multitude of international conventions, principles, standards have been agreed to strengthen governance and reduce corruption. These have led to a plethora of statements, institutions and regulations, experiments - each with their own valid inner logic. However, if we look for tangible, on-the-ground results, we are in for a big surprise, or rather disappointment. Taken together, the outcomes that have been reported (such as new control and tracking vehicles, anti-corruption legislation, and the like) have been at best intermediate, rather than final results to be sought. Moreover, they have been difficult to upscale and easy to circumvent by agents that have a dynamism, adaptability and imagination that is difficult to match by the entities and vehicles that have been created to control corruption and facilitate accountability. As a result, impact on the ground remained at best imperceptible in “moving the needle” to achieve tangible progress. It has now been 10 years that some 70 percent of countries worldwide scored poorly (below 50, in a scale of 0 to 100) in Transparency International's Corruption Perception Index — with no improvements of significance throughout this period. Growing signs of public discontent strongly suggest a widening gulf between elites and civil societies, and a consequent inability to respond to emerging societal demands. By now, it should be painfully evident that the time has come to take a dispassionately critical review of the approaches taken to date, and see how they need to be recast to respond to the evolving conditions around the world. This article is aimed at contributing to such review and help rethink, where necessary to recast such approaches to generate effective responses for the remainder of the century.

Keywords: Governance; Corruption; Discontinuities, adjustments, capture; Distortions; Economic development; Efficiency; Effectiveness; Depolitization.

1. Introduction

1.1. Barking at the Wrong Tree

It has become almost trite to invoke the realities of globalization. And yet, it is remarkable to observe difficulties and dislocations the world is facing to cope with the implications of ongoing paradigm shifts – from the fall of centrally planned economies in the former Soviet block, to the dislocations triggered by the increased mobility of goods, services, funds and people across borders.

There is a consequent diminishing relevance of the nation-state and Governments, and difficulties to adapt institutions and economies to the more flexible conditions around the world with associated shift of the center of gravity from the Mediterranean towards the Pacific Rim.

Nowhere is the disconnect between reality and past frames of reference more evident than in the political and governance debate. While much of the literature still harps on the North-South, East-West, Left-Right divides; it appears that it would be more appropriate to focus on a Height-Depth paradigm. In practice, societies that have generated rapid development have left behind such battles in favor of more empirical, cooperative and adaptive policies aimed at moving with and creating, rather than resisting the tide.

At the root of it all, enhanced empowerment stemming from new technologies and associated megatrends are undermining the near monopoly that many private companies have acquired over time, and the way they have captured public bodies. All this has ramifications on how governments relate to their citizens, how enterprises and organizations relate to their employees, shareholders and customers; or how superpowers relate to smaller countries.

Moreover, human progress is outpacing the capacity of the resource environment to keep pace with the need for a balanced development. Whether it is economic expansion (at the expense of known resource bases, such as mining and raw materials), and consequent increased emissions; or institutional and policy constraints to cope with increasing economies; growing and societal demands are stretching the limits of human knowledge to develop and settle increasingly complex and emerging demands (Schloss, 2020).

These changes are being accelerated by the biggest economic stimulus in history (adding so far \$13 trillion to reboot economies), possible climate change action (calling for investments of some \$16.5 trillion in the next 10 years to meet the Paris Accords), the integration into the world economy of “the next billion people” comprising of South East Asia that have ranked poorly in bribers payers indexes, massive technological change triggered by rapid digital transformation that are bound to disrupt existing political, economic, and social models. Tectonic changes of this magnitude will require a shift in the distributed power system, which may have to be anchored on more collaborative and flexible forms of interaction.

In time, they could help overcome deeper “structural” phenomenon, where: (i) employment opportunities migrate to lower income countries; (ii) emerging technologies render many semi-standardized occupations obsolete, seriously threatening people with limited skills to adapt to such changes; and (iii) give greater opportunities for influence and political pressure to civil society (Schloss, 2014).

By the same token, a multitude of international conventions, principles, standards and pacts, built essentially on obsolete institutions, too inflexible to deal with the dynamic conditions that are unfolding, are unable to engage the forces unleashed by the swift technological change. While this has produced unprecedented development among countries better prepared to innovate and generate disruptions, it has also facilitated corruption, money laundering, trafficking of human and financial resources at unprecedented levels.

It has become fashionable among leaders of various stripes to eloquently condemn such trends, but to no avail. Contrary to popular belief, though, the greatest problems are not centered on how to stop and control the disruptive side effects, but in the failure to understand the forces at work. In fact, many of the “solutions” being promoted are based on strengthening controls and monitoring vehicles that don’t have even remotely the agility and effectiveness of today’s economic forces (Schloss, 2013) -- thereby “barking at the wrong tree”, so to speak, for lack of proper diagnoses of the problems to be resolved.

Even the most serious persons are sometimes overcome by the fascination of mere forms, aimed at conveying the impression that something is done through international meetings at which facts are recorded, decisions taken, proclamations and press releases issued. The ceremony of such gatherings is capable of losing government officials, NGOs and others by the panoply of journalistic reports, funding for all kinds of “follow-up”, and so much activity with little that is of practicality. If anything, this points towards confusion between being active and doing something with genuine impact.

There is thus a need to guard any serious discussion against the army of ideologists, propagandists, public relation officials, interpreters and apologists, who essentially sandbag the issues, embellish the system as it exists and create artistic monuments to rhetorical ideas espoused in such gatherings. These tend to increase confidence and optimism of those who benefit under existing conditions. They, however, leave institutions, policies and other vehicles of action hopelessly behind the curve, and a far cry from what is needed to deal with the emerging conditions. Greater attention should henceforth be focused on *doing the right things, as against doing things right*.

At the end of the day, the best antidote will require more than exhortation. To open minds, we must understand the contextual change that is taking place. This paper aims at teasing out the elements that explain conflicts – and possible reforms of the underlying governance issues to improve response to emerging societal issues.

2. The Issue - Fighting yesterday’s Battles in a Changing World

Much of current day debate tends to focus on the resource dimension of and leadership perpetuating corruption and dysfunctional societies. If only one could get rid of troublesome leaders or curtail resources flows to them – so the argument goes – one could sever the ties that sustain such state of affairs, and bring about an end of corruption and various manifestation of conflicts.

If life were that simple, surely we would have had a peaceful and better operating world long time ago. The sheer stubbornness, longevity and intractability of so many conflicts, even in the face of such pellucid and blazingly simple suggestions, are clear indications that we must have a better understanding of the underlying forces and incentives that fuel such confrontations, and thus better grounded strategies for dealing with the issue.

