

U4 Expert Answer



Fighting corruption in countries with serious narcotics problems

Query:

Could you please provide an overview of experiences, and successes, in tackling corruption in countries with serious narcotics problems over the past 30-40 years?

Purpose:

Our Embassy in Kabul is in the process of reconsidering its engagement in the sphere of anti-corruption. Information regarding previous experience would help inform this process.

Content:

Part 1: Specific Corruption Challenges in Drug Trading Countries

Part 2: Experience of Fighting Corruption in Countries with Serious Narcotics Problems

Part 3: Fighting Corruption in the Context of Afghanistan

Part 4: Further Reading

Caveat

As a post-war country on the verge of collapse, facing major security challenges and threatening to back slide into conflict at any time, the situation in Afghanistan distinguishes itself from other countries with serious

narcotics problems. Some experts consulted in the framework of this query consider that conflict in Afghanistan is the dominant feature of the country's present circumstances. It was noted that the drug trade needs to be understood within this specific context as a dimension of a war economy, whereby the actors involved in the drug trade have an interest in fuelling instability for their own purposes. As a result, the challenges facing the fight against corruption and drug trafficking in Afghanistan cannot be separated from the post-conflict situation of the country. More research would be needed to address the full complexity of these issues meaningfully.

Summary

State capture and the criminal infiltration of the public sector is a major feature of drug producing and transit countries. Drug traffickers seriously compromise the effectiveness of anti-corruption and institution-building efforts as they permeate political and state administration institutions and build corrupt networks with state officials in order to facilitate or reduce the risks and costs of their operations. Empirical evidence supported by case studies of countries such as Colombia, Mexico, Nigeria and Hong Kong demonstrate

Authored by: Marie Chêne, U4 Helpdesk, Transparency International, mchene@transparency.org

Reviewed by: Robin Hodess Ph.D., Transparency International, rhodess@transparency.org

Date: 12 December 2008

U4 Expert Answers provide targeted and timely anti-corruption expert advice to U4 partner agency staff

www.U4.no

the critical importance of strengthening law enforcement authorities and the criminal justice system to effectively combat both organised crime and corruption. Other factors such as political will, strong and transparent institutions, and public confidence in the political process contribute to create a supportive environment for anti-corruption reforms. However, general lessons cannot easily be extracted and applied to Afghanistan, as some specific challenges associated with post-conflict countries make the situation there very unique. Sequencing anti-corruption reforms based on an in-depth understanding of local circumstances and promoting greater accountability to the intended beneficiaries of reconstruction aid constitute promising starting points.

Part 1: Specific Corruption Challenges in Drug Trading Countries

The drug trade is rarely an isolated criminal phenomenon. In many countries, drug trafficking and corruption are interdependent and deeply interwoven factors that are mutually reinforcing. Some definitions of organised crime – of which drug trafficking is a key element - reflect this reality and specifically refer to corruption and money laundering as core characteristics of this particular form of criminality. For example, organised crime may be defined as “*criminal activities for material benefit by groups that engage in extreme violence, corruption of public officials including law enforcement and judicial officers, penetration of the legitimate economy (e.g. through racketing and money laundering) and interference in the political process.*” (Please see: http://works.bepress.com/cgi/viewcontent.cgi?article=1007&context=edgardo_buscaglia).

Linkages between Drug Trafficking and Corruption

There is abundant circumstantial evidence that suggests strong links between organised criminals (including drug traffickers) and corrupt officials worldwide, generating in extreme cases a form of symbiosis between the state and criminal organisations. Criminal networks systematically resort to corruption as part of their modus operandi to smuggle illicit goods across borders, facilitate money laundering and

minimise detection and prosecution risks. A recent U4 Expert Answer has specifically explored the links between organised crime and corruption and provided many examples of such practices. (Please see: <http://www.u4.no/helpdesk/helpdesk/query.cfm?id=171>)

As functioning state institutions make illicit activities more predictable, in many countries, drug traffickers tend to collude with legitimate state structures to sustain and expand their activities. There are various levels of criminal infiltration of the public sector ranging from sporadic acts of bribery to the penetration of higher levels of government and to the political capture of the state’s policies, law making and enforcement of judicial decisions. (Please see: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=930988)

Bribery of Public Officials

At the first level, corruption facilitates the operations of drug traffickers. Criminals may sporadically bribe public officials to obtain a passport, a license, sensitive information or avoid getting arrested. In the case of trans-national criminal networks, bribery of customs officials and border police officers is a widespread practice aimed at easing the smuggling of drugs and illicit goods. Bribery of law enforcement officials further minimise the risks of being caught, arrested and prosecuted. In some cases, low ranking public officials are placed on the ‘pay roll’ of criminal organisations to secure continuous protection or facilitate illegal activities.

