



**Kleptocratic Regimes and National Security:
A Pervasive Threat and How it Can be Neutralized**

Convened by the TraCCC Center at the Schar School
of Policy and Government at George Mason University



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Executive Summary

Kleptocratic regimes abscond with national assets and use those assets against both their own citizens and the United States and its allies. The national security implications of this global phenomenon are wide ranging, overlapping, and poorly recognized. On November 15, 2017 George Mason University's Terrorism, Transnational Crime and Corruption Center sponsored a conference on this issue that was hosted by Hudson Institute. It had two objectives:

- To identify and raise awareness about the vast array of threats that are caused or exacerbated by kleptocracies. These include great power competitors, nuclear aspirants, terrorism, organized crime, state failure, genocide, and obstruction of peace and stability operations.
- To propose and obtain feedback on recommendations for responding to this threat.

I therefore determine that serious human rights abuse and corruption around the world constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

On Dec 21, 2017 President Trump issued an “Executive Order Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,” in which he proclaimed:

I therefore determine that serious human rights abuse and corruption around the world constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and I hereby declare a national emergency to deal with that threat.¹

Given that corruption and human rights abuses (the most extreme form of which is genocide) have now been proclaimed a national emergency, our first purpose has essentially been met by other means. The second purpose thus becomes the paramount contribution of this report: to provide vetted and actionable recommendations for neutralizing this threat.

The Trump Administration's National Security Strategy (NSS) was also published shortly after this conference was conducted. In Pillar I, “Protect the American People, the Homeland, and the American Way of Life,” the NSS articulates the nation's gravest threats, which include weapons of mass destruction, specifically referencing North Korea, Russia, China, and Iran.² The kleptocratic nature of these regimes is discussed below, and this point was reinforced in a Dec 18 announcement by White House homeland security adviser Thomas Bossert that “...the U.S. today publicly attributes the massive “WannaCry” cyberattack to North Korea.”³ A contemporaneous report claims that the proceeds from this

¹ Donald Trump, “Executive Order Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,” The White House, Dec 21, 2017, 1.

² National Security Strategy of the United States of America,” The White House, December 2017, 8.

³ Thomas P. Bossert, “It's Official: North Korea Is Behind WannaCry,” Wall Street Journal, Dec 18, 2017.



hacking are “likely being spent advancing North Korea's development of nuclear weapons.” The same report also cites Bossert as “calling out the ‘bad behavior’ by other countries, including what he called the ‘corrupt regime’ of Tehran.”⁴ The NSS goes on to state that “The primary transnational threats Americans face are from jihadist terrorists and transnational criminal organizations.”⁵ The NSS implicitly links this threat to failed states and protracted conflicts that are instigated or perpetuated by kleptocratic regimes stating that “...they thrive under conditions of state weakness and prey on the vulnerable as they accelerate the breakdown of rules to create havens from which to plan and launch attacks on the United States, our allies, and our partners.”⁶

Taken together, President Trump’s declaration that corruption and human rights abuse constitute a national emergency and the catalogue of threats identified in the NSS have recognized all of the topics

Kleptocratic regimes are not an added threat that is competing in a zero-sum manner for scarce national security resources; rather they are a cross-cutting national security threat that either causes or contributes decisively to the threat actors already identified by the Trump Administration.

discussed in this report (i.e., great power competitors, nuclear aspirants, terrorism, organized crime, state failure, genocide, and obstruction of peace and stability operations). *The central lesson that should be derived is that kleptocratic regimes are not an added threat that is competing in a zero-sum manner for scarce national security resources; rather they are a cross-cutting national security threat that either causes or contributes decisively to the threat actors already identified by the Trump Administration.*

Our first order of business is to catalogue why kleptocratic regimes constitute a pervasive threat to national security. Our second purpose is to propose recommendations for neutralizing this threat by being smarter about how we deal with it. These arguments are summarized below.