This does not mean that controlling the resource flows play no role in conflict resolutions and the battle against corruption. Focus is needed on the weaknesses of institutions (to respond to the agility and resourcefulness of money launderers, terrorists, combatants and other players) and the limitations of trying to solve such problems through money flows -- or “the supply side”, so to say. Accordingly, while concentrating on “the demand side” (i.e. the part that generates the funding requirements of conflicts and vested interests), one needs to grasp the nature of the problem, to respond through appropriate policies and actions on both the supply *and* demand side of the problem -- just as one can only clap with two hands.

The following is thus to sketch out: (i) the particular “*nexus issues*” that makes countries vulnerable to conflicts; (ii) some of the “*supply side*” responses currently in place and their basic limitations; (iii) key underlying causes for dysfunctional societies that create conditions for corruption and other societal dysfunctions, including armed confrontation (i.e. the “*demand side*” of the problems) and; (iv) what can be done about them by integrating supply- and demand-side responses to the issues at hand.

There are, however, no quick fixes, standard solutions, one-size-fit-all approaches. Every country, crisis or conflict is absolutely situation-specific. That said, while each conflict has its own particularities, there are some common patterns that tend to magnify (or attenuate) conflicts. They give some valuable hints – but just that: hints of where solutions can be found.

3. The Missing Link – You can't Fish with a Tennis Racket

A heavy concentration of conflicts is centered in the poorest regions. There is also a growing recognition that strategies must be put in place to pre-empt the factors that contribute to them. In many such countries there is a fundamental problem of failed governance. Conflicts are oftentimes motivated and sustained by the economic self-interest of the parties concerned, who find conflicts a viable means of accessing wealth or sustaining discords.

Where institutional and associated governance structures are weak, leaders can easily remain in power (be it in government or rebel/guerrilla movements) through patronage, oftentimes of the military or armed groups, while they may wage war on their real or imagined enemies. Such strategies require funds – to buy arms and bribe allies to secure loyalty. Consistent with these developments, all surveys on international corruption rank arms and extractive industries as being some of the major sources of international bribery.

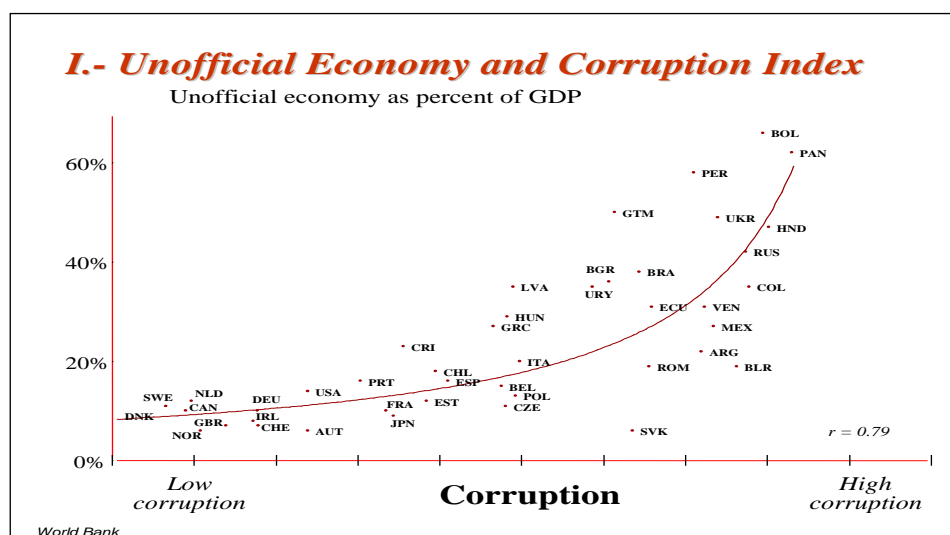
Under the circumstances, it is no accident that a great many conflicts take place in poor, yet resource-rich countries. Inevitably, global companies with activities in countries with conflicts are seen to be complicit with their leaders and the provision of funding that support their administrations, or rebel groups, as the case may be. If such revenues were properly “controlled and tracked”, they would not help fuel conflicts. Moreover, if they were effectively and transparently managed, they could contribute to successful growth and poverty reduction, thereby curtailing an important source of grievance and conflict. Oftentimes the State, rebel and other groups with access to these resources are unaccountable to the citizens and the payments become vehicles for embezzlement, fraud and corruption. As a result, such countries tend to perform poorly in terms of economic development and governance indicators (Schloss, 2015).

Tempting as it may be to pinpoint to the governance-natural resources-corruption-conflict nexus, in actual fact it begs the question in which direction these factors work; which is the cause and which the effect – and ultimately where to put the emphasis or sequence for corrective action: on governance?, the money flows and corruption?, on the conflict per se?

A few hints give us some pointers. The post-conflict proceedings of a number of enquiry committees, such as the Chilean, Peruvian or South African Truth and Reconciliation Commissions, when interviewing insurgents, combatants, soldiers and their families have hit on a variety of factors – which had little to do with money or access to resources that triggered and fueled violent conflicts. In Peru (where 30,000 people lost their lives, 5,000 disappeared and half a million were displaced) and in Chile (with more than 3,000 deaths and disappearances) the fights were driven by serious political impasse, great disparities of opportunities and associated ideological motivations leading people to take up arms to alter the established order by violent means (The Peruvian Truth and Reconciliation Commission Background, 2003).

In both cases, they were ultimately overwhelmed by military might and confrontation, leading (mainly in Chile) to institutional and policy reforms that set the country on a radically different path from the past, recasting of policies and institutions, new political leadership and, ultimately, economic development for several decades. This approach while focusing almost single-mindedly on “demand side” issues of the type mentioned on section V below, eventually led to more nuanced approaches combining legal proceedings, mutual recognition and compensation, and (up to a point) social inclusionary policies aimed at healing the wounds of the abrupt and bloody termination of conflicts. While such efforts led to sustained economic development, more recently, the technological and loss of unskilled employment opportunities, resurfaced conflicts, though at more manageable levels, which emphasize the limitations of institutions to major adjustments that still need to be addressed.

Whereas rebellious groups tend to have their origin in social, economic and ideological grievances, in some cases like Colombia, armed groups have increasingly relied on drug cartels, which fueled conflicts by financing the armed groups in exchange for protection of their business – in essence challenging the State and substituting it by providing basic services, including the provision of extralegal justice, education and social services. In others, such as Venezuela, the rule of law (Giugale *et al.*, 2002) is being undermined by the variant of populist Governments that co-opt part of the civilian population with food distribution, housing services, funded in part through drug trade and foreign assistance in exchange for political favors, strategic or military support.



