Workshop Report

Fighting Corruption

The Case for Inclusive and Risk-Based Approaches

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Executive Summary

TACKLING CORRUPTION IS a priority for development and poverty reduction. There is evidence that corruption harms the economy, social cohesion and progress, the integrity of institutions and, ultimately, the entire democratic system. Corruption is commonplace in conflict zones with international military operations, where it significantly hinders mission effectiveness and may contribute to serious security threats. Corruption can also prolong conflict as it contributes to power struggles and fuels instability. Therefore, investing in anti-corruption efforts overseas can also strengthen the UK's national security.

Ahead of an international Anti-Corruption Summit to be hosted by the UK prime minister in London in May 2016, RUSI's Centre for Financial Crime and Security Studies (CFCS) and KPMG's International Development Assistance Services (IDAS) gathered private and public sector stakeholders for a series of four workshops to inform the preparation of this summit and to emphasise priority action areas.

The workshops covered the following topics: (1) the challenges of current legal and policy frameworks (hosted by RUSI); (2) the role of business in tackling corruption (RUSI); (3) the UK's role in tackling corruption in developing countries (KPMG); and (4) the nexus between corruption and security, using Afghanistan as a case study (RUSI). The proceedings and recommendations of the workshops are presented in detail in this report.

Participants were from varied backgrounds, and included UK officials from the Financial Conduct Authority, Serious Fraud Office, Cabinet Office, Foreign Office and Home Office as well as representatives from the legal profession, financial institutions, academia and civil society.

Leading debate on the inadequacies of current legal and policy frameworks in tackling corruption, the role of business in both facilitating and tackling corruption, and the impact of corruption on development and security, RUSI and the IDAS team sought the views of experts in a confidential and public policy-oriented setting.

The workshops gathered cross-sector views on areas for improvement within the legal and policy frameworks, the potential for greater collaboration between business, civil society and government, and the conditions under which co-operation between the public and private sectors could contribute to an effective international anti-corruption strategy. The following actions by the UK government and other stakeholders were identified:

1. Revisit the concept of corruption – what it means and what we seek to achieve with anti-corruption measures – and whether clarification of the concept would lead to a better understanding of the challenges and more effective policy-making.
2. Take a holistic approach that includes all strands of government, strengthens the capacity of civil society and encourages wider engagement from citizens. Stress a unified approach by the UK government and its various departments (including the Foreign Office, UK Trade and Investment and the Department for International Development) to tackling corruption. Encourage other bilateral and multilateral donors to follow suit.
3. Increase international co-operation. To achieve substantive change and ensure the harmonisation of priorities, co-ordination of donor programmes in developing countries or conflict regions should be promoted to avoid the risk of irregular transactions. Similar co-ordination of international business operations abroad would be beneficial.
4. Make better use of financial intelligence to focus investigations, improve accountability and protect aid programmes. A better understanding of money flows would significantly contribute to identifying the sources of and solutions to corruption.

To Improve Policy and Legal Frameworks:

5. Improve the quality of risk assessments to ensure a more informed implementation of a 'risk-based approach' as recommended by anti-money laundering standards. The regulators, law enforcement and the private sector must work together to identify risks and respond accordingly to promote more effective ways to mitigate corruption.
6. Improve systems of accountability through implementing the UK's Senior Managers Regime rather than overly relying on the money laundering reporting officer.
7. Revise and strengthen the UK's Suspicious Activity Reports (SARs) regime. Priorities include curtailing defensive SARs filing,[1] improving the quality of SARs data and providing better guidance on what constitutes a suspicion.
8. Improve information sharing between all stakeholders. The UK government should consider expanding the Joint Money Laundering Intelligence Taskforce format to include an equivalent mechanism for other sectors, such as the legal profession. It could consider incorporating an international element, as well as continuing to support building trust between stakeholders.

To Improve Business Operations and Economic Integrity:

9. Financial institutions should give staff additional mandatory training and the tools to identify suspicious behaviour, as well as the appropriate mechanisms for reporting internal and external cases.

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1. 'SARs filed as a result of the [bank's] effort to comply with the 30-day requirement could be considered defensive if, to meet the deadline, [depository institutions] filed SARs before fully investigating anomalous transactions.' US Government Accountability Office, 'Bank Secrecy Act: Suspicious Activity Report Use Is Increasing, but FinCEN Needs to Further Develop and Document its Form Revision Process', GAO-09-226, February 2009.

10. As mentioned, the private sector must implement a risk-based approach to corruption, while regulators should increase guidance on red flags and best practices. These practices could be achieved by taking further account of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act 2001 (US) provisions on information sharing (Sections 314a and b).

11. Promote the role of embassies, diplomats and NGOs which have strong ties with local companies abroad to catalyse collective action and create a culture of integrity in UK business.

To Support Development:

12. Continue to support openness and accountability globally – including in aid, procurement and beneficial ownership – and lead by example by implementing the highest standards in the UK and its Overseas Territories.

13. Engage with other donors to take a strong stance on providing safe spaces for civil society to challenge corrupt practices and to protect whistleblowers.

14. Encourage young people to stand up to corruption, for example by supporting national and regional youth parliaments where concepts such as citizenship, values and ethics can be deliberated.

To Reduce Insecurity:

15. Take a more regional approach to tackling corruption and invest in local information/ understanding to better appreciate rapidly shifting dynamics.

16. Make relevant military expertise and reports understandable to the non-military community to allow better intelligence sharing.

