

Containing corruption in privatisation

Chair:

Ricardo Lago

Emilia Sicakova, CPHR, Transparency International Slovakia

Panellists:

Joel Hellman, The World Bank

- Privatisation of UES-Russia, and Post Privatisation Regulation Issues

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Alan Rousso, EBRD

- Loans for Shares Privatisation in Russia

Inese Voika, Delna, Transparency International Latvia

- Monitoring of Privatisation in Latvia

Ventsislav Karadjov, Transparency International Bulgaria

- Monitoring of Privatisation in Bulgaria

Daniel Kaufmann, The World Bank

Contribution by Joel Hellman

Privatisation of UES-Russia, and Post Privatisation Regulation Issues

Capture undermines the security of property rights. There are differences between low captured countries and high captured ones. In low captured countries it is 60%, in high captured it is 40%. New firms are coming in. They pay for the rule of law; they have to pay.

In Russia, Kirgizstan and all the other countries in this region, privatisation is weaker. Private owners tend to buy security from the state for the rule of law for all. Weak security of property rights distorts the behaviour of new entrants and pushes them to engage in capture. State capture, corruption and the security of property rights are closely intertwined.

Contribution by Emilia Sicakova

People in Slovakia know about privatisation. It is not just the selling. You can have the general information about privatisation. The big money is involved in this. It is important to inform people about privatisation. Huge contracts are involved in privatisation. It is unclear how decisions are made.

There are 4 steps: general obligations to inform, selecting the advisors, about privatisation, post privatisation activities. In Slovakia, they sent all the information to political party leaders and asked them to be willing to spread this issue to the whole of society. Each ministry has its action plans. Authorities didn't allow us to give all the information to people, so it should be sent to court.

Contribution by Alan Rousso

Loans for Shares Privatisation in Russia

How did capture happen in Russia? It is based in many studies. There are a lot of comments but little research. In Soviet and pre-Soviet times from history it is known that Tsar Nicholas told his son they were the only ones who didn't steal, but that was because they owned everything.

Russia badly damaged its reputation with privatisation, due to the abuse of official power. Any abuse of authority. To what extent did privatisation improve or get worse? The issue for Russia was when and how to privatise. The main questions were when to start the privatisation. The key problem is transition countries.

In his paper from 1997, the author sought to abandon the problem. He found 4 important factors:

- speed
- level: less is more,
- transparency: the more information the better
- independent administration

Typology:

voucher based mass privatisation has the lowest level.

Spontaneous

requests the very essence of corruption.

privatisation:

All these aspects were present in the Russian privatisation programme.

This was only after the fall of USSR, but also when Michael Gorbachev was president. The 1992 Russian government stopped overseeing the issue. Liberalisation of prices led to less salutary results.

Super oligarchs were created by privatisation; they were established in 1996. The super wealthy class formed in the early 1990s. Banks were making policy at the highest levels. Yeltsin was aware of spontaneous privatisation.

Mass privatisation is well documented. Those behind privatisation in Russia believed they could improve everything. Bureaucracy was weak, so they had to handle privatisation quickly. They knew it could be done cheaply, because people didn't have money. People who had been born after 1992 received vouchers, so it was that person who had son born a day before, paid a bribe to buy the birthday of his son a day later.

1,000 firms had some sort of special deal with a government. The privatisation process helped to feed the criminalisation process. They printed millions of illegal vouchers. The biggest problem was exemptions - the government treated national resources: gold, oil, diamonds etc. The "Gazprom" privatisation was the greatest robbery in the history, because at the time of its privatisation, it was very cheap.

Mass privatisation took place when Russia had government problems. Outsiders could not get information about who was owning the shares. No information was available.

Loans for shares. The 1995 government was spending money in fighting in Chechnya and was suffering from a lack of money. The government made a political bargain.

Contribution by Inese Voika

Monitoring of Privatisation in Latvia

Latvia became independent from the USSR in 1991. Privatisation started a bit later. Latvia is transporting Russian oil; it has corruption in transit, but this is not the main subject.

7-8 years ago, the Privatisation Agency was quite transparent. The government wanted to sell 68% of the Shipping Company, the 4th biggest in Latvia. It has about 50 ships and a lot of offshore businesses in Latvia. The Latvian government is changing very frequently, one of the governments made the rules so that system will not change together with the government. The Privatisation Agency (PA) is the 4th most corrupted now.