Kleptocratic Regimes: A Pervasive Threat to National Security

- Russian/Chinese kleptocracy, a systemic threat, and the general systemic threats posed by kleptocratic regimes

One of the greatest threats to U.S. national security is the corrosive impact of kleptocracy on geopolitical order. Kleptocracy and financial secrecy have metastasized into an existential threat to our civilization. Vladimir Putin has “weaponized” use of corruption for geopolitical ends. The convergence of corrupt values and practices in the former Soviet Union, reformulated for the 21st century and exported to the West, now pose an encompassing threat. The economic power of kleptocrats like Putin is safeguarded in the West by our lack of transparency regarding the real owners of corporations which allows kleptocrats

⁴ Eli Watkins, “White House officially blames North Korea for massive 'WannaCry' cyberattack,” CNN, Dec 19, 2017.

⁵ National Security Strategy, 10.

⁶ Ibid.

to launder their illicit revenue in shell companies. We must address these threats by enhancing transparency and closing off our financial system to those intent on damaging our country.

- Kleptocracy and the Link to Terrorism, Radicalization, Fragile States, and Political Instability

Inherent in the nature of kleptocracies is massive diversion of public funds for private gain. The consequences – inadequate resources for public services, de-legitimization of the regime, and repression of dissent – fuel radicalization, state fragility, and conflict. Extremist groups draw on public anger at the abuse of power. Prominent current examples include the Houthi rebels in Yemen, the Taliban in Afghanistan, the Islamic State in Iraq and Syria, and Boko Haram in Nigeria. The most salient cases where kleptocratic actors have posed a clear threat to U.S. counter-terrorism and stabilization efforts are Afghanistan and Iraq. Systemic and high-level corruption – within governments we supported and funded – funneled revenue out of the domestic economy, further impoverished the country, hollowed out security institutions, undermined the legitimacy of the state, and fueled recruitment by insurgent and terrorist groups. Kleptocracy also has economic effects that slow growth, thereby undercutting political stability. Corruption distorts markets by adding costs and creating inefficiencies, and it deters Foreign Direct Investment.

- The “Convergence” among terrorism, organized crime, corruption and illicit power structures

The convergence of terrorism, organized crime, corruption, and illicit power structures constitutes an alternative, parasitic, global political economy that represents an existential threat to societies based on the rule of law. Their effects have been exacerbated by the dramatic increase in the flow of goods and services, money, people, and data that have resulted from globalization. Terrorists and criminals take advantage of these same flow paths and are able to do so invisibly as their transactions are lost in the overwhelming volume of licit and illicit transactions. There is an increasing level of organizational collusion between international terrorist organizations, organized crime and networked insurgencies (e.g., Hezbollah and the Sinaloa cartel). This threat is compounded by the collusion of “mafia states” that utilize the traditional tools of statecraft, such as passports, airline and shipping registries, and diplomatic pouches, to provide free passage to engage in criminal activity.

- Criminalized Power Structures: Leading Spoilers of Peace and Stability Operations

Criminalized power structures, defined as regimes that obtain and maintain power through exploitation of illicit revenue, have been responsible for obstructing or thwarting peace processes in at least 70% of the internal conflicts in which the United Nations has intervened since 1990.⁷ When the U.S. has been involved--and this has included both peace and stability operations--the figure rises to 100% (i.e., Somalia, Haiti, Bosnia, Kosovo, Afghanistan, and Iraq). Both the U.S. and the international community chronically overlook this problem. In the ten case studies examined in *Criminalized Power Structures: The Overlooked Enemies of Peace*, almost five years elapsed before missions had the mandate and means

⁷ Since 1990 the UN Department of Peacekeeping Operations has intervened in 26 internal conflicts listed below. The cases where criminalized power structures obstructed these efforts are underlined: Afghanistan, Angola/Namibia, Bosnia /Former Yugoslavia, Burundi, Cambodia, Côte d'Ivoire, Central African Republic, Democratic Republic of the Congo, East Timor, El Salvador, Georgia, Guatemala, Guinea-Bissau, Haiti, Iraq, Kosovo, Liberia, Mali, Mozambique, Rwanda/Uganda, Sierra Leone, Somalia, South Sudan, Sudan/Abyei/Darfur, Tajikistan, and Western Sahara. Additional research into the cases that are not underlined might provide evidence that more missions were undermined by criminalized power structures.