Infiltration of Government Agencies (especially law enforcement agencies)

At the next level, criminal networks infiltrate higher spheres of government and government agencies with the view to securing long term protection from police investigations and prosecution. Criminal infiltration can occur at managerial level or directly compromise the heads of the Drug Enforcement Agencies (DEA). In Mexico for example, an investigation of drug traffickers’ infiltration of police agencies revealed in October 2008 that one of the major drug cartels may have infiltrated the Mexican Attorney General’s office and paid a spy inside the US Embassy for details on DEA operations. A federal prosecutor who headed an elite organised crime unit was also arrested within the framework of this corruption probe on suspicion of leaking intelligence to drug cartels. In 2007, 284 top federal

police officers were being evaluated by the government in an attempt to eliminate corruption in the fight against drug trafficking (Please see: <http://www.latimes.com/news/nationworld/world/la-fg-bribe22-2008nov22,1,5566074.story> and <http://www.iht.com/articles/ap/2008/10/28/news/LT-Mexico-Drug-Corruption.php>).

As a functioning and independent judiciary is vital to deter both organised crime and corruption, the judiciary represents a strategic target for the penetration of the public sector by criminal networks. Drug traffickers buy protection (and impunity) from the state by infiltrating the criminal justice system, bribing court officials, and/or making pressure by means of violence or corruption on the outcome of judicial decisions. They can also interfere with the appointments and dismissals of judges and chiefs of police through their corrupt network of political connections. In Ghana for example, despite regular arrests of suspected narcotics traffickers, the country has an extremely low rate of convictions. Corruption among law enforcement officials also remains a problem and police officers have been arrested in the recent past for seizing cocaine from traffickers to sell them personally. The backlog of cases and lack of resources facing the judiciary represents an additional challenge for controlling drug trafficking in the country. (<http://www.state.gov/p/inl/rls/nrcrpt/2008/vol1/html/100782.htm>).

Political Corruption and State Capture

Indeed, one of the most alarming features of the criminal penetration of the public sector by drug traffickers is the phenomenon of political corruption and state capture, whereby criminals infiltrate the highest political spheres to slant public decisions -including law making- towards their own vested interests. This pernicious form of corruption creates a bias in public policy development and implementation, as criminals access the power to shape the policies that affect their legal and illegal business environment.

In developing and transition countries, the large profits generated by the drug trade make criminals powerful and influential actors, both in the business and political arenas, which place them close to the circles of power and facilitate the development of corrupt networks. In some cases, political leaders even directly take part in criminal activities. In Georgia for example, President Shevardnadze's cabinet was alleged to be directly involved in organised crime, an allegation that

contributed to the 2001 governmental crisis. When political figures are not directly involved in drug trafficking, bribery of top officials is one way for criminals to penetrate the political system. Financial contributions to political campaigns constitute another strategy to gain control over elected officials, influence the political agenda and stay close to the circles of power. Such practices may be legal to a certain extent in some countries, but they can potentially corrode state institutions by diverting justice. In Tajikistan for example, the proceeds of illegal trafficking increasingly finance individual leaders and members of the ruling elite, while in Kyrgyzstan, individuals connected to the narcotics industry are known to have gained immunity and influence by being elected to parliament in the 2000 elections. (Please see: http://www.silkroadstudies.org/new/docs/CEF/Quarterly/February_2006/Svante_Cornell.pdf)

The drug trade has a corrupting impact on state institutions, and is severely damaging to the functioning and legitimacy of the state. Collusion between crime, business and politics can result in the constitution of what is referred to as "embedded corruption networks", bringing together criminals, politicians, business-brokers, bureaucrats and law enforcement officials in cohesive, flexible and shadow networks that have the power to shape the political and economic landscape of a given country. The above-mentioned study investigating the merger between state and crime in Tajikistan and Kyrgyzstan, describes how criminal leaders developed political ambitions over time to expand their activity and receive political immunity from the state. (<http://www.silkroadstudies.org/new/docs/Silkroadpapers/0610EMarat.pdf>). Although both states established different patterns of relations with organised crime, the deep state-crime connection tended to result in both countries in widespread nepotism, suppression of the freedom of speech, a widened state-society gap and the use of state institutions by criminal networks against the state itself.