The noise about corruption in the shipping companies was very loud. TI Latvia wanted to go in to see if the rumours were true. Privatisation of Shipping Co started in February 2001. PA allowed us to witness all the meetings and even signed a document confirming that they had not taken any bribes. The government was interfering in every step of the Privatisation Agency.

There was a great amount of distrust between all the members of the government, who suspected that the others had something in their pockets. The greatest lesson to TI Latvia was to get in touch with the government. This event has helped it to prevent relations between civil society and the government. The main thing is trust: if the PA would not trust TI Latvia, they would not let them to see everything from the inside.

Contribution by Ventsislav Karadjov

Monitoring of Privatisation in Bulgaria

The privatisation process started 9 years ago in Bulgaria and brought with it a lot of corruption cases. TI did not have a chance to be able to monitor the privatisation process. Bulgaria signed a contract with the Privatisation Agency as to what kind of documents should be made public.

Telecommunications is the one of the important government spheres. All the documents available tended to be corrupt. Moreover, there is no post-privatisation control. Economies lack this control.

Contribution by Daniel Kaufmann

Privatisation: Corruption's Curse or Cure?

Some concrete implications:

1. Type/modalities of privatisation matters
2. At least as important: overall policy environment
3. Key specific initial condition - what type of economy: well governed competitive market economy or misgoverned capture economy?
4. Implications - not the typical ones: actions to mitigate capture, transparency, political competition, collective responsibility

Privatisation process and impact on corruption:

The solution is to improve institutional quality to protect property rights, e.g. courts. Small and medium sized firms are more affected by tax regulatory burden.

Comments from the auditorium

Delegate from Zimbabwe: It does look like any privatisation process needs to be overseen by agencies. What are the implications? Would you advise one typical form to use in colonies?

Delegate from Latvia: Rules of privatisation have to be set. There must be public servants who are responsible for the civil sphere. Nobody can sue people about their thoughts. The act of the telecommunications agency is not separable from other cases. We have a contract granting us permission to view the documents, you don't have the right to take the decisions.

Slovakia has a parliamentary system to take decisions. Everybody could have the information about what was going on at the TI Slovakia meetings. It is not for TI to make judgements; it is to allow people to oversee the whole system.

The role of the parliament is not always a helpful one. People in Russia did not have a chance to choose the candidates they were voting for. You could vote for candidates who were in a party, or not vote at all.

Latvia has a parliament. If you sit in a parliament, you are already there and do not have all the problems others are having. You should have strict rules. If you go into any organisation, it is possible to see if the people are really doing their job, or whether they are corrupt.

Main Themes Covered

1. Privatisation in Eastern Europe countries and how it leads to corruption cases
2. Reflection of the work of Privatisation Agencies when dealing with large companies

Political Party Finance

Chair:

Robert Fremr, Judge, High Court in Prague, the Czech Republic

Panellists:

Keith Ewing, King's College London, United Kingdom

- The Challenge and Problem of Globalization

Kiraitu Marungi, Member of Parliament, Kenya

- The Challenge and Problem of Globalization

Lisa Klein, London, UK

Christian Greunberg, Poder Ciudadano, Transparency International Argentina

- Increasing Transparency on Campaign Expenditure by Changing Politicians' Incentives

Juraj Marusiak, Slovakia

Arnaut Miguet, France

- Political Corruption in France Yves-Marie Doublet, Transparency International France

- Money and Politics: An International Comparison of Methods of Funding

The first question posed is why political party funding has become a problem. Several panellists coincided to define two major reasons: social equality is being restricted because of the cost of electoral campaigns whilst corrupting the democratic principle on the equal chances to be elected to office; secondly, the capture of the policy by particular interests.

Kenya's electoral process is characterized by systematic illegality and criminality, large scale corruption, fraud, smuggling and plunder of public resources. Corruption, affirmed **Kiraitu Murungi**, is the glue which holds Kenya's national politics together, in absence of a unifying ideology. Politics revolves around a wealthy individual whose power is founded on endless rewards to supporters or bribery to opponents whose loyalty and devotion to the leader have to be bought. There is no statutory framework for political party finance in Kenya. In theory, political parties are autonomous, freely formed voluntary associations which should be financed by members who support them. Indeed, Kenyans do not have a culture of financing. Over the years, Kenyans joined political parties to receive material gains. The real source of party funding is corruption.