17. Give the military a greater role in addressing corruption. The military, as the most constant presence on the ground, could provide training and implement programmes.

18. Put corruption at the centre of the debate from the outset, making it intrinsic to building security.

19. Be mindful not to let security concerns absorb the corruption debate and turn it into another counter-terrorism issue.

The Case for Inclusive and Risk-Based Approaches

THE RUSI/KPMG WORKSHOPS identified several key themes relating to contemporary anti-corruption efforts. These have been grouped under four broad headings: the Challenges of the Current UK Legal and Policy Frameworks; the Role of Business in Tackling Corruption; the UK's Role in Tackling Corruption in Developing Countries; and the Nexus Between Corruption and Security.

Challenges of the Current UK Legal and Policy Frameworks

Improving the functioning of compliance structures, better understanding where accountability and liability for enabling bribery and corruption lie organisationally, and enhancing information sharing were identified as essential issues in improving the anti-corruption legal and policy frameworks.

Initial debates examined the clarity and effectiveness of existing policies in light of an apparent paucity of results, and explored potential for improvements.

Participants stressed the critical need to reduce the compliance burden given the system's lack of results. The poor quality of Suspicious Activity Reports (SARs) was identified as the product of financial institutions' tendency to file defensively and a lack of understanding of what constitutes a 'corruption-specific' transaction. In addition, the lack of proficiency in conducting risk assessments means that businesses and other stakeholders are often lost in the process rather than focused on the risks. This leads to excessive compliance with little impact on tackling issues such as money laundering.

Discussion of where accountability for lack of reporting, or even for ignoring internal reporting, lies raised questions about the effectiveness of individual criminal penalties and liability. Participants noted that enforcing penalties for failing to report could demonstrate the seriousness of intentions to increase the number of prosecutions of the enablers of corruption. However, they also noted that excessive and misdirected penalties, often aimed at one individual – usually the money laundering reporting officer (MLRO) – led to defensive reporting and could misconstrue liability within complex decision-making structures. Additional legislation on whistleblowers – including protection and immunity – was debated and received some support. There was recognition of the complexities of such an initiative in terms of the sectors to which it would apply and the terms of protection for individuals who come forward some time after they become aware of a transgression. Such an initiative, however, would be of significant value in cases of endemic and high-level corruption.

A risk-based and robust know your customer (KYC) approach, an improved accountability framework and better information sharing were deemed desirable to adequately implement existing policies and legal frameworks.

An Improved Compliance System: Processes versus a Risk-Based Approach

This session started with a reflection on the compliance burden placed on UK financial institutions and companies under the UK's Money Laundering Regulations and the UK Bribery Act (UKBA).

The *UK National Risk Assessment of Money Laundering and Terrorist Financing*, published in October 2015, commented that UK law enforcement suffers from 'significant intelligence gaps, in particular in relation to "high-end" money laundering'.[1] Specifically, there is a lack of knowledge of how banks and third parties, such as lawyers, are involved in this practice, calling into question how effective the crafting of legislation and guidelines has been in creating a regulatory framework that properly tackles the issues.

It is encouraging that the government is reviewing the regulations, but this intelligence gap highlights the need for greater engagement between private sector practitioners and the government to better understand the risks of corruption and money laundering, and how they manifest themselves in the UK.

Participants were in no doubt that robust compliance frameworks are crucial for identifying and reporting money laundering, bribery and corruption. They are also essential for defining a culture of good governance within organisations. However, there is a sense that the Money Laundering Regulations and UKBA overemphasise proof of processes, rather than the quality and logic of the processes themselves. Organisations are responsible for knowing their own businesses, but the 'risk-based' and 'common sense' approach suggested by the guidelines are difficult to measure. There should be a better collective understanding of, and exchange of information on, where the real risks lie, and the mechanisms by which money laundering, bribery and corruption take place. As criminals become more sophisticated in the schemes and instruments they use, those responsible for stopping them need to be better informed too.

Participants expressed concern that regulated companies are also failing to use the internal intelligence available to them to better understand their own risk profile. Although the UKBA has made boardrooms 'sit up' and take bribery and corruption more seriously, it was noted that, at least at the beginning, compliance tended towards worrying about 'whether it is ok to take clients to Wimbledon'. This misses the point of what the UKBA is trying to achieve and is clearly not the common sense approach it aims to instil.

An effective solution might be a simple one: businesses need to ask better questions during KYC checks. For example, if a corporate structure seems overly complex, companies should be asking why that is the case. When reviewing third-party suppliers, businesses should ask what

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1.   HM Treasury and Home Office, *UK National Risk Assessment of Money Laundering and Terrorist Financing* (London: The Stationery Office, 2015).

the suppliers are being paid for and whether they are needed. The conversation needs to move beyond the basic best practice Financial Conduct Authority (FCA) guidelines, which at times are vague, to a more sophisticated discussion about how risks manifest themselves into illegal activity. For example, an FCA guideline on conducting enhanced due diligence for KYC checks defines best practice as when 'the firm establishes the legitimacy of, and documents, the source of wealth and source of funds used in high-risk business relationships'.[2] This type of guidance oversimplifies the often highly complex task of identifying ultimate beneficial ownership[3] which can benefit more from country-specific expertise and knowledge of transaction-specific risks. There should be more public and private sector sharing of information on specific case studies of, for example, how sources of wealth are hidden or falsified to mask corruption or facilitate money laundering.