In weaker States, mainly in Africa, these problems manifest themselves in more problematic ways. Where governments have been captured by particular interest groups, for their benefit, increased corruption tend to “crowd out” the economy into the informal sector, as can be seen in Graph I.

This situation provides every incentive for people to go underground to make a living, thereby “hollowing out” the States by de facto replacement “shadow states”, or crowding out a growing part of the economy into the informal or unofficial economy, which cannot be taxed and served with public services. This in effect leads to “privatizing” public benefits for the leaders for patronage of those who support them – either financially or militarily.

This is a recipe for corrupt, unaccountable and unresponsive governments, which tend to cling to power through repression that lead to conflicts difficult to control. In contrast with interstate conflicts that mobilize national unity and strengthens societal cohesiveness, conflict within a State can be caused by and/or weaken its social fabric.

In the end, as evidenced in parts of Africa, sustained conflicts divide the population by undermining interpersonal and communal trust, destroying the norms and values that underlie cooperation and collective action for the common good, increasing the likelihood of communal strife.

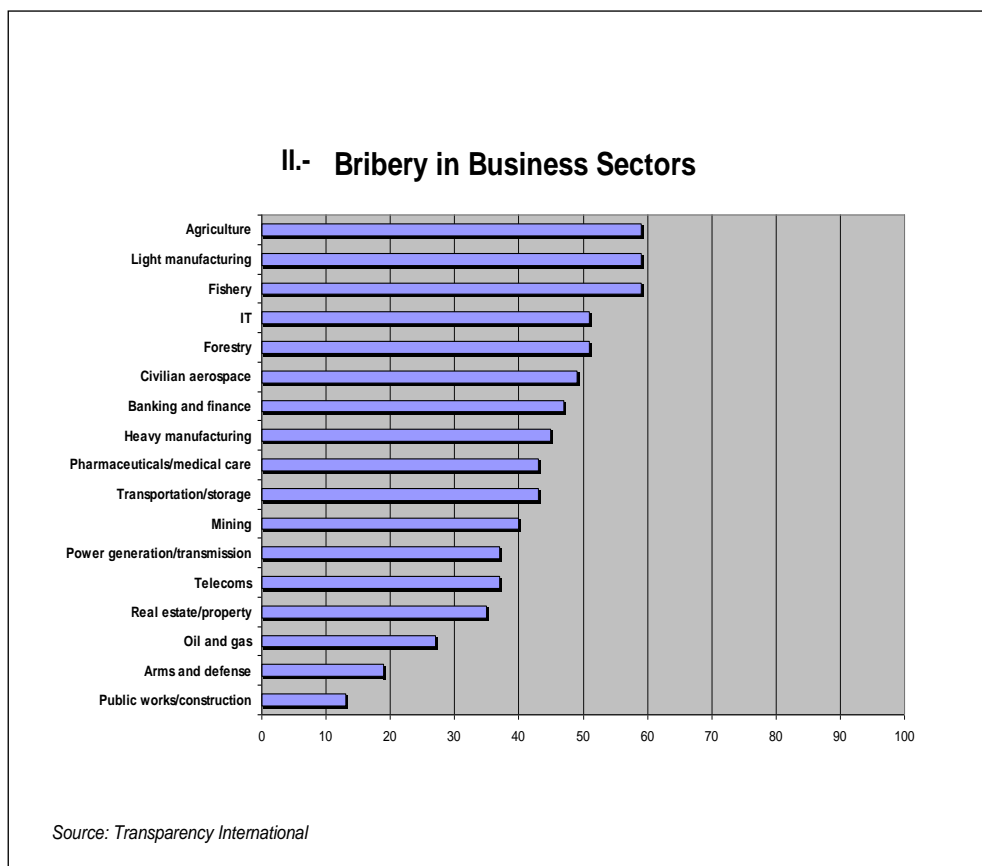
As a result, relations start to develop predominantly based on kinship, ethnicity, religion, or social strata, largely as protectionist, defense mechanisms or safety net for basic survival. While these conflicts oftentimes are driven by other causes – from raw power, ambitions of warlords, simple prejudice and other such factors.

All this points towards some economic dimensions of conflict and illustrate how issues of management and governance affect social cohesion. Often overlooked are the governance elements triggering or sustaining such conflicts: to one extent or another – from Rwanda in the past or the Congos - governments with sectarian policies or run for private benefits, create conditions for societies, political movements, clans, or families having to fare for themselves to procure “public goods” (such as support of the weak, education, etc.) - the exact obverse of a functional society.

A few indicators provide hints on what generates such behaviors. Transparency International’s Bribers Payers Index (BPI), which ranks leading exporting countries and sectors by the extent to which their companies are perceived to be paying bribes abroad.

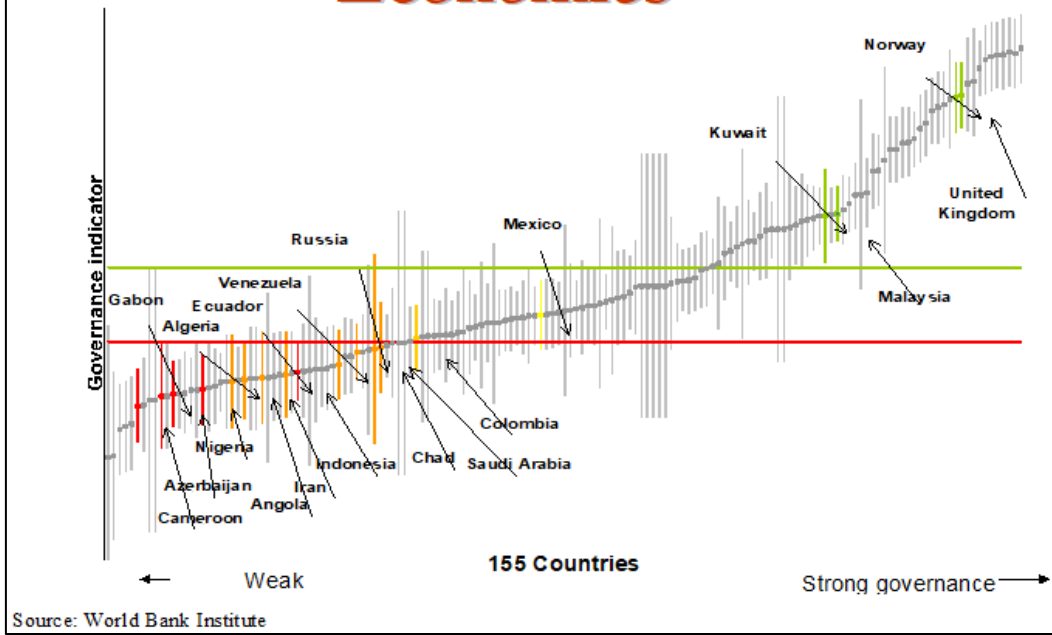
Particularly disturbing is the degree to which leading exporting countries are perceived to be using corrupt practices – buying favors, getting laws/regulations issued for their benefit, supporting regimes to serve their interests, ultimately undermining the solidity of host Governments.