to mount a strategy to confront their kleptocratic spoilers.⁸ Not only had the “golden hour” been squandered, the legitimacy of the mission had typically been severely compromised. This is perhaps the most likely explanatory factor for the 50% rate of return to conflict within five years after an international intervention, as claimed by Kofi Annan.⁹

- Violent kleptocracy as the source of genocide

“Violent kleptocracy” is a system of state capture in which ruling networks hijack governing institutions for the purpose of looting public coffers and natural resource wealth. The state is thus transformed from an institution that is supposed to provide social and educational services and employment opportunities for its citizens and to safeguard the rule of law into a predatory criminal enterprise that does quite the opposite. Ruling kleptocratic networks utilize violence to maintain power and repress dissenting voices leading to a propensity for conflicts to spiral out of control and precipitate mass atrocities and genocide. Terrorist organizations, militias, and rebel groups can also control territory and operate in a similar manner. The most prominent current examples in Africa are South Sudan, Sudan, Democratic Republic of the Congo, Central African Republic, and Somalia. Previous African conflicts that have metastasized under the influence of violent kleptocracies include Angola, Liberia and Sierra Leone. In all cases, the result has been destabilized/ungoverned regions, humanitarian crises, and gross human rights violations that have frequently led to mass atrocities and genocide.

Kleptocratic Regimes: How They Can Be Neutralized

The *sine qua non* for neutralizing the pervasive national security threat posed by kleptocratic regimes is to recognize the threat. Proper assessment and planning are essential. This requires the identification of the network of actors and their most vulnerable nodes so that a comprehensive strategy exploiting all the relevant tools at our disposal can be orchestrated. The second requirement is to craft effective tools for attacking their center of gravity: access to the illicit revenue that is vital to maintain kleptocratic rule. To raise the cost of continuing to govern in a predatory manner, kleptocrats must be deprived of impunity. Hybrid justice institutions, comprised of both indigenous and international personnel,¹⁰ are the means to accomplish this. Finally, the admonition to “do no harm” must be heeded. In our unseemly haste to proclaim an exit strategy, all too often capacity building for the security sector is regarded as the simplistic elixir. When the security sector is also an instrument of repression for a kleptocratic regime, this only compounds the problem. Recommendations for addressing each of these pivotal issues are summarized below.

- Tailor assessment and planning to the threat from kleptocratic regimes

A proven assessment methodology exists that was responsible for the success in Bosnia against the 3rd Entity Movement. It emphasizes identifying both the formal and informal components of these pernicious

⁸ Michael Dziedzic (ed.), *Criminalized Power Structures: The Overlooked Enemies of Peace*, (Lanham, Rowman and Littlefield, 2016), 393.

⁹ UN Secretary General Kofi Annan, “In Larger Freedom: Towards Development, Security and Human Rights for All,” March 2005, 8.

¹⁰ The precise composition of hybrid justice institutions has varied in terms of the range of legal functions performed by both international and indigenous officials and the range of crimes under their jurisdiction. Ideally the full range of judicial functions should be involved (i.e., prosecutors, judges, police, and corrections), and the jurisdiction should be determined by the purpose of the mandate. See p 37 for a full definition of this concept.

networks and the “exchanges of power” between them (e.g., illicit revenue in exchange for impunity from prosecution or repression of opposition). Identifying critical nodes and enablers in these exchanges of power and exploiting their vulnerability to prosecution are keys to developing an effective strategy.

- Pass beneficial ownership legislation

The vehicle of choice for most kleptocrats to disguise the source of their illicit revenue is to set up corporations where their identity is hidden (i.e., shell companies). The U.S. sets up nearly two million corporations a year, but none of the states requires that the owners be identified (known as beneficial ownership). Federal legislation has recently been introduced with broad bipartisan support to require disclosure of beneficial owners (i.e., the identities of who controls, has an ownership interest in, or benefits from the corporation).

