

Defining Corruption

Transparency International defines corruption as “the abuse of entrusted power for private gain.”



The 3 Major Types of Corruption

- ▶ Political Corruption – “The manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth.”
- ▶ Grand Corruption – “The abuse of high-level power that benefits the few at the expense of the many and causes serious and widespread harm to individuals and society.”
- ▶ Petty Corruption – “Everyday abuse of entrusted power by public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies.”

Source: Transparency International

What is the Link between Human Rights and Corruption? 5

- Corruption is about:
 - power, specifically the abuse of power
 - the relationship between a government & its citizens
 - ❑ Do the citizens serve the government or does the government serve its citizens?
- Controlling corruption is about:
 - placing limits on government power
 - the accountability of a government to its citizens
 - putting people first!

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Benefits of Controlling Corruption

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- On a practical level, controlling corruption is about:
 - reducing wasteful spending
 - reducing delay in providing public services
 - promoting government efficiency
 - improving the quality of government performance and services
 - especially improving our schools, health clinics & hospitals, and police
 - ensuring the government is responsive to what the public needs & demands

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Understanding Corruption

Corruption can be understood according to the following formula:

$$C = M + D - A$$

That is, Corruption equals Monopoly Power Plus Discretion Minus Accountability



What Do We Mean By Accountability?

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- ▶ It means more than Transparency, although that is a key part of Accountability
- ▶ 2 Types of Accountability Mechanisms
 - ▶ Internal Accountability Mechanisms:
 - checks and balances/separation of powers
 - independent judiciary
 - freedom of information (or right to know) laws
 - public procurement practices
 - non-partisan & apolitical civil service, where hiring and promotion is based on merit and not connections, family ties, politics or wealth

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Accountability – cont.

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- “notice and comment” period before issuing regulations
- asset disclosure requirements for government officials
- open government laws
- written and publically available opinions and rulings by courts and administrative agencies justifying their decisions and actions
- laws protecting whistle blowers
- ethics laws for government officials



Accountability –cont.

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▶ External Accountability Mechanisms

▶ Free and Independent Media:

- ▶ Freedom of the press and freedom of speech as fundamental rights
- ▶ Abolition of criminal libel laws
- ▶ Laws making it difficult for public figures to prevail in civil libel lawsuits
- ▶ Few/no government obstacles to establishing newspapers, magazines, journals, web sites, TV and radio stations

▶ Free and Independent Civil Society:

- ▶ Freedom of assembly as a fundamental right
- ▶ Ease of registering NGOs
- ▶ Favorable tax treatment

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Discretion

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- ▶ What is it?
 - ▶ The power or right to decide or act according to your judgment
- ▶ But can we eliminate discretion in decision making by government officials?
- ▶ Do we want to eliminate the exercise of discretion by government officials?
- ▶ If we either can't or don't want to eliminate discretion by government officials, how can we make sure that discretion is not exercised in a corrupt manner?

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Why is it so difficult to
successfully prosecute bribery
cases?



- ▶ Both parties benefit from the bribe, so no incentive to report
- ▶ The victims of bribery – those who did not get the job or admission to the university, those not awarded the government contract – usually do not know they were victims
- ▶ Fear of reporting
- ▶ Difficulty of proving criminal intent/quid pro quo

Alternatives to Charging Bribery When There Has Been a Bribe

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- ▶ Making a False Statement
- ▶ Perjury
- ▶ Tax Evasion
- ▶ Others?

Advantages:

- Usually much easier to prove



Corruption in Angola

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- ▶ According to a 2016 report by GAN, the Business Anti-Corruption Portal, corruption in Angola is widespread due to:
 - ❑ lack of checks and balances
 - ❑ insufficient institutional capacity
 - ❑ culture of impunity
- ❑ nepotism, cronyism & patronage pervade procurement
- ❑ many Angolan companies function as front organizations for gov't officials
- ❑ the regulatory system is “opaque and complex”

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Corruption in Angola – cont.

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- ▶ Sectors at “high risk” of corruption:
 - ▶ judicial system
 - ▶ police
 - ▶ tax & customs
 - ▶ oil & mining
 - ▶ public services, especially these offices administering licenses & permits
 - ▶ land administration
 - ▶ “land grabs” by high level officials are common
 - ▶ registering property takes 190 days, more than 3 times the regional average

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World Bank's 2019 "Doing Business" Report on Angola

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- ▶ Score: 43.8/100
 - ▶ Regional Average: 51.6
 - ▶ Namibia: 60.5
 - ▶ Botswana: 65.4
 - ▶ South Africa: 66
 - ▶ Portugal: 76.5
- ▶ Rank: 173/190
 - ▶ Starting a Business: 139/190
 - ▶ Dealing with Construction Permits: 87/190
 - ▶ Getting Electricity: 152/190
 - ▶ Registering Property: 170/190
 - ▶ Getting Credit: 184/190
 - ▶ Paying Taxes: 104/190
 - ▶ Enforcing Contracts: 186/190

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Fighting Corruption in Angola

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- ▶ Angola has ratified the United Nations Convention Against Corruption (UNCAC) and the African Union Convention on Preventing and Combating Corruption
- ▶ UNCAC
 - ▶ 5 areas:
 - ▶ Preventive measures
 - ▶ Criminalization and law enforcement
 - ▶ International cooperation
 - ▶ Asset recovery
 - ▶ Technical assistance and information exchange

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UNCAC – cont.

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- ▶ Covers many forms of corruption:
 - ▶ Bribery
 - ▶ Trading in influence
 - ▶ Abuse of functions
 - ▶ Corruption in the private sector, including money laundering & embezzlement



Anti-Corruption Laws in Angola

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- ▶ Public Probity Law
 - ▶ Criminalizes:
 - ▶ Conflicts of interest
 - ▶ Active & passive bribery
 - ▶ Unlawful enrichment
 - ▶ Requires senior government officials to declare their assets to the Attorney General
- ▶ Do you think this law has been effective? How could the law be improved?



Anti-Corruption Laws in Angola – cont

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▶ Public Contracting Law

▶ Criminalizes:

▶ Request & acceptance of bribes by public officials

▶ Solicitation & offer of undue benefits by private sector agents

▶ Do you think this law has been effective? How could the law be improved?