Specifically, business executives and professionals in leading emerging market countries see international bribe paying to be greatest in the public works and construction sectors, followed by the arms industry and (Graph II).



Particularly problematic, however, is the high corruption associated with extractive industries – the economic bedrock for many developing countries. For instance, of petroleum (the third highest bribing sector) where countries like Nigeria, Indonesia, Algeria export anywhere between US \$2 to 35 billion, depending on oil output volumes and prices - - and yet their performance in terms of GDP growth, human resource development and governance is significantly lower than countries in the same income per capita levels (Gelb and Associates, 1998).

III.-Ominous Correlations: Oil Economies



It should thus not be surprising that petroleum-producing countries tend to fall in the lower percentile categories of governance ratings, where corruption figures high, as can be seen in Graph III.

More importantly, it is striking to see the heavy concentration of countries plagued with internal conflicts that fall in the higher end of corruption perception indicators – and in the lower end of governance ratings.

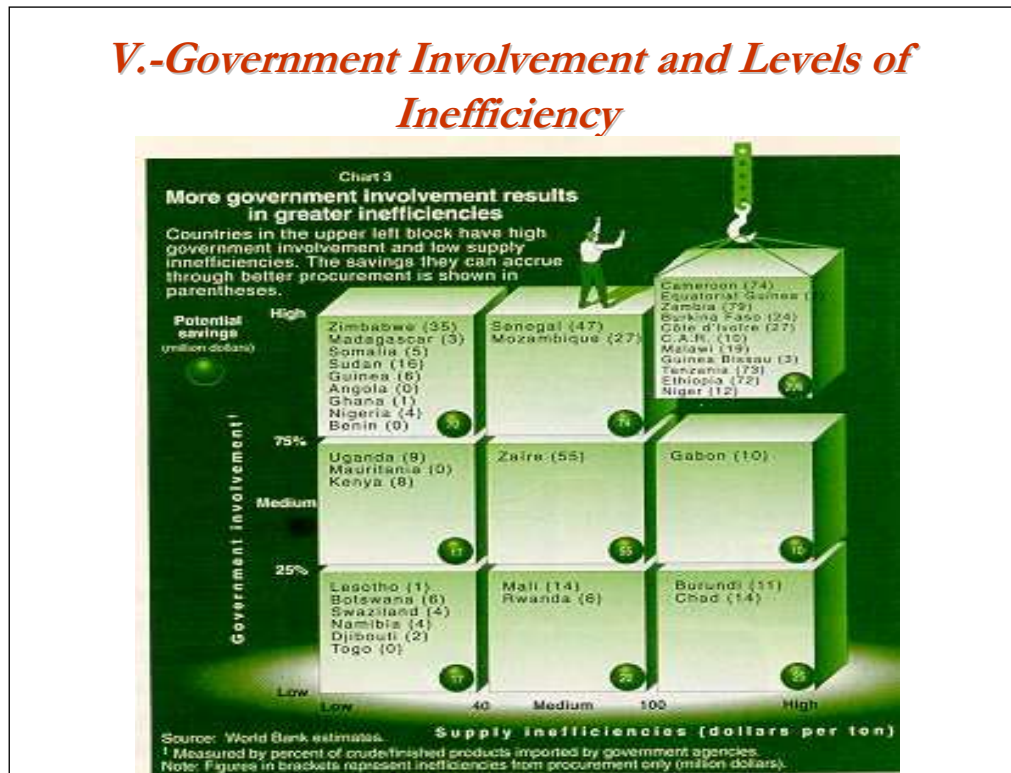
Moreover, the secondary effects, in downstream petroleum activities (transportation, refinery, inland distribution), are equally devastating though much more widespread. Petroleum products play a pivotal role in Sub-Saharan Africa’s economic development. Their purchase absorbs 20-35 percent of export ratings for the bulk of the countries in the region, and generates approximately 40 percent of tax revenues – thus constituting the single largest item in the balance of payments and fiscal revenues for most countries in this region.

The unaccounted resources from petroleum trade is more than 50% higher than the whole of World Bank Group net disbursements to Sub-Saharan Africa put together (Schloss, 1993) and thus ought to be much higher in the policy agenda of countries and international development agencies. In fact, some 65% of such “losses” occur as a result of discretionary decisions, where local authorities are involved (i.e. requiring no investments of any sort), and the bulk occurs in lower-income countries (Graphs IV and V) – depriving them from financial resources for development and increasing the prospects for grievance and tensions.

IV.- Potential Savings



V.-Government Involvement and Levels of Inefficiency



The issue is by no means restricted to petroleum. The nature of diamonds and this industry's operations create opportunities for illicit trade. Diamonds are a high-value commodity easily concealed and transported, are mined in remote areas worldwide, and are virtually untraceable to their original source. These factors allow diamonds to be used in lieu of currency in arms deals, money laundering, and other crimes. As a result, rebel movements financed their military activities, and undermined or overthrown legitimate governments using "conflict diamonds". These conflicts have created severe humanitarian crises in countries such as Sierra Leone, Angola, and the Democratic Republic of Congo.

The same problem can arise even in trade of bulkier commodities, such as in the forestry industry, where illegal logging is estimated to easily range between over 40% of countries' production (in Colombia) all the way up to 90% in Cambodia, with many countries ranging in between, like Myanmar (80%), Indonesia (50%), Brazil (85%). Examples of illegal practices in the forestry include wide array of practices, raging from unlawful occupation of forestland to under-grading and misclassifying species.

In sum, poverty, inequality, misuse of the government apparatus through widespread corruption are oftentimes the grievances that trigger conflict. But these problems get exacerbated by the specific pathologies of rent-seeking and corruption that affect weak States that are highly dependent upon natural resource exports. While corruption has deeper economic and political causes than the distortions of natural resource dependence, weak public administrations, and its attendant absence of rule of law, have been associated with particularly virulent and intractable forms of systemic corruption.

Accordingly greater attention is needed in addressing: (i) the specific institutional, legal, and other governance factors that permit and perpetuate this kind of behavior; and (ii) the way natural resource dependence exacerbate corruption. When resources come from the sun and the earth, rather than hard toil, the temptation is great to manage the surpluses as if they were the product of loot. As long resources are plentiful or there is even a moderately functioning State, peace can be "bought" through massive subsidies.