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- Use data science to combat kleptocracy’s threat to national security

Increases in computing processing power and storage capability coupled with developments in data science make possible creation of a computationally analyzable graph database that maps the networks of primary kleptocratic targets down to at least their first and second level connections. To dismantle hubs of connectivity, identify the nodes that contain the greatest degree centrality and betweenness centrality. Focus data scientific efforts on suspicious pattern recognition, anomaly detection, network analytics, and predictive analytics. These techniques are useful for lead generation, targeting, preemptive action, and evidentiary analysis. For agencies tasked with combatting kleptocracy, equip them with data scientists. Finally, National Security Presidential Memorandum 7 on “Integration, Sharing, and Use of National Security Threat Actor Information to Protect Americans” should be amended to include kleptocratic regimes as threat actors.

- Create a database of Politically Exposed Persons and a procedure for the U.S. Government (USG) to share analysis about them with financial institutions

There is a high probability that kleptocrats will appear to the international financial sector as Politically Exposed Persons (PEP). A PEP is “...an individual who is or has been entrusted with a prominent function...many PEPs are in positions that potentially can be abused for the purpose of committing money laundering...corruption and bribery, as well as...terrorist financing.”¹¹ Currently there is no requirement for banks to provide the data they collect about PEPs or their transactions to anyone. An information sharing procedure should be established between the U.S. government and financial institutions to enable secure exchange of information and USG analysis about the transactions of PEPs. The use and enforcement of precision-guided policy tools

¹¹ Financial Actions Task Force, “FATF Guidance: Politically Exposed Persons (Recommendations 12 and 22),” June 2013, 3.



Targeted sanctions and asset seizure have been unleashed with decided impact against terrorists, transnational organized crime, and nuclear proliferation. These tools need to be harnessed for use against the nemesis of kleptocratic regimes.

Targeted sanctions (i.e., smart sanctions) and asset seizure have been unleashed with decided impact against terrorists, transnational organized crime, and nuclear proliferation. These tools need to be harnessed for use against the nemesis of kleptocratic regimes, since these national security threats are routinely intertwined. The U.S. can also lend substantial weight to international regimes by invoking Section 311 of the USA PATRIOT Act against money laundering and the Global Magnitsky Act to counter kleptocratic regimes. Precision-guided policy tools include targeted sanctions focused on designating networks more than individuals and the creative use of sectoral and secondary sanctions. Sectoral sanctions can be tailored to vulnerable nodes in kleptocratic networks denying transactions in the U.S. financial system to an entire sector or sectors of the economy. “Secondary” sanctions can also be imposed on financial institutions that are enabling the illicit activities of kleptocrats, allowing the denial of all or only a portion of the array of correspondent financial services provided by the U.S. financial system.

- Use hybrid justice institutions to combat impunity of kleptocrats

When contemplating a prospective international peace or stability operation, the international community has shackled itself with a false dichotomy between either completely replacing the local legal system (i.e., exercising full executive authority) or merely providing advice and assistance to develop its proficiency (i.e., capacity building). The purpose of this recommendation is to expand the repertoire to include an intermediate “partnership” option involving collaborative exercise of legal authority involving international and carefully selected and assiduously protected judges, prosecutors, police and corrections officials. For peace and stability operations, the authority of this hybrid justice institution would be limited to crimes against the mandate. Hybrid justice institutions may also be a viable option for averting state capture.

- Accountability is essential when building capacity in the security sector

U.S. and other donors involved in security sector capacity building in a given country should develop a coordinated strategy that provides equal weight to capacity building and establishing transparent and accountable security sectors. To provide clout, metrics should be developed for determining whether accountability systems are functioning, and they should be used annually to review performance and reallocate spending as needed to address the most serious accountability deficiencies. An assessment of the risk that corruption could pose to our capacity building efforts needs to be conducted prior to intervention, and policies and procedures should be implemented to mitigate the risk and ensure we “do no harm.”

Introduction

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¹² Donald Trump, "Executive Order Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," The White House, Dec 21, 2017, 1.

¹³ National Security Strategy of the United States of America," The White House, December 2017, 8.