The various levels of criminal penetration of the public sector have direct implications on the effectiveness of anti-corruption efforts in a given country. In countries where drug traffickers only sporadically or marginally infiltrate government structures, governments may demonstrate strong political will to fight corruption and drug trafficking. In such contexts, the fight against corruption and organised crime can be hampered by factors such as fear and intimidations, lack of resources and capacity, slow judicial processes, lack of

confidence in law enforcement institutions or bribery of public officials. As organised crime penetrates the highest spheres of government and business, anti-corruption efforts face major additional challenges. In such contexts, the instruments of the state become the very vehicles that criminals use to sustain, expand and protect themselves, seriously compromising the capacity of the state to combat both organised crime and corruption.
<http://www.cissm.umd.edu/papers/files/organizedcrime.pdf>).

Policy Implications for Fighting Corruption in Drug Trafficking Countries

The link between organised crime and corruption has been confirmed empirically by a study conducted by Edgardo Buscaglia and Jan van Dijk in 2003 that attests the correlation between the growth of organised crime and that of corruption in the public sector in a large number of countries worldwide. (Please see: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=931046). The findings suggested that a country's vulnerability to organised crime is determined by a number of institutional variables:

- High levels of state capture are associated with the spread of organised crime.
- The levels of both organised crime and corruption are lower in countries where the judicial system is more effective as measured by conviction rates per crime committed.
- Indicators of perceptions of transparency of financial institutions, financial disclosure requirements, higher regulatory standards applied to banks and enforcement of anti-money laundering legislations are negatively correlated to the levels of organised crime. Similarly, stronger enforcement of banking and security regulations was associated with lower levels of corruption.
- The extent of organised crime was higher in countries where the police were less effective.
- Judicial independence is strongly related to both perceived levels of organised crime and the perceived extent of judicial corruption. Among the factors making it possible for organised crime to capture the court system, the most significant are procedural complexity and abuse of judicial discretion. The most important predictor of both the extent of organised crime and corruption is the independence and integrity of the judiciary.

These results demonstrate the critical importance of law enforcement and the criminal justice system to control both organised crime and corruption. Based on these findings, this study identified a set of evidence-based policy recommendations to control both organised crime and corruption in the public sector, including the need to address the weaknesses of the judicial system through increased resources and capacity, computerised case management systems, procedural simplification, adequate wages, etc. and to restore public trust in the criminal justice system to support civil society involvement in anti-corruption and anti-mafia efforts.

Part 2: Experience of Fighting Corruption in Countries with Serious Narcotics Problems

No specific indications of whether and how drug trafficking countries have developed special approaches to drug-related corruption have been unearthed within the framework of this query. This could indicate that anti-corruption approaches are carried forward just as in any other country and more research may be needed to analyse the extent to which the anti-corruption and the anti-drug communities interact in policy making and implementation.

In spite of this relative lack of knowledge, some general patterns can be extracted from case studies of countries with serious narcotics problems. They tend to confirm that, although these countries are very heterogeneous and present a set of specific features that make their situation very unique¹, they are all usually plagued with widespread corruption among law enforcement agencies and weak judiciaries that lack the independence and capacity to effectively combat both corruption and the drug trade.

¹ The US 2009 list of major drug producing and trafficking countries include countries as diverse as Afghanistan, the Bahamas, Bolivia, Brazil, Burma, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru and Venezuela. <http://www.asiaing.com/international-narcotics-control-strategy-report-2008.html>

The Case of Colombia

Long-standing armed conflict and violence driven by drug related activities are among the most important challenges facing Colombia. However, in spite of being the world's main supplier of cocaine and being plagued with endemic violence, poverty and limited law enforcement, Colombia is credited with having achieved some success in advancing the fight against corruption in the last decade. The World Bank Governance Indicators reflect this trend by showing a progression of the country's score in terms of control of corruption from 25.2 in 1998 to 50.2 in 2007. (<http://web.worldbank.org/WBSITE/EXTERNAL/WBI/EXTWBI/GOVANTCOR/0,,contentMDK:20771165~menuPK:1866365~pagePK:64168445~piPK:64168309~theSitePK:1740530,00.html>).

In the 1990s, Colombia's democratic stability was threatened by a set of serious challenges, ranging from a prolonged guerrilla insurgency to widespread drug trafficking and criminal violence, weak institutions and pervasive corruption. Although the anti-corruption legal framework was in place, it was poorly enforced due to widespread political corruption, the lack of policy continuity between various successive governments, and weak citizen participation in public affairs.