In sum, the nature of natural resource dependency creates particularly difficult barriers to reform, by generating an entitlement mindset while freeing States from the need to tax their citizens. This, in turn removes an important incentive for transparency. As long as resources are plentiful, and not insulated by a disciplined budgetary process, they become easy prey for massive transfers, and weakening link between governments and citizenry and thus incentives for accountability.

4. Curtailing The "Supply Side" - Emptying the Ocean with a Teaspoon

In response to this situation, a number of initiatives have been crafted and agreed aimed at tightening up controls of money flows, which generate corruption and sustain conflicts. Chief among them:

- **Governments** have reached various international agreements and conventions, including the *Inter-American Convention Against Corruption*, *OECD Convention on Bribery of Foreign Public Officials in International Business Transactions*, and the *United Nations Convention against Corruption*, which establish various forms of criminalizing transnational bribery and illicit enrichment, mutual assistance laws, and frameworks for cooperation on extradition, and adoption of legislations to prevent corruption. Most of these agreements lack credible enforcement vehicles, and thus remain largely as statements of intent, except

for the OECD Convention, which has tracking vehicle that serve as peer reviews to follow-up and ground actions in local legislations for enforcement and removing fiscal incentives for corruption. But awareness among the business community of the existence of such agreements remains rather low ([Transparency International Bribers Payers Index Survey, 2002](#)).

- **Multilateral institutions**, recognizing the paradigm shift they (particularly the World Bank) have tended to respond with a more comprehensive focus, including a broader approach to combating corruption and institution building ([The World Bank, 2002](#)), and provided leadership in creating international transparency standards (*Global Initiative on Financial Transparency, Open Contracting Standards, Asset Disclosure Standards*) and support for the implementation of open government (through support for the *Open Government Partnership*). In addition, multilaterals have also joined in a selective manner some multi-stakeholders initiatives mentioned below, thereby providing some legitimization and technical support for their viability.
- **Multi-stakeholder initiatives** that mobilize various affected parties around projects have been promoted for major (mainly mining) projects by multilateral development institutions, government, private sector and civil society institutions, to actively assists in the implementation of transparency and accountability efforts such as *Extractive Industries Transparency Initiative (EITI), Publish What You Pay, Fisheries Transparency, Anti-Money Laundering rules*.
- **Private sector** associations have issued Global Business Codes, including the International Chamber of Commerce (ICC) Rules; Pacific Basin Economic Council (PBEC) Charter rely essentially on voluntary implementation without independent verification arrangements, and thus are difficult to evaluate in terms of their actual implementation, impact or results. The include the *Wolfsberg Anti-Money Laundering Group* aimed at strengthening “know-your customer self-regulations” of major banks ([Anonymous](#)) but money laundering takes place in poorly regulated jurisdictions, and weaker financial intermediaries. . Similarly, the *Kimberley Process Certification Scheme* aims at certifying diamonds trade among some 40 countries to prevent the flow to violent insurgencies. The United States General Accounting Office (GAO) found that, while the Certification incorporated some elements of accountability, the scheme was not based on resilient risk assessments with obligatory controls, and voluntary industry participation and self-regulated monitoring and enforcement throughout key points in the value chain ([Yager](#)).
- **State-underpinned efforts**, buildt on private sector initiatives and tracking capabilities have been developed aimed at establishing an anti money-laundering and tax-evasion effort of universal application has been set up through the *Financial Action Task Force on Money Laundering (Anonymous)*. Based on similar logic, the *Foreign Account Tax Compliance Act (FACTA)* requires non-U.S. foreign financial institutions to search their records for customers with connections to the U.S., to report the assets and identities to the U.S. Treasury.

By and large, the results of these initiatives has been at least mixed. When there have been no powers to compel compliance by either the industry or governments concerned, the arrangements rely essentially on faith, and are difficult to verify. Multi-stakeholders efforts, such as EITI, aimed at introducing discipline through increased transparency and mutually supported accountability to track resources to host countries, as is being done in a number of extractive industries projects have, on the whole been difficult to set up and operate – but are still in their infancy to clearly establish their efficacy. By and large, though, jurisdictions with solid incentive structures and dedicated governance structures in extractive industries have on the whole operated reasonably well, and have not had much of a necessity of special initiatives, including Chile, Botswana, Norway or Alaska.

This goes to show the importance of proper enabling conditions at the country level, is in all more effective method to control resource management than narrowly focused resource tracking paramagnets per se.

By the same token, there are differences of opinion about the value of corporate anti-corruption programs, compliance and associated codes of conduct. Given the many parties involved, the “going alone” practices have proven to be rather difficult, with limited effectiveness judging by the widespread corruption in countries and sectors where companies with such codes operate. Many in the business community believe that self-regulation, through for instance *Business Principles for Countering Bribery* is the right approach and that it is preferable to government regulation. Others argue that self-regulation is a sham and only government action can be expected to curb corruption.

When seen, however, as a component of a comprehensive anti-corruption program, they could provide a stimulus to more business-like and effective economic activity. Internal reviews of several companies’ programs tend to agree that they are not a substitute for more comprehensive approaches, including government regulations: both are needed and each reinforces the other, and coalition-building approaches with relevant constituencies have tended to be more effective.

A “best practices” study undertaken by Transparency International USA of anti-corruption programs used by major American companies ([Transparency International – USA, 1996](#)) stressed that whether a code of conduct is only a piece of paper or it controls corporate behavior, depends on the compliance program the company uses. These include: (i) unequivocal commitment by top management, including hands of top-management involvement in policy formulation, articulation and implementation, (ii) clear policy statements that the company prohibits employees and third parties representing the company from offering anything of value, directly or indirectly, to government official to influence or reward an action; (iii) detailed guidelines regarding gifts and entertainment, and strict enforcement and compliance programs with applicable laws and regulations regarding corporate political contributions and their disclosure; and (iv) the existence of a system of internal controls and record keeping that ensures that company

books accurately reflect its transactions, overseen by an audit committee, composed of outside directors and associated internal reporting.

All told, though, the absence of visible, discernible improvements despite this flurry of activity should be a warning that something important is missing. Under the circumstances, proposals for cutting or controlling flows of resources require the burden of proof – rather than benefit of doubt, at least when applied across the board, with little adaptation to individual country circumstances. At best, they may be necessary, but in no case sufficient conditions for improved and effective governance.