Discussion of the legal and policy frameworks also highlighted an apparent lack of understanding by government and law enforcement of what compliance processes involve. There was much discussion around how difficult and burdensome it is to determine a politically exposed person (PEP)[4] (as defined by money laundering regulations) or how much work is involved in recording and monitoring expenses in line with the UKBA. For example, participants said the extra work is not in recording the expenses themselves, but determining patterns in expense claims that might indicate suspicious activity. This again highlights the need for more engagement – and case study exchanges for example – between public and private bodies.

PEPs and beneficial owners also demonstrate the importance of knowing the risks associated with business operations and how they can cut across jurisdictions through, for example, foreign PEPs and offshore ownership structures. Financial institutions must have in place up-to-date enhanced due diligence systems to determine individual, region and transaction-specific risks.

Criminal Liability: Processes versus Prosecution

The issue of criminal liability became part of the wider discussion around prosecution, particularly as it lies with the individual duty officer, the MLRO. Most participants agreed that criminal liability for the MLRO failing to identify and report suspicious activity across often complex business structures is disproportionate, and responsible for defensive reporting, which can be counter-productive.

There were also concerns over the awareness of regulators and law enforcement of banks' internal decision-making structures. For example, although the compliance departments of regulated entities are responsible for conducting KYC checks, they are not always the key

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2.   FCA, 'Financial Crime: A Guide for Firms: Part 1: A Firm's Guide to Preventing Financial Crime', April 2015.

3.   Beneficial owner is defined as: 'the natural person(s) who ultimately owns or controls a customer; those persons who exercise ultimate effective control over a legal person or arrangement'. Financial Action Task Force (FATF), 'FATF Guidance: Transparency and Beneficial Ownership', October 2014.

4.   FATF, 'FATF Guidance: Politically Exposed Persons (Recommendation 12 and 22)', June 2013.

stakeholders in making decisions based on that information. Such decisions may depend on the different risk appetites and ultimate business incentives of different departments. It was noted that, 'where a client is profitable enough, they [banks] won't knock them off the books' even if compliance checks have returned significant red flags. Regulators and law enforcement should therefore consider adapting their view of the chain of command so that the final decision does not always lie with one actor or group.

It is believed that more junior staff have no incentive to investigate potential corruption schemes as these may be within reasonable doubt and not suspicious at first sight. A financial institution's performance structures may not allow for time-consuming investigations due to the high number of potentially criminal transactions identified daily. Additionally, while responsibility lies with senior management, often the links between authority and corruption may cause added difficulties in cases where managers enable corruption and there is no system of reporting available that allows the problem to be signalled by junior staff or others and the culprits brought to justice.

As a result, the issue of accountability and whether civil or criminal penalties should apply to those enabling corruption is complicated by the apparent internal difficulties in streamlining operations and putting in place anti-corruption practices that staff can understand and use to identify, report on and develop financial intelligence (FININT). As regards penalties, criminal liability and more prosecutions may offer a strong disincentive to engage in corruption. The implementation of the Senior Managers Regime in the UK – which 'will ensure that senior managers can be held accountable for any misconduct that falls within their areas of responsibilities' – was well received,[5] but difficulties faced by businesses in balancing compliance efforts, obligations and penalties were noted.

Government guidance plays an important role in how institutions define priorities and internal strategies to deal with a specific problem. However, participants emphasised that such guidance is lacking and often too broad to be of use.[6] For example, the existing system appears to encompass only entities regulated under the anti-money laundering (AML) regime, ignoring the corruption risks within, and facing, non-regulated sectors. Additional targeted government-led best practices would be welcomed, especially if complemented by strong leadership from government and businesses to ensure adequate implementation and reach.

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5.   FCA, 'FCA Publishes Final Rules to Make Those in the Banking Sector More Accountable', press release, 7 July 2015, <https://www.fca.org.uk/news/fca-publishes-final-rules-to-make-those-in-the-banking-sector-more-accountable>, accessed 11 April 2016. See background information on UK senior managers and certification regimes at Bank of England, 'Strengthening Accountability', 2016, <http://www.bankofengland.co.uk/pra/Pages/supervision/strengtheningacc/default.aspx>, accessed 11 April 2016.
6.   See HM Government, *UK Anti-Corruption Plan* (London: The Stationery Office, 2014).

Increase and Improve Information Sharing

Poor information sharing is a significant obstacle to the success of the above-mentioned regulations and anti-corruption measures. Improving the mechanisms and systems through which the exchange of intelligence is possible are among the key priorities of international efforts to combat financial crime (including corruption).[7] The lack of law enforcement feedback on what constitutes valid and useful FININT or a defensive SAR is one of the core challenges to the AML regime and the institutions it regulates. In the context of corruption, poor information sharing means a reduced intelligence picture and an impaired ability to identify relevant transactions.

This applies to sharing information between regulators, law enforcement and government on the one hand and companies and financial institutions on the other. Some participants were sceptical that the regulator and law enforcement had the appropriate resources or intelligence to investigate the risks they were asking private organisations to mitigate, leading to the feeling that the government is asking banks and private companies to do their job for them. Many cited US practices in this area – Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act 2001 (US) provisions on information sharing, for example – that the UK would benefit from introducing. The general view is that US regulators are much better at talking to industry to supplement their intelligence picture. If the Department of Justice identifies a pattern of suspicious activity or a new issue in the sector, it will seek information and perspectives from private sector practitioners. Similar approaches would be useful to UK law enforcement.