The fight against corruption seems to have taken a new turn after President Uribe was elected in August 2002. As a first step, the newly elected government worked towards promoting a certain form of democratic security and sought to stabilise the political system, restoring a certain degree of public confidence in political institutions. (<http://www.cipe.org/programs/evaluations/pdf/ColombiaEvaluation05.pdf>). Some anti-corruption efforts were initiated in 2002, with the government launching a national programme against corruption that focused on increasing the capacity and integrity of government institutions, including national prosecutors, through integrated anti-corruption reforms and strengthened public participation.

These efforts were relayed in 2004 by President Uribe's "Programme of Modernisation, Efficiency, Transparency, and Fight against Corruption" that strives to forge a state policy for the fight against corruption and includes measures to intensify the prevention, investigation and punishment of corruption. (<http://www.anticorruccion.gov.co/index.asp>). This plan was revised in 2005 by the "State Policy Proposal for the control of Corruption" and the "National Anti-corruption Programme", which contain the commitment

to increase the efficiency and transparency of state institutions by involving civil society in public decisions. (<http://www.anticorruccion.gov.co/index.asp>). It also promotes reforms of the public contracting process and tightens sanctions against public officials involved in mismanagement of public funds.

In November 2003, a law regulating citizen watchdog groups entered into force with the view to allowing civil society to monitor key public authorities such as the judicial, electoral, legislative, fiscal or disciplinary bodies. One of the pillars of the fight against corruption launched by the president was the introduction of transparency pacts between mayors and governors and civil society organisations, where mayors and governors committed to be accountable to their constituents and increase citizen participation and transparency in their constituency. Civil society was to monitor the implementation of these pacts and local governors' compliance with their commitment through monitoring committees. However, observers evaluate the impact of such schemes as rather limited.

Colombia's commitment against corruption has also translated into regional and international commitments against corruption. Colombia has ratified the OAS American Convention Against Corruption in 1998, the United Nations Convention against Organised Crime (UNTOC) in 2004 and ratified the United Nations Convention Against Corruption (UNCAC) in 2006.

The Colombian case illustrates specific components of successful anti-corruption reform in drug trafficking prone environments:

- Although the Colombian judiciary faces major efficiency, resource and capacity challenges, it is regarded as one of the most independent in the region, with the Supreme Court and the Constitutional Court having a track record of ruling against government officials in important cases. However, some inefficiency challenges still remain to be addressed.
- The fight against corruption goes hand in hand with restoring public confidence in certain levels of internal security and rule of law, including through strengthening the independence and capacity of law enforcement authorities and promoting civil society involvement in public decisions. The government has focused on such issues as an essential component of its overall strategy towards the region.

Freedom House reports that the national prosecutor considers that the anti-corruption apparatus is starting to yield results, as shown in the increasing numbers of public officials expelled for corruption. It attributes progress made to the introduction of new disciplinary codes combined with new technology to enforce them. However, in spite of this progress, there is still a long way to go to effectively combat both drug trafficking and corruption in Colombia. Administrative corruption may have been reduced in recent years, but the Helpdesk has found no indication that drug trafficking and drug related corruption have been reduced in Colombia². The country continues to face major challenges of weak political institutions, opaque public contracting and state capture by economic and criminal groups as well as the government's inability to enforce the rule of law throughout the country. (<http://www.freedomhouse.org/template.cfm?page=140&edition=8&ccrpage=37&ccrcountry=153>).

The Mexican Case

Mexico's political stability is seriously challenged by violent, well armed and well financed drug cartels. The country's recent economic growth rate appears to be greatly linked to high oil prices, remittances from Mexican emigrants in the United States and illegal resources such as the drug trade. The US drug enforcement administration estimates that between USD 25 and 30 billions of illegal drug money is being laundered every year in Mexico and that political and judicial institutions are deeply involved in money laundering and drug trafficking schemes. Weak sanctions and widespread immunity for public officials involved in corruption and drug trafficking undermine the government's political legitimacy and public confidence in state institutions. High profile cases are rarely prosecuted and citizens rank the judiciary as one of the most corrupt institutions, just behind the parliament, the political parties and the police. The Mexican police force also has a reputation for being corrupt, incompetent or for collaborating with organised crime and citizens rarely report crimes. Freedom House estimates that 80% of the crimes in Mexico City go unreported while only 6% are solved. TI's 2006 Global

Corruption Barometer indicates that 43% of the respondents consider that the government does not fight corruption effectively but, rather, encourages it. (<http://www.business-anti-corruption.com/normal.asp?pageid=308>).

Anti-corruption efforts intensified after Vicente Fox assumed office in 2000. Some sensitive sectors were placed under state surveillance while he promoted a series of reforms, laws and institutions aimed at improving the business climate and curbing corruption. His successor, Felipe Calderon committed to sustain these policies and has made drug trafficking a priority, through rooting out corruption among the police and customs. Mexico's anti-corruption strategy has primarily focused on preventing collusion between law enforcement officials and drug cartels. The Calderon administration has turned to the army to lead the drug war and clean up the police, and has achieved some progress in targeting smuggling activities and drug trafficking.