5. Tackling the Demand Side – Better Vaguely Right than Definitely Wrong

Governance dysfunction and attendant corruption occurs when economic opportunities for it prevail and political will to combat it is lacking. In a way, corruption is a symptom of fundamental economic and political problems. Addressing them effectively therefore requires dealing with the underlying economic, political, and institutional causes.

This requires looking at the demand side (i.e. the “receiving hand”), where rather strong empirical evidence suggests the following striking patterns (plotted in graphic form in the Annex of this article) that could constitute the bases for corrective policies (Schloss, 2000):

- Corruption tends to be high, the weaker the *rule of law* and the institutions that impart justice in the countries concerned. Almost by definition, this makes zones of conflict easy prey for corruption.
- Similarly, the more societies are pluralistic and thus open to scrutiny, the lower the levels of corruption. The empirical evidence suggests that countries with the strongest *civil liberties* tend to have greater public accountability and lower corruption, with similar interrelationships among civil liberty, civil strife and public performance (Isham *et al.*, 1999).
- It also stands to reason that the higher the *professional levels in civil service*, or the sheer existence of a credible public administration (a particular neuralgic issue in zones of conflict), the lower are the perceived levels of corruption.
- Conversely, more often than not, at the root of the problems, one can find excessive *discretionary powers* of leaders and administrations -- as the old saying goes: “power corrupts, absolute power corrupts absolutely.”

The foregoing essentially points towards corruption being an entrenched symptom of misgovernance often reflected in patronage, red tape, ineffective revenue generating and public service agencies -- and under extreme conditions, a source of civilian or military conflicts. At the same time, corruption, and its attendant breakdown in societal governance, can be reversed by dealing with the underlying public-private sector interface.

When officials in charge of public resources are accountable to their citizens, decision-making can become participatory. In turn, a participatory process can be the cornerstone to reform “sick” institutions and improve the welfare of citizenry. In the end, corruption is an entry point to deeper public/private interface reforms.

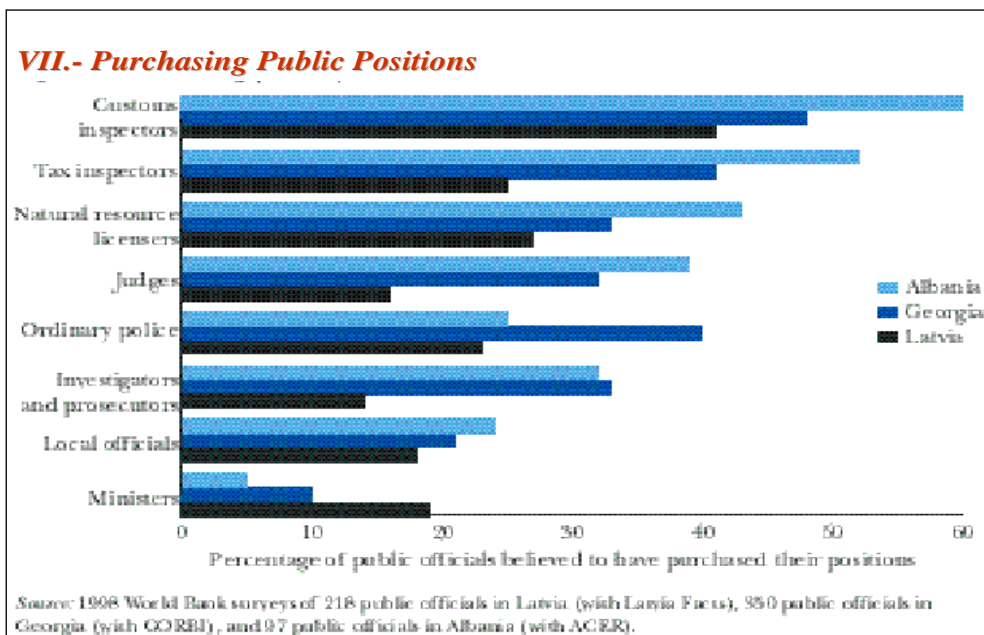
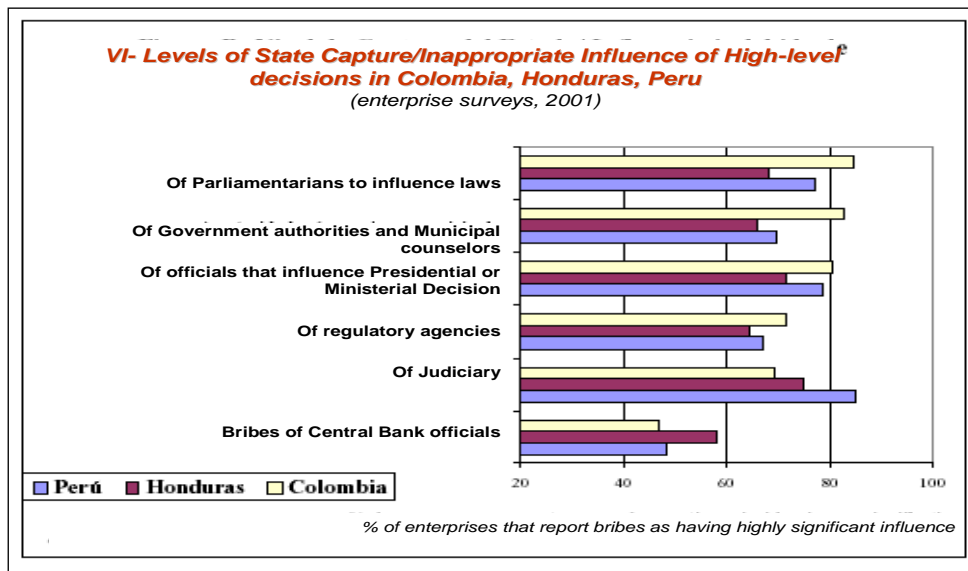
Successful reform should thus focus on changing policies and systems, rather than hunting for isolated culprits, adding new laws and regulations, or calling for a moral renovation. When public officials are paid meager salaries and offered no rewards for exceptional performance, and when penalties against the corrupt are rare and mild, we can expect corruption to flourish. Successful reforms aim at changing habits and attitudes by addressing the above-mentioned systemic problems, by:

- **Empowering** and enabling *civil society* to hold state institutions accountable to the rule of law by: (a) ensuring freedom and dissemination of information; (b) providing for publicly driven hearings or similar arrangements for drafting laws, regulations or other vehicles of governmental acts; (c) developing media, civil society organizations, etc. to engage citizenry and level the playing field between government and the private sectors; and (d) building checks and balances to ensure: independent and effective judiciary, decentralization with accountability, and support civil society oversight arrangements. The more engaged a citizenry is in the fate of its country’s resources, the less likely it is that a government will risk public ire by tampering with such resources. With public involvement, the public expenditure management can serve effectively as a compact between governments and citizens.
- **Depoliticizing public administration** and public finance through setting up the rudiments of: (a) meritocratic civil service; (b) transparent, monetized public sector with adequate remuneration; and (c) associated accountability in expenditures -- by setting up independent treasury, audit, procurement functions and processes, and performance-based management processes. The more technical and non-discretionary the rules of surplus and public sector expenditures are (such as the establishment of thresholds for resource use or savings), state-of-the-art expertise to establish and guides public expenditure and saving policies, the better the chances for solid public resources management performance and public support.
- **Establishing accountability of political process and finance** through: (a) disclosure of parliamentary or equivalent legislature voting arrangements; (b) transparency in party financing; (c) asset declaration, conflict of interest rules and/or similar actions to build transparency of associated sections of political processes, (c) disclosure, accounting/audit and other transparent governance arrangements for private enterprises and public procurement arrangements. More broadly, an aggressive disclosure policy minimizes opportunities for abuse – just as the proverb states, *sunlight is the best disinfectant*, and produces a sense of ownership with its consequent accountability.

- **Building up mediating mechanisms**, requiring as limited institutional-intensive arrangements as possible to facilitate an enabling environment for the development of movements and entrepreneurs, however fledging, though competition and entry through: (a) restructuring of monopolies to have competitive and open business environment; (b) regulatory simplification; (c) reducing discretionary powers of public authorities and establishing vehicles of contestations or mediation to facilitate proper airing of claims; and (d) developing special oversight vehicles (such as extractive resources management) to minimize temptations of diversion.
- **Supporting** local oversight efforts of activities involving international transactions through **global institutions**, by building up: (a) the transparency of tax and royalty payments, imports and exports; (b) establishing open business standards, associated internal control and enforcement arrangements; (c) debarring jurisdictions or countries, enterprises or individual engaged in corrupt practices; (d) strengthening money flow and trade oversight verification.

But here is where the commonalities end, and where the crucial country- and situation-specific situations begin. After all, there is one thing that is common to all countries: they are all different. The above-mentioned “levers of change” are the same for nearly every situation, but they can take you only so far, and play themselves out differently in every particular situation.

To carry out effective reform programs one has to start by: (i) diagnosing how the specific corrupt system works in the particular country or regional context through surveys, workshops with key players, to pinpoint specific vulnerable areas that need corrective action; (ii) overcoming political and bureaucratic resistance, and garnering support by focusing on early wins, building alliances with relevant parties, to gain broad support and momentum for the needed reforms, etc.; and (iii) crafting a sequenced plan of action to overcome corrupt systems, break the culture of cynicism, and build political momentum for transformation of government, civil society and enterprise sectors. (Robert *et al.*, 2000).



Graphs VI ad VII illustrate how different the problems manifest themselves in different countries and thus the extent and varied focus of government capture in some countries, suggesting that in places like Colombia action needs to concentrate on elected offices like Parliament, the Executive and Municipalities, whereas in Honduras or Peru attention needs to be drilled down on the Judiciary and its associated bodies to build up rule of law.

In countries emerging from strong and sustained civil strife, the institutional dysfunction is inevitably more widespread and thus require actions on a broader array of “levers of change”, ranging from the government apparatus (executive, legislative judiciary) to independent oversight and watchdog bodies, civil society, media, etc.

6. Meeting Supply and Demand – Focusing Where the Rubber Hits the Road

After decades of declarations, Conventions, experiments (mainly at the micro levels), it is fair to say that corruption remains hardly affected since the first surveys have been undertaken over two decades ago; institutions and policies that have been put in place were largely unable to channel orderly and sustained adjustments to respond to the tectonic changes under way, with consequent societal tensions and confrontations.

This suggests that we have a profoundly inadequate grip on the issue and a woefully inappropriate approach to overcome the issues. The above-mentioned initiatives should, at best, be seen as a mere beginning for addressing challenging governance demands for the new century. It would, however, be dangerously deluding, if not distracting to uphold this level of performance for the type of resilience societies need to confront emerging challenges. Three glaring shortcomings of ongoing approaches are:

- *First*, with no local grounding, and serious diagnoses of the issues to be resolved, most of them lack clear connections to the causes to be addressed as well as genuine indigenous constituencies, thereby requiring continuing conditionality, top-down institutional compulsion and increased donor or foreign dependency — a poor substitute for homegrown reform and tailor-made efforts to assure sustainability.
- *Second*, for the most part, they tend to rely on: (a) gathering of information and evaluation that are scarce and expensive, which inhibits internal and external controls, (b) weak information-processing skills at both the individual and institutional levels; (c) weak incentives if good performance goes relatively unrewarded and bad performance based on self-regulation rather than independent or countervailing institutions, which tend to avoid “rocking the boat”; and (d) dependence on oligopolistic players who, left to their own devices, many collude to avoid confrontation.
- *Third*, while such controlling efforts have their place, the inherent inefficiency of government and international agencies, obsolete tools, inadequate legal environments, and ineffective doctrines of many of today’s institutions limit the effectiveness of such approaches.

In those countries that succeeded combating corruption, they have done so by dealing with the underlying public-private sector interface. When officials in charge of public resources became accountable to their citizens, decision-making has become transparent and participatory. In turn, such approach becomes the cornerstone to reform institutions and improve welfare of citizenry.

In the end, corruption is an entry point to deeper public/private interface and governance reforms, which aim at changing habits and attitudes by addressing systemic problems.

In the same way as poor governance issues can be the trigger, if not the actual cause, of many conflicts, strong societies with inclusionary institutions and social policies as manifested in conflict-mediating institutions, such as efficient and non-corrupt bureaucracy, are more likely to be able to prevent or withstand the socioeconomic and political shocks associated with internal conflicts.

Important as well-performing public institutions and good governance are for internal peace, targeted actions are less likely to succeed in a distorted policy environment. So, in the end, the incentive structures emerging from policy action is the single most important element to assure sustainability even to confront adjustment needed for major structural shifts. Neither good policies nor good single-purpose actions or investments are likely to emerge and be sustainable in an environment with dysfunctional institutions and poor governance.

In any even, building or reforming public institutions is a complex task, both technically and politically. Accordingly, whenever possible it is better to trim institutions and processes rather than streamlining or automating them, and relying on incentives rather than complex organizational arrangements.

By and large, “first-generation” reforms, such as trade liberalization, could often be undertaken through actions of a relatively small number policymakers and public managers. More advanced and nuanced institutional reform, however, typically involve fundamental changes in the “rules of the game” for a large number of civil servants and private citizens — thereby requiring actions over a wider array of actors, which are difficult to engineer institutionally.