One of the key processes discussed was the SARs regime. Although participants acknowledged that the Home Office had commissioned a review, there was still criticism that, despite guidelines, it remains unclear what the National Crime Agency (NCA) – the body responsible for dealing with SARs – is looking for. The system is overloaded with a growing number of filed SARs[8] – 381,882 in 2015 – and a clearer system is needed to ensure financial institutions focus additional resources on specific anti-corruption practices. The SARs regime is widely believed to be unfit for purpose and is under revision to include more feedback, wider information-sharing channels and new forms of interaction between actors.[9]

Current information-sharing systems also fail to address the need for international communication and exchanges. Business transactions – regardless of their nature – are increasingly transnational and there is a need for a system that facilitates the sharing of information on suspicious activity as well as best practices (to reflect regional threats, for example), targeted guidance for different sectors and the ability to share information voluntarily where appropriate.

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7. See FATF reference to information sharing in FATF, 'Outcomes of the Plenary Meeting of the FATF, Paris, 17–19 February 2016', February 2016, <http://www.fatf-gafi.org/publications/fatfgeneral/documents/outcomes-plenary-february-2016.html>, accessed 11 April 2016.
8. NCA, 'Suspicious Activity Reports (SARS) Annual Report 2015', 2016.
9. The review began in 2015 with a Home Office call for information. See Home Office, 'Suspicious Activity Reports Regime: Call for Information', February 2015, <https://www.gov.uk/government/publications/suspicious-activity-reports-sars-regime>, accessed 11 April 2016.

Participants agreed that increased information sharing is essential to the success of anti-corruption measures, especially through the strengthening of the SARs regime, but also across borders and different business sectors. Greater co-ordination and trust between actors was identified as an important first step, along with the creation of a Joint Money Laundering and Intelligence Taskforce (JMLIT)-like structure that takes into account other sectors. It could also expand to an international format – of public–private co-operation – to enable transnational information sharing.

The issue of sharing information within sectors, which has been raised in other RUSI forums, remains an obstacle to effective intelligence on the issues of bribery, corruption and money laundering.

Having the right legal and policy frameworks in place to tackle corruption is essential. They must be inclusive of different government departments, organisations and law enforcement, as well as industry practitioners and civil society to increase information sharing, reduce compliance burdens and improve accountability.

The Role of Business in Tackling Corruption

Greater accountability, more information sharing between public and private actors, the implementation of risk-based approaches and a general shift in banking culture were identified as issues requiring further attention by policy-makers, practitioners and law enforcement to improve the role of businesses in tackling corruption.

The role of the private sector – in particular the financial services industry – in perpetuating and preventing corruption should not be underestimated. Allegations of UK companies engaging in bribery could undermine the UK's efforts to eradicate corruption. Enforcing the UKBA and deterring companies from paying bribes therefore also plays an important role in tackling corruption. In some cases, however, it may be difficult to clearly separate 'public' from 'private' sector action as both must coexist in order to be effective. Legislation as well as institutional and governance reforms need to take such situations into account and adapt programming accordingly.

The benefits that FININT offers to law enforcement investigations, and the recognition that success in countering corruption and financial crime in general is heavily reliant on it, have made co-operation with the private sector extremely valuable. Supporting and developing these partnerships is essential to disrupting crime.

Financial institutions play an important role in fighting corruption as, in the majority of cases, criminals use financial services to launder their proceeds. Understanding the ways in which these institutions assess the risks and threats from criminal activity is important to the ongoing reform of anti-corruption policies and subsequent measures directed at the private sector.

Financial institutions' actions to tackle corruption are centred on the AML regime and the requirement to file SARs.[10] For regulated entities, the obligation to report suspicious activity

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10.   In the UK to include the Money Laundering Regulations 2007 (UK), the Terrorism Act 2000 (UK) and the Proceeds of Crime Act 2002 (UK).

includes any transaction suggesting the presence of illicit practices. Challenges to the AML regime's effectiveness are well known,[11] and although corruption is only a fragment of the overall framework, difficulties in identifying corruption transactions or related practices is an additional challenge to SARs reporting officers.

Specific challenges to business structures – in particular the financial sector, as discussed in the workshops – and strategy regarding anti-corruption relate essentially to lack of co-ordination and the implementation of sector-specific risk-based approaches.

Implementing a Risk-Based Approach

Crucial to businesses' robustness against potential interference by criminals is the adoption of a risk-based approach – domestically and internationally – to identify specific risks and the most effective ways to mitigate them.

A risk-based approach means recognising that different businesses will encounter different threats and that adjusting operations accordingly is the most effective way to disrupt crime. Broadly, understanding corruption and the sharing of available information should be parallel to the identification and assessment of specific risks – the type of transactions processed, geographic location, customers and key threats, for example. Additional government guidance on how to implement measures, particularly on the risk-based approach objectives, is deemed desirable.

The risk to business is not restricted to unknowingly hosting 'dodgy accounts' and banking 'dodgy customers' but also relates to money flows through the UK in international business transactions. Businesses should therefore pay closer attention to the provenance and destination of funds in relation to their specific areas of business and operational liabilities.

As with information sharing, implementing a risk-based approach would be a significant contribution to tackling the international dimensions of corruption; specific, targeted and expert-based measures could be put in place to strengthen the system.

Establishing a risk-based approach to anti-corruption priorities is an additional challenge to already overloaded financial institutions – and businesses in general – operating domestically or internationally. However, it is believed that by implementing a solid risk-based approach, with the understanding that it will not be 'bullet proof', the AML regime can more effectively contribute to the reduction of crime.