However, these National Anti-Corruption efforts are judged by many as unsuccessful, with many election and political leaders involved in major corruption scandals. The Mexican drug industry has produced highly sophisticated, dangerous and lucrative criminal networks that have proved highly resistant to law enforcement and judicial action. In 2008, US and Mexican leaders agreed to implement a multi-year program- known as the Merida initiative- to strengthen Mexican capacity to fight corruption and organised crime. The Merida Initiative package includes providing technical advice and training to strengthen the judiciary, help vetting new police force members, create new offices to handle official complaints, and promote professional responsibility principles.

The Mexican case illustrates the challenges involved in fighting corruption in a drug affected country when law enforcement authorities are plagued by widespread corruption, state capture and lack of independence, adequate resources and capacity. As a result, anti-corruption efforts should involve reforming the judiciary system and overhauling the police and law enforcement systems, in parallel to modernising and developing the domestic economy to provide economic alternatives to drug trafficking.

² Such data may prove difficult to find

The Nigerian Case

Drug trafficking was pioneered in the region by Nigerians, making West Africa a transit zone for the narcotics trade³. Nigerian criminal organisations dominate the African market and the country remains a hub of drug trafficking and money laundering. It is also perceived to be one of the world's most corrupt countries. (<http://www.state.gov/p/inl/rls/nrcrpt/2008/>). High profile corruption cases have resulted in cabinet level officials being dismissed from their posts and incarcerated, although few of them appeared to be directly linked to drug related offences. Even though the country is perceived to be a drug trade platform on the African continent, neither politicians nor senior officials are known to encourage or facilitate production or distribution of illicit substances and only a small number of cases have demonstrated the direct implication of senior political leaders like Maurice Ibekwe in criminal activities. However, the scope and nature of criminal activities in Nigeria suggests the complicity of public officials in organised crime and the life style of some of the high level politicians leaves little doubt about the origin of their wealth. (http://www.unodc.org/pdf/transnational_crime_west-africa-05.pdf).

The judiciary is generally considered by lawyers and judges to be politically influenced, with the President exerting influence on the appointment of higher judges. Higher courts are still perceived to be reasonably independent, while lower court judges are known to be less skilled and more corrupt. The police is perceived by citizens as the most corrupt institution in Nigeria (http://www.transparency.org/policy_research/surveys_indices/gcb/2007). If criminals can be bought free from effective prosecution, the fight against corruption and organised crime can potentially be undermined by reducing the perception of the risks involved in drug trafficking and corruption. A further challenge is that corruption and drug related criminality can be relatively easily influenced and/or manipulated.

³ Of couriers intercepted in West Africa in 2000, 56% were Nigerians.
http://www.unodc.org/pdf/transnational_crime_west-africa-05.pdf

Olusegun Obasanjo was the first democratically elected president in 1999 and initiated a comprehensive anti-corruption agenda, including measures aimed at promoting transparency in government contracts, the extractive industry and public administration in general. The anti-corruption framework is in place, but enforcement remains weak, especially with regard to whistleblower protection. Few high ranking officials were prosecuted for corruption during Obasanjo's term which undermined to a certain degree the credibility of the Obasanjo administration's political will to effectively tackle corruption.

During the Obasanjo presidency, a number of agencies were created to fight corruption-related offences, including the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the Economic and Financial Crimes Commission (EFCC) and the Code of Conduct Bureau /CCB). The current President, Yar'Adua, is working towards merging these institutions for better coordination. One of the major weaknesses of the anti-corruption framework is the lack of official protection for whistle blowers and agencies such as the ICPC do not have an anonymous system in place. Enforcement of anti-corruption legislation generally remains very weak. (<http://www.business-anti-corruption.com/normal.asp?pageid=217>).

The Hong Kong 'Success Story'

Hong Kong was removed from the list of major drug producing and transit countries in 2001 and is no longer considered a major transit point for illicit drugs destined to the international markets. This success is attributed to government political will as demonstrated by active efforts to combat drug trafficking through legislation and law enforcement, preventive education and publicity, rehabilitation and treatment, as well as research and external cooperation. Hong Kong also has a comprehensive anti-corruption ordinance that is effectively enforced by the Independent Commission Against Corruption, which reports directly to the Chief Executive. However, there is no direct and clear indication of how the anti-corruption and anti-drug agendas interacted and mutually affected each other.