Such changes are likely to require long-term and widespread commitment, in-depth knowledge, and extensive support. Even when reviewing the experience with individual tools, a survey of civil society monitoring practices of public procurement showed that the way to manage and apply them need strong adaptation to respond to local capabilities, institutional and policy contexts (Schloss, 2002).

7. Wrapping Up – Walking the Talk

The fight against corruption and its far-reaching ramifications consequences is emblematic of a larger struggle that does not get resolved with aspirational talk. It has to be approached through curtailing monopoly and discretionary powers, and increased transparency. In the end, corruption is a crime of calculation, not of passion.

People tend to engage in corruption when the risks are low, the penalties mild, and the rewards great. Moving from words to deeds requires overcoming three deeply ingrained constraints:

First -- actions and results matter. The larger point that is usually overlooked is that the discussion needs to move from demanding to proposing and, above all, avoid confusing formalities and procedures, with actions on the ground. At best the former are proxies for tracking progress. They are, indeed, convenient and easy to observe intermediate results – but in no case the ultimate objectives being looked for (reduced corruption, increased efficiency and effectiveness) that matter, and are ultimately the societal objectives that one needs to observe or measure (however imperfectly).

Second – keys to accountability. Hitherto, for the most part, actions have tended to have a technocratic and State-driven approach to problem solving, with limited appreciation of the role of civil society, transparency, scrutiny, contestation, and the manner of holding accountable countries' Administrations (Raghuram, 2019). As a result, mediating and empowering organizations, the institution of proper oversight arrangements with stakeholders' inputs, checks and balances play only a marginal, if not perfunctory role in the arsenal of such interventions, muffling their impact on accountability and responsiveness.

Third -- constructing in disruptive environments. Most vehicles of assistance have essentially outmoded, project- and micro-While monitoring and compliance grounded approaches may work well at individual enterprises levels, they cannot be easily scaled up, without bureaucratization or loss of effectiveness. With rapid surge of private capital and human resources flows, and their attendant transfer of knowledge and technology, information, market access and finance, traditional approaches are clearly unable to replicate or supplement the performance of the new players in the field. Thus, the unbundled approach traditionally used by development agencies in the delivery of services (through economic, sector/policy, project work) oftentimes produces discontinuities and poor follow-up, resulting in difficulties in "walking the talk" and delivering on their project and policy promises. This requires recasting delivery instruments to flexibly respond to a wider range of players or trigger changing flow of events.

Admittedly, much of this is more easily said than done. Preparedness for a certain amount of well-structured experimentation will be highly desirable. More importantly, since corruption issues can be so pervasive, the concern will have to be handled holistically, in various fronts in tandem. As the old saying goes, "the ocean cannot be emptied with a teaspoon". The greatest test of our success will be in our ability of crafting coalitions that transcend particular ideologies or vested interests, and devising policies that cut across silos or individual activities throughout the economy. No action is bound to have much meaning or significance, if it is designed by a few and carried in the hearts of none.

At an almost platitudinous level, the struggle for the future has to come from within societies – not from the bland and sedative process of international aid or advice, but from hard work that creates value where none existed before, building institutions that are accountable for results. In this way, surpluses can be generated that can be plowed back into the human and physical infrastructure to enhance skills and able societies to sustain themselves in an increasingly competitive and changing world. To this end, policies and institutions will have to be rigorously probed and scrutinized in light of experience, and periodically adapted to meet the test of changing times.

Above all, emphasis should henceforth move towards prevention and the incentive structures to foster competitive and accountable behavior, so that usual constraints on enforcement and controls that have been hitherto the focus of action can overcome (if not skirt more effectively) existing vested interests.

References

- Anonymous: Available: www.wolfsberg-principles.com
- Gelb, A. and Associates (1998). *Oil windfalls – blessing or curse*. Oxford University.
- Giugale, M., Lafourcade, O. and Luf, C. (2002). *Colombia: The economic foundation of peace*. The World Bank, Dec.
- Isham, J., Kaufmann, D. and Prichett, L. (1999). Civil liberties, democracy and the performance of government projects. *The World Bank Economic Review*, 11(2): 1999.
- Raghuram, R. (2019). *The third pillar – how markets and the state leave the community behind*. Penguin Press: NY.
- Robert, K., Ronald, M.-A. H. and Lindsey, P. (2000). *Corrupt cities – a practical guide to cure and prevention*. ICS Press and World Bank Insitute.
- Schloss, M. (1993). *Finance and Development, Does petroleum procurement and trade matters?* IMF/World Bank.
- Schloss, M. (2000). Anatomy of anti-corruption programs. *Cornell International law Journal*, 33(3): Available: <https://scholarship.law.cornell.edu/cilj/vol33/iss3/2>
- Schloss, M. (2002). Fiscalización ciudadana de adquisiciones públicas.
- Schloss, M. (2013). *Latin american advisors of Inter-American dialogues interview-how is corruption affecting Latin American countries?* Universidad de Chile.
- Schloss, M., 2014. "Latin american advisors of inter-american dialogue interview." In *Are Countries Making Progress in Fighting Corruption?*
- Schloss, M. (2015). *Instituto de Gobierno y Gestión Pública - Universidad de San Martin USMP (Lima, Perú) Dec. 2015 - Experiencias Internacionales para Fortalecer la Gobernabilidad (International Experiences for strengthening governance)* Transparency International: Madrid, Spain.
- Schloss, M. (2020). Tackling climate change in a changing world. *Global Journal of Science Frontier Research: Environment and Earth Science*, 20(5): Available: https://globaljournals.org/GJSFR_Volume20/1-Tackling-Climate-Change-in-a-Changing-World.pdf

The Peruvian Truth and Reconciliation Commission Background (2003). (mimeo for CSIS presentation). Comisión de la Verdad y Reconciliación (); Informe Comisión Rettig (Chile, February 1991). País-El Plan UDI (June 1991); Propuesta de la UDI sobre DDHH. Available: www.verdad.org.pe

The World Bank (2002). Reforming public institution and strengthening governance, helping countries combat corruption.

Transparency International – USA (1996). Corporate Anti-corruption Programs – A Survey of best Practices.

Transparency International Bribers Payers Index Survey (2002). More than some 45% of executives from major companies resident in emerging countries have heard about the convention.

Yager, G. L. "Testimony before the subcommittee on oversight of government management, restructuring and the district of columbia, committee on government affairs, U.S Senate." In *International Trade: Significant Challenge Remain in Detecting Trade in Conflict Diamonds*.

ANNEX