In sum, businesses and law enforcement should put more effort into risk assessments to determine priorities, where action is needed and to what extent organisations are prepared to deal with the issues identified. This should not be a box-ticking exercise.

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11.   HM Treasury and Home Office, *UK National Risk Assessment of Money Laundering and Terrorist Financing*.

The Joint Money Laundering Intelligence Taskforce

Participants identified the JMLIT – a pilot information-sharing platform with a working group dedicated to tackling corruption – as a first step in addressing anti-corruption and AML deficiencies. However, it was also noted to be falling short of its potential given its exclusion of sectors and small businesses other than financial institutions.

One of the advantages of the JMLIT is that it favours targeted and in-depth information sharing and illustrates a risk-based approach in practice. By gathering different financial institutions and law enforcement in one forum, JMLIT participants are able to contribute to identified priority cases and work together to solve them.

The JMLIT was cited as one of the success stories of greater public–private engagement between government, law enforcement and the financial sector. This should be extended to other sectors. As the National Risk Assessment notes,[12] there is poor intelligence on the role of third parties, such as lawyers, in money laundering. Having a JMLIT equivalent for the legal sector, for example, would help improve government, regulator and law enforcement knowledge in this area.

A New Business Culture: Reflecting on Specific Challenges to Financial Institutions

The role of businesses in tackling corruption is essentially dependent on the promotion of a compliance and integrity culture that understands the threats, risks and actions needed to reduce criminal interference with legitimate business.

Despite a recent significant change in culture as a result of stricter regulation and penalties, managers continue to stress the difficulty of changing the culture of banks and the need to recognise the specific threats attached to very profitable operations. Incentive systems and increased interaction with other stakeholders involved in best practices are thought to play a key role in promoting change.

In sum, promoting awareness of the need for additional training on what constitutes corruption and how it can be identified, how it threatens business success and how best to address it are a few of the steps the private sector – financial institutions, in particular – can take to increase the effectiveness of anti-corruption efforts. The goal should be to create a culture of integrity rather than simply a culture of compliance.

Improving the way businesses tackle corruption is dependent on increased training and accountability for practitioners, better information sharing and risk awareness, and an overall adjustment of business culture to reflect anti-corruption priorities.

Private sector contributions to anti-corruption efforts should be co-ordinated and complemented by a comprehensive strategy that includes other stakeholders, in particular, law enforcement and expert policy-makers, but also international partners and government leadership.

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12.   *Ibid.*

The UK's Role in Tackling Corruption in Developing Countries

Corruption is increasingly recognised as a critical development challenge. The report of the Independent Commission on Aid Impact on the Department for International Development's (DFID) approach to tackling corruption and its impact on poor states commented that 'corruption is a fundamental issue that afflicts the everyday lives of the very poorest and thwarts global efforts to lift countries out of poverty'.[13]

Corruption is estimated to cost more than 5 per cent of global GDP (or US$2.6 trillion).[14] The Organisation for Economic Co-operation and Development states that '[it] is not only a question of ethics; we simply cannot afford such waste'.[15] Corruption is also now widely accepted to have dramatic costs to societies, hitting the poorest hardest. It disrupts businesses and can finance criminals and terrorists. The UK aid strategy cites tackling corruption as a key area in which the government will invest to strengthen global peace, security and governance, and reduce poverty overseas.[16]

As part of the workshop series, on 19 February 2016 KPMG's International Development Assistance Services (IDAS) team held discussions with representatives of the UK government, law enforcement, the private sector, academia and NGOs on the UK's role in tackling corruption in developing countries. The key issues highlighted are presented in this section of the report.

Defining Corruption

Narrow definitions of corruption tend to focus on 'the abuse of office for private gain', but corruption can take many forms. A wider range of behaviours is now recognised as corruption, and these will have different causes and impacts on society and the broader indicators of development. For example, corruption activities can include syphoning off a developing state's assets to officials' bank accounts in Europe, or appointing a relative to a position within a state organisation. There is also a tendency to focus on corruption within particular sectors or geographies rather than adopting an international approach, by for example linking cash flows within Afghanistan to property transactions in the UAE and elsewhere in the Middle East. Corruption that is transnational and trans-sectoral is likely to have more far-reaching consequences. The fight against corruption has to address this diversity.

Joint Responsibility

A joint approach between governments, international organisations, the private sector and civil society is needed to combat corruption. Focusing on reducing corruption in one sector or institution

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13.   Independent Commission for Aid Impact, 'DFID's Approach to Anti-Corruption and its Impact on the Poor', Report 37, October 2014, p. 1.
14.   CleanGovBiz, 'The Rationale for Fighting Corruption', Organisation for Economic Co-operation and Development, 2014.
15.   *Ibid.*
16.   HM Treasury and DFID, 'UK Aid: Tackling Global Challenges in the National Interest', Cm 9163, November 2015.

may result in corrupt individuals targeting others. Collaboration and information sharing among different parties – not just financial institutions – is therefore necessary.