The UNCAC was ratified in 2006 and Hong Kong law enforcement agencies also enjoyed close working relations with their counterparts in many countries. (<http://www.state.gov/p/inl/rls/nrcrpt/2008/>)

As illustrated in the above-mentioned case studies, the linkages between corruption and organised crime have been recognised in most countries with serious narcotics problems, and the fight against corruption is increasingly seen as an integral component of the fight against the drug industry. In practice, however, the Helpdesk has found little evidence of efforts made to explicitly integrate anti-corruption efforts with the fight against drug trafficking.

Many reasons can be invoked for the lack of enforcement of anti-corruption legislation, including the lack of resources and capacity, political interference, insufficient accountability to the public, public distrust in state institutions, the lack of transparency and access to public information, selective investigations, weak political will to effectively tackle corruption, etc. Although there is no one-size-fit-all solution for fighting corruption in such contexts, countries that have achieved some success in tackling corruption have strived to put an end to a culture of impunity by:

- Demonstrating a firm political will to combat corruption as indicated by high profile case being effectively prosecuted;
- Promoting the independence and integrity of the judiciary;
- Cleaning up the police and other law enforcement authorities;
- Restoring, in the process, a certain degree of confidence in public institutions and political processes.

In high state capture countries, an effective anti-corruption approach should also emphasise horizontal accountability through measures aimed at strengthening non-governmental actors, and an independent media that can check abuses in key branches of government. (<http://www.u4.no/document/literature.cfm?id=211&key=58>).

Part 3: Fighting Corruption in the Afghan Context

Specific Afghan Challenges

Afghanistan faces a set of unprecedented challenges and lessons from other countries cannot easily be extracted and applied to the Afghan situation. In most of the above mentioned cases, countries were able to rely to a certain extent on contextual factors that created a

supportive environment for the fight against corruption, including a tradition of democratic processes, reasonably functioning institutions, more homogeneous social fabrics, decent public wages, etc, all factors that make the local circumstances difficult to compare with Afghanistan.

Contextual Factors

The **Afghan drug industry**⁴ is a key challenge for the state building, security, and the governance and development agenda. Narcotics networks can relatively easily destabilise and corrupt fragile states, breeding on weak institutions, economic hardships, political insecurity, endemic corruption and post conflict chaos. In recent years, new forms of organised crime have emerged in such contexts that, contrary to more 'traditional' criminal networks who need the state to sustain themselves, have neither interest nor loyalty in the state's continuity and use rampant and endemic corruption to destabilise further the state's structures and generate profit.

In addition to drug-related corruption that affects all levels of society, the Afghanistan context presents a set of unique characteristics that poses additional challenges to the fight against corruption. A "Reconstruction National Integrity Survey" was published on Afghanistan in 2007 by Tiri⁵, highlighting specific problems and key priorities to tackle corruption in the country. ([http://www.reliefweb.int/rw/RWFiles2007.nsf/FilesByRWDocUnidFilename/KH11-7FN7BB-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2007.nsf/FilesByRWDocUnidFilename/KH11-7FN7BB-full_report.pdf/$File/full_report.pdf)). A road map for anti-corruption strategy and action has been prepared and presented in February 2007 to the Government of Afghanistan by the ADB, DFID, UNDP, UNODC and the World Bank. (Please see:

⁴ The illegal narcotics trade is estimated to be the second largest industry today after the weapons industry, with Afghanistan opium production providing more than 90 percent of the world's heroin. <http://www.washingtonpost.com/wp-dyn/content/article/2006/12/01/AR2006120101654.html>).

⁵ Tiri is an independent non-governmental organisation that works with governments, business and civil society to find practical solutions to making integrity work.

http://www.unodc.org/pdf/afg/anti_corruption_roadmap.pdf). The following section is mainly drawn from the findings of these reports.

The general state of **insecurity** further challenges the effectiveness of anti-corruption reforms as the government lacks effective control outside Kabul. In many parts of the country, the government is unable to operate due to the unstable security environment. As a result, highly centralised government structures coexist with the de facto rule of warlords, local commanders and illegal groups who substitute for the central authority in certain areas. In most cases, they have sworn allegiance to the central government authority, as a result of the policy of rewarding warlords with influential government posts in return for their formal recognition of the central administration.