¹⁴ Thomas P. Bossert, "It's Official: North Korea Is Behind WannaCry," Wall Street Journal, Dec 18, 2017.

¹⁵ Eli Watkins, "White House officially blames North Korea for massive 'WannaCry' cyberattack," CNN, Dec 19, 2017.

¹⁶ National Security Strategy, 10.



vulnerable as they accelerate the breakdown of rules to create havens from which to plan and launch attacks on the United States, our allies, and our partners.”¹⁷

Taken together, President Trump’s declaration that corruption and human rights abuse constitute a national emergency and the catalogue of threats identified in the NSS have recognized all of the topics discussed in this report (i.e., great power competitors, nuclear aspirants, terrorism, organized crime, state failure, genocide, and obstruction of peace and stability operations). *The central lesson that should be derived is that kleptocratic regimes are not an added threat that is competing in a zero-sum manner for scarce national security resources; rather they are a cross-cutting national security threat that either causes or contributes decisively to the threat actors already identified by the Trump Administration.*

Our first order of business below is to catalogue why kleptocratic regimes constitute a pervasive threat to national security. The following topics are treated:

- Russian/Chinese kleptocracy, a systemic threat, and the general systemic threats posed by kleptocratic regimes
- Kleptocracy and the Link to Terrorism, Radicalization, Fragile States, and Political Instability
- The “Convergence” among terrorism, organized crime, corruption and illicit power structures
- Criminalized Power Structures: Leading Spoilers of Peace and Stability Operations
- Violent kleptocracy as the source of genocide

Our second purpose is to propose recommendations for neutralizing this threat by being smarter about how we deal with it. The good news is that there are actionable steps that can be taken to address this recurrent risk that would require little new revenue -- and should save billions.

The following recommendations are addressed below:

- Tailor assessment and planning to the threat from kleptocratic regimes
- Sever the flow of illicit revenue, which is the center of gravity for kleptocratic regimes, by:
 - Passing beneficial ownership legislation
 - Using data science to combat kleptocracy’s threat to national security
 - Creating a database on the financial transactions of Politically Exposed Persons and a mechanism for the USG to share information about them with financial institutions
 - Using the Global Magnitsky Act and other precision-guided policy tools to sever the flow of illicit revenue to kleptocrats who threaten our national security
- Use hybrid justice institutions to combat impunity by kleptocrats
- Make accountability a priority equal to capacity building in the security sector

¹⁷ Ibid.

Kleptocratic Regimes: A Pervasive Threat

Russian/Chinese Kleptocracy: A Systemic Threat, and the General Systemic Threats Posed by Kleptocratic Regimes Charles Davidson, Hudson Institute

One of the greatest threats to U.S. national security is the corrosive impact of kleptocracy on geopolitical order.

We also face the threat not of kleptocracy *per se*, but corruption in various guises, undermining our foreign development assistance, stability operations, and foreign policy in general terms. Given that overseas operations are extremely costly, vast sums are being stolen from U.S. taxpayers -- before disappearing into the pockets of bad actors who are not exactly advocates for our values and objectives.

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Financial secrecy poses a national security threat to all free nations, to all democracies, because it enables lawlessness. Left unchecked, it will continue to eat at our societies like gangrene.

We need to curtail the geopolitical downsides of financial secrecy. This is not a new suggestion. But what *is* new is that freedom and democracy are on the retreat, and there should be now a real sense of urgency in defending our core values: Kleptocracy and financial secrecy have metastasized into an existential threat to our civilization.

The economic power of kleptocrats is for the most part safeguarded for them in the West. We must come to our senses and close off our system to those bent on its decay. Take away our adversaries' economic power, and a lot of other global problems might shrink to a more manageable size.

Since 2015, Hudson Institute has published the following series of reports on various aspects of the threat emanating from kleptocratic states and ways of mitigating the national security implications:

Our first report, "Cleaning Up Atlantis: How to Put a Kleptocracy on the Road to Transparency" by Tom Firestone, looked at options for putting kleptocracies transitioning to democracy back on the road to transparent governance.