To act as a role model for other countries, the UK should make sure it is doing as much as it can to prevent domestic corruption. Suggested areas for improvement include shell companies, beneficial ownership and tax havens. As part of its commitment to the G20 High Level Principles on Beneficial Ownership Transparency, the UK has said it will implement the Financial Action Task Force standards on beneficial ownership, which will 'oblige companies to know who owns and controls them, by requiring that companies obtain and hold adequate, accurate and current information on their beneficial ownership'.[17] This information will be reported to a central register, which the UK will make publicly accessible from June 2016. This information will be reported into a central register, which the UK will make publicly accessible from June 2016. Such measures of transparency are to be commended and will soon also be implemented across Overseas Territories further to recently agreed measures.[18]

> **Box 1:** A Joint Approach.
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> The UK government and its various departments should present a joint approach to tackling corruption. Some workshop participants suggested that the priorities of different departments do not always appear co-ordinated. Different priorities include promoting UK companies abroad, attempting to attract foreign investment, maintaining London's status as a global financial centre, working to assist the poor in developing countries, promoting the UK's political interests and safeguarding national security. Co-ordination between the varying aims of government departments is necessary to present a strong and unified stance against corruption.

Transparency

Transparency and open data in relation to procurement enables people to challenge behaviour and actions that they consider ethically questionable. This is desirable in the public and private spheres. For example, systematised and easily accessible company reporting of institutional revenues, profits, number of employees and taxes paid country by country could encourage more ethical behaviour in relation to paying tax.

Freedom of information can be a valuable tool against corruption. The Slovakian experience of openly publishing contracts has shown that the public is willing to engage with issues of corruption (see Box 2). The publication of contracts also enabled NGOs such as Transparency International (TI) to investigate and bring to the public's attention cases of corruption and misconduct. One such

17.   Gov.uk, 'UK Implementation of the G20 High Level Principles on Beneficial Ownership Transparency', <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/476748/UK_implementation_of_the_G20_High_Level_Principles_on_Beneficial_Ownership_Transparency_.pdf>, accessed 11 April 2016.
18.   For an overview of beneficial ownership policies in UK Overseas Territories and Crown Dependencies see Gov.uk, 'Beneficial Ownership: UK Overseas Territories and Crown Dependencies', <https://www.gov.uk/government/collections/beneficial-ownership-uk-overseas-territories-and-crown-dependencies>, accessed 28 April 2016.

report on hospital purchases from shell companies that charged significantly more than market price led Slovakia to pass legislation in 2014 barring shell companies from all public procurement.[19] The number of bidders for public contracts also increased from 1.6 firms per government contract in 2010 to 3.7 in 2014.

Box 2: Open Publishing of Contracts in Slovakia.

In Slovakia the law was changed to make contracts valid only once they have been published online. It was found that almost 8 per cent of people in Slovakia looked at a contract or a receipt annually, which shows that a significant element of the public is willing to engage in issues of corruption.[1]

1.   See Gabriel Sipos, Samuel Spac and Martin Kollarik, *What the Radical Transparency Regime of Public Contracts Achieved in Slovakia* (Bratislava: Transparency International Slovakia, 2015).

Data need to be accessible and intelligible to the general public – not just in the UK but globally – to have a significant impact on corruption. Assisting the public and civil society organisations to access and understand the available information can yield significant results.

The Need to Provide a Safe Space for Civil Society and Whistleblowing

Engaging in issues of corruption can be a dangerous undertaking for individuals in certain circumstances. As noted in the other workshops, the need to protect whistleblowers and ensure freedom of speech is paramount to effectively tackling corruption. People should feel able to report wrongdoing without fear of persecution or deportation. Whistleblowers may need asylum in another country in extreme cases.

Donors should consider ways they could use their political voice to contribute to the protection of safe spaces for civil society to challenge corrupt practices and to protect whistleblowers. There could also be a significant role for civil society in this context. For example, the TI chapter in Pakistan, in collaboration with the US Agency for International Development (USAID), established a hotline for reporting corruption within USAID projects. According to TI, this reporting mechanism enabled 68 investigations, four arrests and the recovery of US$100 million.

A Differentiated Approach

Differentiated approaches may be needed to address issues within particular contexts, such as in fragile states (where DFID has pledged to spend 50 per cent of its funds).[20]

Focusing on local solutions to local problems and global solutions to global problems has also been suggested. People tend to get angry about the local problems they clearly see – paying more for their children to go to school or for medical treatment. Local approaches to such issues could include

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19.   Gabriel Sipos, Samuel Spac and Martin Kollarik, *What the Radical Transparency Regime of Public Contracts Achieved in Slovakia* (Bratislava: Transparency International Slovakia, 2015), p. 12.
20.   HM Treasury and DFID, 'UK Aid: Tackling Global Challenges in the National Interest', p. 4.

working with civil society organisations and young people. International donors can also contribute by supporting initiatives such as youth parliaments where young people can deliberate the values of their society.

The extent to which corruption permeates society is influenced by the prevailing values and culture of that society, and these take time to change. It is therefore important to take a long-term approach, both in institutional strategies and in programming. Short-term projects can result in limited institutional learning, and longer-term engagements between institutions and organisations in anti-corruption work should be considered.

An example cited by workshop participants in relation to influencing culture was the institutional twinning projects between Australia and neighbouring islands. This example is presented in further detail in Box 3.

Box 3: The Australian Experience of Institutional Twinning.

Australia has been including first-year graduates from various institutions in Papua New Guinea in the official training programmes, both in the classroom and on the job, of its own new graduates. Graduates new to institutions in Papua New Guinea joined their counterparts in Australia for three months' training at the beginning of their career. A year on, they returned for another three months. This programme played a role in forming long-term relationships between employees at the two organisations, and also introduced participants to Australian standards and methods within government institutions. There are, of course, limits to where such programmes could function – the regulatory environments and capacities of both institutions have to be compatible and there has to be buy-in from management within both institutions for the programme to be effective. It is nevertheless a possible method of combating corruption and fostering a culture of transparency that could be explored by other donor countries.

