

Fighting Corruption in Transition Economies
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Lessons Learned in Instituting Legal Reforms: Case Study from Georgia

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I would like to address you on the issue of the corruption in Georgia and the reforms that have taken place to combat it. I would like to talk about its scale and specifications, and what government and the public have done from the political and legal point of view to reduce.

I won't be an original if I say that there is corruption in all of the countries and in general this is caused by wrong and ineffective management of the state itself. So that is why the direct methods of fighting with corruption, as a rule, do not give an expected result. The main goal for the state to fight should be elimination of the mistakes and errors while implementing its functions. It should identify the reasons of these mistakes and correct them.

In order to clarify the scale of corruption in Georgia, and the logic of the steps taken against it, I would like to mention the factors which created the condition for appearing of so called "Georgian Corruption".

From the beginning of independence days Georgia become involved in civil war and local armed conflicts, which had a great impact on stability and economical development of the state. The traditional economical connections with regions of former USSR has been restored, Georgia's economy was adjusted to the closed Soviet economical system, and was able to function only within this system. Collapse of USSR caused collapse of Georgia's economical system itself.

Permanent budgetary deficit and lack of finances became the reason for bankruptcy of the state programs and the state itself. States became unable to provide decent services or protect social and economical conditions and could offer only symbolic salaries.

Left without salary and socially unprotected, but with state authority and power, bureaucrats, with old Soviet traditional experience, started searching for another, non-official sources of income.

In the environment of economic collapse and a dramatically increased "shadow economy", the bureaucrats had joined the system and actually State and criminal world became one. This touched all levels of governing, strong mechanisms of control and mutual protection were established and corruption became systematic.

It became limbo, the shadow economy caused creation of corruption and the same time corruption became as a warrantee and developer of criminal economy.

The mentioned events accrued also because of not having a necessary legislation base for a civic society, as the existing old system was based on entirely totalitarian governing.

This was a picture of what was going in Georgia by 1995. By that time, the country somehow achieved stability and people came to power who have been supporting the president's intentions and had political will to make real steps towards democratic development, building civic society and reforming state governing system.

In the beginning state authorities tried to fight corruption with direct methods and with implementing repressive policies. As a result, the number of open cases has been increased, but it had no any real impact on the scale of corruption, and could not have it. As previous experience shows, strict sanctions, radical and short-term anti-corruption activity can not lead to a desired result.

The Georgian State announced the 1996 as an anti-corruption year, and, in order to implement political means and methods of fighting with corruption, had established a special parliamentary investigation commission. Although the commission has no authority of professional investigation, it managed to achieve a lot. Because of its activity it became possible to dismiss ministers of finance, energy and communication and open the criminal cases. The commission managed to cancel some state control bodies, which have been abusing Georgian entrepreneurs.

Due to state legal reform, the regulations for the state bodies have been put in order and improved. Also implemented was the minimisation of state regulation for the private sector. The establishment of a transparent and optimal governing system decreased the opportunity for corruption.

The following is a good example:

Since the Soviet regime, for the citizens of Georgia it was obligatory to register him/herself for the residential area, which made citizen dependant to his/her registration area. All this was connected to citizen's rights for education, medical treatment, employment and other rights. Thus the authorities responsible for registration became targets for corruption. Nowadays, the right to choose any residential area and cancellation of obligatory registration automatically neutralised this strong corruption nest.

One of the strongest factors for decreasing corruption became privatisation of state property, besides the fact that the privatisation sometimes was going with violation of regulations and the process was the source of corruption. State property privatisation, including land privatisation, and the reduction of the regulatory role of the state in economic relations reduced the abuse of positions by state employees.

Changes in civic code can be considered as the continuation of this policy . The new code actually stopped the state from involvement in private legal relationship, the private property was announced as a main value and strong guarantees for its protection have been established. State right in private legal relationship was lowered to the rights of any other legal entity.

A whole range of new legislation and laws were accepted; entrepreneurs law, investment law (to encourage and protect foreign investment), new custom and taxation law. All this established acceptable forms of relationship between entrepreneurs and the state. The competence of the controlling authorities have been decreased till reasonable level, the guarantees of independence from the state have been strengthened. Those events proportionally have decreased level of corruption in the country.

One of the successful reforms of the state was judicial reform. This reform has been conducted with the help of various international organisations such as World Bank, US and German government and the others. The good example of non-effectiveness of the old system is that, the more than half complains received by parliament and the president where complains about not fair decisions made by courts.

The implemented reform gave bases for the real independence to the judges and gave them appropriate legal and social guarantees. It cancelled the state monopoly on arbitrage cases, also established the appellation court institution and strictly identified professional and moral criteria for appointing and electing the judges. The judges have been examined and from the old team only 30 % managed to pass qualification exam.

A great role in improving court effectiveness was played by new professional legislation, which cancelled state privileges during court process and court investigation became based on equal rules and competition. Besides the fact that this reform was implemented not very long ago and still needs to be improved, we already can talk about its effectiveness. For example: After reform, in the most cases, where citizens and entrepreneurs have been appealing against state authorities, the former succeeded. Furthermore, constitutional court, based on complains from opposition parties and some citizens, cancelled wrong decisions of high authorities, including the president.

Parliament accepted regulations on “conflict of interest and corruption”, “army service”, and other laws to control different state institutions. New administrative codex sets up strict framework for decision making process, which increases behavioural standards and transparency of activity of state employees, also, their responsibilities towards state and public.

It is first time in Georgia’s history, there are clearly identified forms of responsibilities of the state representatives, ways in which to restrict their activity and how to identify their non-reliability to position. The ethics codex has been established, the people holding highest positions and their family members are obliged to declare publicly their financial, property and share information, which creates extra controlling mechanisms of public control. In order to involve public in controlling process of the state activity the

“law of lobbying” was accepted. This law was based on implementation of the concept of “Public Partnership”.

The new open system has been introduced in the spheres of the state purchasing and entrepreneurial licensing. In addition to that, the number of activities requiring the state permission has been minimised.

This systematic approach to the corruption approved its effectiveness. During last four years state legislation bodies have done a great deal of work in legal system reformation. 650 new laws and 10 new codex have been introduced, which entirely replaced the old system and put on the place the market oriented, democratic legislation base.

The recognition of the harmonisation of the above-mentioned activity (new legal environment) with the European legislation system was Georgia’s acceptance in the European Council.

Of course it is very early to talk about state victory over corruption, but still we can say that institutional-legal reform already gave some results. It destroyed an essential and super powerful image of corruption in public minds.

A lot of things should be done in this direction, those are reforms in such institutions like court, preliminary investigation and penitential system; improving and making flexible local governing mechanisms and increasing effectiveness of the state structures, including social protection of state employees.

Today we are discussing the issue of establishing a strong, well equipped anti-corruption agency, which will work not only on eliminating law violations, but also on prevention of corruption and conflict of interests, on projecting optimal models for implementing improved governing duties and responsibilities systems. Also the agency should provide anti-corruption information, establishment of public opinion that corruption is not acceptable. We have to recognise the great help of United States Government in establishment of this agency.

In the end, I would like to pay a special attention to the important role of mass media. Independent press and TV, its radical and “painful” reports, play a great role in keeping population and the state informed, and sometimes even initiated opening of new cases. The one of main priorities of legal reform is considered providing legislation bases for protection free mass media in Georgia.

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