In practice, they combine administrative and military powers in their province and take control over human and economic resources, developing independent patronage, abusing public office or engaging in rent-seeking activities for their own benefit. However, some local governors, although involved in corruption and drug trafficking, manage to restore some form of local stability. In such sensitive contexts, anti-corruption interventions need to be initiated on the basis of an in-depth understanding of the complex relationship and power structures in place, as anti-corruption efforts targeting the local power structures may have a destabilising impact on the country's fragile power balance and unstable security situation. On the other hand, the lack of action against widespread corruption has contributed to delegitimise the government. Turning a blind eye to rampant corruption may also destabilise the fragile peace process. Finding an appropriate balance to resolve this tension is a challenging task and requires a multidisciplinary analysis and search for tailor-made solutions.

Weak state institutions continue to face major challenges of efficiency, coordination, resources and capacity to achieve the task of rebuilding the country. The institutional anti-corruption framework is inadequate, with a numbers of institutions with overlapping mandates working in an isolated and uncoordinated manner.

Afghanistan's reconstruction is also threatened by the **lack of public confidence in the current government**, with widespread corruption undermining government legitimacy. Around 60% of Afghans believe that the current government is the most corrupt the

country has experienced in 50 years, including the Taliban.

(<http://www.tiri.org/images/stories/NIR%20Countries%20-%20Researches/Summary/Afghanistan%20Summary.pdf>). The majority of appointments of high ranking police and customs officials, governors, junior ministers and heads of public agencies have been political. The judiciary also face major problems of training, resources, ineffective oversight, judicial corruption and political interference, undermining its independence, credibility and the restoration of the rule of law.

As a result of the above, the challenges of tackling corruption in Afghanistan are considerable, especially given the huge resources flowing into the country for reconstruction in a context where institutions are being built and confusion prevails. In some cases, **donor practices** can also contribute to destabilise the fragile equilibrium between social groups, as indicated by a series of country studies conducted by Tiri in eight post-war countries including Afghanistan. Under pressure to deliver speedily and find quick fixes to extremely unstable situations, billions of dollars in aid is spent without accountability to the intended beneficiaries. As a result, many reconstruction programmes have been plagued by widespread corruption, unrest and social conflicts, and are credibly alleged to have contributed to fostering corrupt practices in the country. The lack of transparency and integrity of the reconstruction process has a destabilising impact on the fragile process of sustaining peace.

(<http://www.buzzle.com/articles/123254.html>).

Anti-Corruption Efforts to date

In November 2004, the General Independent Administration for Anti-Corruption (GIAA) was created to crack down on corrupt practices with limited success to date. The Afghanistan Compaq⁶ and the Afghan National Development Strategy (ANDS) both recognise corruption as a major impediment to the reconstruction and development of Afghanistan. However, according to Tiri, these acknowledged facts failed to translate in a series of specific measures to be implemented. The only concrete step the various stakeholders reached a

⁶ The Afghanistan Compaq was agreed at an international conference held with donors in London in January 2006

consensus on was the need to ratify the United Nations Convention against Corruption (UNCAC), which occurred in August 2008. A decision was also made to concentrate anti-corruption efforts on Kabul, due to limited resources and security risks, all other measures being judged unrealistic or too politically sensitive.

Since 2006, the government has been put under pressure by the degradation of the country circumstances to reconsider its anti-corruption efforts, while donors strive to harmonise their approach and prioritise anti-corruption measures. However, despite strong statements, little progress has been achieved apart from a set of preventive public financial management reforms. According to the Afghanistan Reconstruction Trust Fund (ARTF), the legal framework for fighting corruption remains outdated and unclear, while institutional arrangements are still largely inadequate, with different institutions with overlapping mandates working in isolation from each other. There are also a number of separate, overlapping and to some extent competing official anti-corruption documents in circulation, adding to the general confusion.

(<http://www.worldbank.org.af/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/AFGHANISTANEXTN/0,,contentMDK:21799662~pagePK:141137~piPK:141127~theSitePK:305985,00.html>).

Among these documents, the above mentioned roadmap, in addition to providing a complete overview of the state of corruption in Afghanistan, formulates a set of recommendations around seven key elements:

- Solidifying the Government's commitment against corruption;
- Clarifying the institutional framework for anti-corruption, to avoid overlap, tensions and confusion;
- Understanding better the context, problems, actors and dynamics of corruption in Afghanistan;
- Assessing vulnerabilities to corruption in key sectors, agencies and functions;
- Pursuing key cross-current reforms such as administrative reform, judicial reform, counter narcotics strategy and strengthening external accountability mechanisms;
- Foster international support around a harmonised approach, under the Government's leadership.

Within this framework, a series of vulnerability assessments have been conducted in 2007 in specific sectors and agencies, including in the energy sector, the revenue and the budget departments. The next step

would consist in establishing a risk management plan and monitoring the implementation of measures identified, including through getting service users' feedback⁷.