Anti-corruption initiatives should aim to not only consider corruption in the sense of the *absence* of illegal or unethical behaviour, but raise the bar by seeking the *positive* goal of individuals and institutions acting with integrity.

The absence of corrupt behaviour is not necessarily enough to describe a well-functioning and inclusive government and society of the type the UK government would like to see worldwide. Transparency should be seen as a 'flashlight' and an important first step rather than a cure for corruption.

The Nexus Between Corruption and Security: Afghanistan as a Case Study

A RUSI-led workshop explored the links between corruption and security in the context of Afghanistan. Corruption has relevance beyond legal, policy, economic and development concerns. The majority of workshop participants agreed that corruption is a critical strategic factor with serious implications for regional stability and security. In this final session, participants emphasised concerns relating to conflict, structure and implementation by analysing the situation in Afghanistan and discussing how the UK could contribute to international security by reducing corruption abroad.

Despite nearly fifteen years of international engagement, Afghanistan remains the third-most corrupt country in the world (with Somalia and North Korea jointly the most corrupt).[21] Pervasive and systemic corruption has undermined all aspects of international engagement and seriously delegitimised the Afghan government in the eyes of the Afghan people, partially fuelling the insurgency. The need to take the strategic threat of corruption seriously, integrate an anti-corruption strategy into interventions, including those conducted by the military, from the outset, acknowledge the intrinsic link between corruption, impunity and state legitimacy and confront the challenge of measuring, monitoring and tackling corruption, particularly in fragile states, were key areas identified as requiring the further attention of policy-makers, practitioners, law enforcement and civil society.

Anti-corruption measures in conflict areas are severely affected by the fragility of state infrastructures and the need to reduce insecurity. Participants emphasised that military intervention – with a view to achieving stability and reducing security threats – would be more successful if it included training in and focus on anti-corruption objectives and practices from the outset. As the 'constant' on the ground, military operators are also the most suited to overseeing structural changes and ensuring that development efforts are in line with country-specific requirements and challenges.

In regions where there is conflict, the eradication of all corrupt practices is unlikely to be a realistic goal, and anti-corruption efforts should be prioritised to reflect region-specific objectives, local culture and lessons learned from previous interventions.

Finally, the implementation of anti-corruption measures in areas where security is fragile must be the product of carefully co-ordinated approaches between all actors. Programmes must be long-lasting and avoid conflicting objectives and duplication of effort.

Across all workshops, participants emphasised that, to achieve security, a full-spectrum approach (which includes all actors) to anti-corruption is needed. This was recognised as particularly crucial where countering corruption is key to achieving security and stability.

Corruption is a Strategic Threat to Stability

Few rank-and-file recruits to Daesh (also known as the Islamic State of Iraq and Syria, ISIS) or the Taliban start out with the ambition of prosecuting a global struggle against the prevailing world order; instead pervasive corruption, impunity combined with a lack of trust in the formal justice system and more pragmatic economic reasoning is more often a source of extremism.[22] Corruption was cited by participants as one of the key complaints of the Afghan people against the government and is perceived to be a driver of radicalisation. Corruption makes the offer of an 'Islamic government' with its one-dimensional notions of justice and morality more appealing. Corruption can also mean soldiers are forced to operate with equipment that does not work or with no equipment at all.[23]

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21. Transparency International, 'Corruption Perceptions Index 2015', <http://www.transparency.org/cpi2015>, accessed 11 April 2016.
22. *World Policy Journal*, 'Talking Policy: Sarah Chayes on Corruption', 12 February 2016.
23. Workshop participant evidence.

In Afghanistan, corruption extends to all aspects of society and, in recent years, there has been increasing concern that the extractive/natural resource sectors are potential hotspots for fuelling conflict. Though the extractive industry is a major potential source of wealth for Afghanistan, expert participants suggested that it is doing more harm than good. Even areas previously resistant to Taliban control, such as Badakhshan province, are experiencing active insurgencies (in part funded by illegal mining) and the level of competition between armed groups over resources is contributing to the conflict. Organisations and governments need to pay greater attention to exposing illegal mining contracts, strengthening infrastructure and tightening existing mining laws, which are full of loopholes and not subject to proper scrutiny.

Corruption generally, and in particular the intrinsic link between insecurity and corruption, has finally started to gain more attention in the UK. This is reflected in the latest Strategic Defence and Security Review,[24] while the Ministry of Defence is building an 'integrity programme to improve best practices on the ground'. More is needed, however, and the rhetoric needs to be put into action and supported at the highest echelons of government. Participants suggested that reliance on overseas governments with high levels of corruption based on short-term security reasoning plays into the hands of those espousing radical ideology. Western diplomats in conflict and fragile states should consider withdrawing security assistance when it is fuelling a patronage system that is leading to disaffected populations and inequality, with a caveat in situations where the state is an ally and some corruption might be better than increased insecurity.

Anti-Corruption Needs to be at the Heart of the Strategy from the Outset

Tackling corruption is a long-term strategy; changing culture and ending endemic corruption is an endeavour the UN estimates takes thirteen to seventeen years to bring about. Irrespective of the timescale, given its malicious influence, countering corruption should be integrated into donor states' involvement in foreign states from the outset, particularly those that are fragile or affected by conflict. If a clear strategy is not developed, insufficient resources will be allocated to the anti-corruption agenda.