The comparative policy shows three generic responses dealing with this problem. One is the recourse to larger transparency in the parties funding, by the mean of disclosing the amounts and source of private economic contributions. A second strategy has been the establishment of limits and specific regulations on private contributions. A third practice has been state funding in order to reduce the need for private funding. Although all these institutional safeguards have a role to play, the effective outcome has been quite modest. In fact, they do not guarantee fair competition for elected office; they do not prevent the corruption of the political mandate; and the state funding does not substitute the private contributions, but it simply pumps even more money into the electoral system.

That is why it seems as well that there exists some consensus on the need to introduce limits on the electoral spending. Mr. **Keith Erwing** affirmed: "Alternative strategies focused on the need to control spending in order to control the demand for money needs to be installed." The United Kingdom and Canada have initiated this course, through the adoption of a number of limitations on spending: limits on candidates spending, political parties spending, third parties spending, and broadcasting advertising.

On the contrary, United States law imposes no limits on spending to congressional candidates. This is due to the Supreme Court's determination that such spending limits violate the constitutional right of free speech. Indeed, only Presidential candidates who accept political funds are subject to spending limits. There are no national spending limits imposed on party committees and the statutory limits on the amount a party committee may spend on behalf a particular nominee has been challenged and is currently under review by the United States Supreme Court.

Mr. **Yves-Marie Doublet** affirmed that the regulation of political funding is a political, legal and economic necessity. No state can do without such regulation today because, in spite of its deficiencies and weaknesses, legislation, at least, imposes upon candidates and parties a minimum of financial discipline and stringency. Regulation is also an economic necessity, since that if the definition of parties and candidates authorized revenue is not subject to precise rules, if there is no ceiling on expenditure, then that spending will be constantly inflated, because of the nature of the relevant market.

Mr. **Arnaut Miguet** affirmed that corruption in France has become a routine theme in the French public agenda. It affects - from the right to the left - all political parties. Democracy has a financial cost and it took some time for politicians to confront this dilemma. In fact, before 1988, France did not have a specific law regarding political parties and electoral campaign funding. Political parties did not have a clear legal status. All political parties made use of state-owned companies for employing their staff and profit from company facilities and franchises. It is possible to distinguish four basic channels for political corruption in France: public works contracts; delegation of public services delivery; fictitious employee contracts; and commercial exploitation of public buildings at the local level.

Strategies in order to curb political corruption

Mr. Murungi thinks that the law should provide for a regulatory framework which promotes transparency, disclosure and accountability in the funding and expenditure of political parties. Such law should provide for state funding of political parties, reimbursement of election costs, publication and scrutiny and audit of statements of account and election expenses. The law should also provide sanctions for the punishment of corrupt or illicit funding of political parties; withdrawal or reduction of subsidies from parties and disqualification of candidates. Notwithstanding, continues Mr. Murungi, such a legislative framework is not sufficient for rooting out political corruption. Use of the law must be accompanied by a fundamental change in our social psychology and political culture.

Ives Marie Doublet believes that despite the merits of the legal regulations for political funding, they have quite serious constraints. The rules have been written by those to whom they are to apply. One of the major weaknesses of all these rules is unquestionably the very formal checks made on parties' and candidates' accounts. The lack of legitimacy of the enforcement agency, its exercise of limited investigatory powers, the requirement that it come to a quick decision, the extreme difficulty of making an effective check at a national level given the variety and dispersal of the sources of funding and expenditure, the constitutional status of political parties all go towards explaining why results have been so disappointing.

Christian Greunberg explained the Citizens Power Foundation's strategy for dealing with corruption. It aims to control spending by changing politicians' incentives. Political parties in most of the Latin America countries act in a context characterized by high levels corruption; a low level of the rule of law; low level of government effectiveness and a low level of voice and accountability. In fact, informal economy and low commitment among political and economic actors to compliance with the law, will mean that any formal limit on campaign spending will simply encourage unreported illicit transfers. Therefore, their methodology seeks to create new incentives among politicians for compliance and improvement of law enforcement as well as state oversight. Secondly, it seeks to monitor the electoral campaign machinery's off-the-book transfers.

The Citizen's Power solution consists of pressing the different candidates to establish a Transparency Pact which should show their real spending amounts. This pact is monitored by an external electoral agency, and the information obtained through it is widely disseminated among voters. As a practical consequence, this strategy has enabled NGOs to settle and operate in a new scenario, where political parties and donors are not the only players anymore. It appears a new set of rules induces larger and deeper accountability among all political actors