In June 2008, within the framework of the Paris Conference on Afghanistan, donors demanded greater commitment against corruption. Just prior to this conference, a new law was speedily passed to establish a new anti-corruption institution, located in the President's office. However, experience from other countries has shown that this approach may not be the most effective to tackle corruption, especially in such a complex post-conflict setting.

Sequencing Anti-Corruption Efforts: Lessons Learned from Fighting Corruption in Post-Conflict Countries

Given the specific conflict situation of Afghanistan, some useful elements of strategy may be drawn from the experience of fighting corruption in post war countries that are likely to share similar characteristics. A U4 Expert answer has specifically focused on tackling corruption in post-conflict countries. Anti-corruption reforms in post conflict situations are more likely to succeed if they manage to secure public support for reforms. This can be achieved by restoring public confidence in institutions, providing an appropriate economic and regulatory context and securing a comprehensive legal framework for transparency and accountability. Restoring domestic security and rule of law are critical and special efforts should target the security and judiciary sectors to strengthen the new regime's legitimacy and prevent backsliding into violence.

(<http://www.u4.no/pdf/?file=/helpdesk/helpdesk/queries/query126.pdf>)

The above-mentioned Tiri report further indicates that most post-war countries share two major features: the threat of a return to violence on the one hand and a tension between aid flows, state capacities and development needs on the other hand. The weakest point appears to be the accountability of reconstruction to beneficiaries, undermining the legitimacy of a

⁷ The Helpdesk has found no evidence of follow up to these vulnerability assessments to date.

nascent state and threatening its future stability. (Please see: http://www.tiri.org/index.php?option=com_content&task=view&id=68). A set of recommendations to promote integrity in reconstruction can be derived from the report, including the need to introduce greater transparency in reconstruction programmes, to make local accountability work through beneficiary-led monitoring of reconstruction funds and to build on local competencies and use domestic skills and resources. (Please see: <http://www.tiri.org/images/stories/NIR%20Documents/NIR%20Recommendations.pdf>).

Fighting corruption in a complex post-conflict situation such as Afghanistan involves resisting the temptation of implementing quick fix solutions such as setting up anti-corruption commissions, especially in countries where judiciaries are weak. Focus should rather be placed on building strong, independent and transparent institutions and reinforcing horizontal accountability mechanisms by strengthening non-state actors, autonomous bodies and a free and independent media.

Part 4: Further Reading

Tackling Judicial Corruption in Afghanistan (2007)

In Afghanistan, problems of training, resources, ineffective oversight, judicial corruption and political interference undermine the credibility and independence of the judiciary. Some specific contextual issues such as the booming of the drug trade and the existence of a parallel informal justice system further challenge the effective delivery of justice services. <http://www.u4.no/pdf/?file=/helpdesk/helpdesk/queries/query146.pdf>

Corruption and Decentralisation in Afghanistan (2007)

Decentralisation in Afghanistan faces considerable challenges of efficiency, responsiveness and accountability given the current legal and institutional context and overall lack of resources and capacity. Findings from theoretical and empirical research do not

conclusively establish that decentralisation systematically leads to less corruption. <http://www.u4.no/pdf/?file=/helpdesk/helpdesk/queries/query148.pdf>

Fighting Corruption in Afghanistan: Roadmap for Strategy and Action (2007)

This paper provides a complete overview of the state of corruption in Afghanistan and recommendations for action jointly prepared and presented to the Government of Afghanistan by the ADB, DFID, UNDP, UNODC and the World Bank. http://www.unodc.org/pdf/afg/anti_corruption_roadmap.pdf

Reconstruction National Integrity Survey: Afghanistan (2007)

This Tiri research assesses the impact and legacy of conflict and analyses integrity institutions. It looks at key actors and the dynamics of aid as part of a series of case studies conducted in 8 post-conflict countries. <http://www.tiri.org/images/stories/NIR%20Countries%20-%20Researches/Afghanistan/Reconstruction%20National%20Integrity%20System%20Survey%20Afghanistan.pdf>

Afghanistan drug's industry (2006)

This report provides a comprehensive picture of the structure, functioning, dynamics and implications of narcotics trade to inform counter narcotics policy. http://www.unodc.org/pdf/Afgh_drugindustry_Nov06.pdf

Peace building: Lessons from Afghanistan (2005)

Although not specifically focused on corruption related issues, this report provides a useful overview of the context and challenges facing the reconstruction efforts in Afghanistan and makes recommendations that can be applied to the judicial reforms. <http://www.cmi.no/publications/2005/peacebuildingafghanistanweb.pdf>