The military focus in fragile and conflict-affected states has often been on 'train and equip', which can do more harm than good if the defence sector is highly predatory. Though difficult and encroaching on the political realm, corruption needs to be taken systematically into the design and delivery of all security assistance programmes, recognising that the military are often the most constant presence on the ground in these countries. There is also a need to recognise and analyse the risk of corruption in the design and delivery of all security assistance programmes or risk undermining the entire mission. It is vital that security assistance serves the interests of citizens and does not consolidate the power of the corrupt.

Corruption increases the risk that equipment and funds are diverted, and fuels factional disputes. In fragile areas, given the lack of real institutions or civil service on the ground, the military has a responsibility to tackle corruption.

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24.   HM Government, *National Security Strategy and Strategic Defence and Security Review 2015: A Secure and Prosperous United Kingdom*, Cm 9161 (London: The Stationery Office, 2015).

Participants recalled how in the early days of the military campaign in Afghanistan, corruption was not perceived as a big issue, but over time, there was a growing recognition that nothing would be won without a focus on these illicit financial flows. In 2011, the threat finance unit of the International Security Assistance Force sent out a clear message that corruption was a real threat, although this may have been too little too late. A constant challenge has been the failure to address the role and influence of corrupt warlords, who have undermined the legitimacy of the Afghan state and who should never have been included as partners in the intervention and state-building efforts in the first place.

The UK, the US and NATO have been providing significant support to the Afghan military for over a decade outside the formal budget processes (off-budget support). This undermines the role of formal budget processes and official oversight functions such as audit institutions and anti-corruption bureaus, which are weak or corrupt. If donor states wish to see strong, accountable oversight mechanisms, they need to avoid circumventing them. Providing significant budget support without improvements to basic accountability over state budget management effectively means that security assistance allows military and political leaders in recipient states more space to divert limited state resources to dubious activity.

Given the need for the military to engage in anti-corruption, it should be a requirement that operational commanders and security assistance providers receive training and guidance on responding to corruption in their work. Military intelligence in this area also needs to be shared, in digestible language, with all government departments.

Tackle the Structural Problems of Corruption

In Afghanistan, the failure to tackle the consequences of several decades of conflict and the legacy of impunity undermined political inclusion, human rights, economic opportunity and the rule of law from the outset, and facilitated corruption.

There is a need to try to address these structural challenges and to limit the power of those leaders and individuals who continue to operate with impunity and employ corruption on an immense scale. Strategies for dealing with corrupt individuals in power – especially those who are deemed necessary to keep on-side to ensure stability – need to be explored, including those that raise the cost of corrupt activity for individuals. Joint efforts by EU member states to sanction corrupt individuals and to consider how these individuals can be marginalised – such as preventing access to markets and lifestyles – could significantly decrease the incentives to engage in corruption.

The Challenge of Measuring, Monitoring and Tackling Corruption

The vast majority of international spending on peacekeeping, stabilisation and security assistance is not consistently reported – mostly because of its varied sources. This makes it impossible to monitor money flows that might overwhelm a fragile environment and to identify gaps in assistance. Greater efforts are needed to share this information with trusted allies and to build intelligence on how corrupt networks function in recipient states and regions.

It was suggested that financial institutions need to play their part in monitoring transactions and there is a need to bolster civilian oversight bodies. Building the capacity of civil society might better contribute to long-term stability than an influx of arms and training. Effective systems for the participation of affected populations in policy formation, implementation and monitoring – to build trust and strengthen the effectiveness of security assistance – are required.

Corruption is often an inevitable factor in jurisdictions where international military missions operate. It significantly hinders mission effectiveness and may contribute to serious security threats. It can also help prolong conflict, as it contributes to power struggles between interested parties who profit from corruption, and can fuel instability and resentment among local populations. Moreover, failure to understand the nature and context of corruption can often lead to foreign military forces facilitating corruption, sometimes unknowingly. This has been recognised over time and there are key lessons learned, particularly from Afghanistan, that can be applied to other contexts. International interventions, including those where the military is engaged, do not operate in a vacuum. Anti-corruption strategies need to be a key component of overseas intervention from the outset. Failure to include them risks undermining the entire operation. It is time to implement the lessons learned.

Conclusions

The RUSI/KPMG workshops sought to highlight the core concerns of practitioners, civil society representatives and academics in relation to anti-corruption and what should be done to improve existing frameworks.

At a regulatory level, there was consensus that more clarity in legislation and guidance was needed to make AML and UKBA measures more effective. Among numerous suggestions, strengthening PEP checks, reviewing the SARs regime and revisiting protections for whistleblowers were identified as important steps.

Information sharing between private and public sectors as well as within sectors was seen as key to improving anti-corruption measures at different levels of action and to promote culture change, accountability and risk-based responses.

The profound impact of corruption on development – and the (in)security issues it may provoke – were emphasised as needing a structural and all-inclusive approach that allows those involved to co-ordinate action in the UK and abroad, promote good governance through transparent and targeted measures, and work with the military to maintain security.

Fighting corruption is not an easy task with a quick 'fix-all solution'. It must be the result of a joint effort to mainstream concerns into civil society and government action, raise awareness at all levels of government and involve businesses (including the legal profession and others) as equal partners.

About the Authors

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