Our second report, "Stage Hands: How Western Enablers Facilitate Kleptocracy" by Oliver Bullough, traced the (all too familiar) pattern used by kleptocrats to launder their money and reputations into the West – and their reliance on professional enablers at every stage.

Our third report, "The Kleptocracy Curse: Rethinking Containment" by Ben Judah, showed how the West not only failed to address the emergence of globalized corruption after the end of the Cold War – but became actively complicit in it, and ends with policy suggestions for containment.



Our fourth report, “Weaponizing Kleptocracy: Putin’s Hybrid Warfare” by Marius Laurinavičius, reminded Western policy experts that Vladimir Putin’s “weaponized” use of corruption for geopolitical ends is nothing new – but that he does have dangerous new tools at his disposal.

Our fifth report, “How Non-State Actors Export Kleptocratic Norms to the West” by Ilya Zaslavskiy, chronicled the convergence of corrupt values and practices in the former Soviet Union – and how these norms, reformulated for the 21st century and exported to the West, now pose a civilizational threat.

Our sixth report, “The United States of Anonymity” by Casey Michel, exposed the United States’ descent into the world’s biggest offshore haven – with dire implications for democracy and national security.

And our most recent report, “Money Laundering for 21st Century Authoritarianism” by Ben Judah and Belinda Li, shows why an anti-money laundering regime designed to counter 1980s “Cocaine Cowboys” is simply no match for 21st century globalized kleptocrats – and what can be done to close the loopholes.

**Kleptocracy and the Link to Terrorism, Radicalization,
Fragile States, and Political Instability**
Kate Bateman, Truman National Security Project Fellow

Inherent in the nature of kleptocracies is massive diversion of public funds for private gain. The consequences – inadequate resources for public services, de-legitimization of the regime, and repression of dissent – fuel radicalization, state fragility, and conflict.

Kleptocracy and terrorism

Extremist groups draw on public anger at the abuse of power. Prominent current examples include the Houthi rebels in Yemen, the Taliban in Afghanistan, the Islamic State in Iraq and Syria, and Boko Haram

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in Nigeria. Corrupt state institutions can also facilitate the operations of extremist groups by enabling the movement of money, fighters, weapons, and supplies. Additionally, the security institutions of kleptocracies are vulnerable to being hollowed out by corrupt practices such as ghost soldiers and misappropriation of procurement funds, leading to low combat readiness, poor morale, weak leadership, and little accountability. As a result, those security institutions may not be able to respond effectively to terrorist or insurgent threats and are less capable of partnering with U.S. forces for shared counterterrorism objectives. The fall of Mosul in 2014 is a prominent case in point. (See the recommendation below “Accountability is essential when building capacity in the security sector”).

There is growing empirical evidence for the assertion that kleptocratic governance is conducive to radicalization. A 2015 Mercy Corps report on programs in Afghanistan, Colombia, and Somalia found that “the principal drivers of political violence are rooted not in poverty, but in experiences of injustice:

discrimination, corruption and abuse by security forces.”¹⁸ In a 2017 report, the UN Development Program interviewed nearly 600 former members of Al-Shabaab, Boko Haram, ISIS, al Qaida, and others and concluded that “...disaffection with government is highest by significant margins among...respondents who were recruited by violent extremist groups.” This held true across several indicators, including: “belief that government only looks after the interests of a few; low level of trust in government authorities; and experience, or willingness to report experience, of bribe-paying.”¹⁹

State fragility and political instability

Owing to the enormous commitment of U.S. military and civilian personnel, the lives lost, and the vast expenditure of resources involved, the most salient recent cases where kleptocratic actors posed a threat to U.S. counter-terrorism and stabilization efforts are Afghanistan and Iraq. Systemic and high-level corruption – within governments we supported and funded – funneled revenue out of the domestic economy, further impoverished the country, undermined the legitimacy of the state, and fueled recruitment by insurgent and terrorist groups. As noted above, corruption also eroded the capacity of security forces, imperiling the transition to host-nation security responsibility and lasting peace.

Kleptocracy has economic effects that slow growth and undercut political stability. Systemic corruption distorts markets by adding costs and creating inefficiencies, and it deters foreign direct investment by creating market volatility and an uncertain business climate. Corruption is a particularly insidious threat to emerging but vulnerable democracies (e.g., Indonesia, Kenya, Ukraine).

Several institutional and structural factors militate against a unified, coherent U.S. government response to the threats posed by corruption abroad. Defense and security professionals tend to view corruption as a governance challenge and thus belonging in the realm of development experts and diplomats, not the military. Compounding this, policymakers do not have access to adequate intelligence and analysis on the causes and consequences of kleptocracy. That makes it harder to identify the problem accurately before we intervene. (See “Criminalized Power Structures as leading spoilers of peace and stability operations” and “Tailoring assessment and planning to the threat from kleptocratic regimes” below for a discussion of how better assessments could allow future missions to come equipped with the appropriate tools and strategies to address this common threat to stabilization).

In addition, there is significant skepticism that outsiders can effectively combat corruption, both because the problem is so pervasive and because international interventions have an admittedly mixed track record. Finally, it is difficult to measure corruption, and thus hard to identify metrics by which to assess the effectiveness of anti-corruption efforts – especially within the short timelines on which policymakers operate.

¹⁸ Mercy Corps, “Youth and Consequences: Unemployment, Injustice and Violence,” February 13, 2015, 2.

¹⁹ United Nations Development Program, “Journey to Extremism in Africa: Drivers, Incentives and the Tipping Point for Recruitment.” 2017, 5.



“Convergence” Among Terrorism, Organized Crime, Corruption and Illicit Power Structures

Michael Miklaucic, National Defense University

The national security enterprise is conservative and can be resistant to change especially regarding assessments of what constitutes an existential threat to our vital interests. General Joseph Dunford, Chairman of the Joint Chiefs of Staff, has articulated a four plus one threat perception formula, consisting of China, Russia, North Korea, Iran, plus violent extremism. The convergence of terrorism, organized crime, corruption, and illicit power structures constitutes a different kind of threat to our nation’s security that is equally grave, and receives little attention in our constrained, zero-sum fiscal environment. It is often dismissed as vague and non-immediate; if we want attention to this threat, what are we to exclude from the current national threat assessment?

Although corrupt regimes, transnational crime, and terrorism are not by any means new or unique to our era, their effects have been profoundly exacerbated by the dramatic increase in volume and acceleration of global processes that have resulted from globalization.

Although corrupt regimes, transnational crime, and terrorism are not by any means new or unique to our era, their effects have been profoundly exacerbated by the dramatic increase in volume and acceleration of global processes, including the flow of goods and services, money, people, and data, that have resulted from globalization. The confluence of these forces has ushered in an alternative, parasitic, global political economy that constitutes a new paradigm, and an existential threat to societies based on the rule of law.

The flow of goods and services across international boundaries has burgeoned with as many as 20 million intermodal container units on the high seas at any given time. As many as 15 million such units enter the U.S. every year; only 2 per cent of these are inspected by our border authorities. Money is also moving around the world—as much as \$30 billion a day is transferred through electronic means, much of which is difficult to monitor, track or detect. People are on the move as never before. There are over 65 million displaced persons globally, a greater number than ever before, and one billion travelers cross international borders every year. That equates to 20 per cent of the planet’s population on the move. Data is also on the move via the seven billion mobile phones and two billion computers currently in use. Every second the amount of data transmitted equals the content of the Library of Congress, a 45 per cent increase in the last ten years.

Terrorists and criminals take advantage of these same flow paths and are able to do so invisibly as they and their transactions are lost in the overwhelming volume. Among the byproducts of the unprecedented connectivity catalyzed by these developments is the increasing level of organizational collusion between international terrorist organizations, organized crime and networked insurgencies (e.g., Hezbollah and the Sinaloa cartel). We do not know whether the interactions are best described as coordination, cooperation, collusion, or collaboration; the adoption of criminal methods by terrorists, and terrorist methods by criminals however is well-documented.

Hezbollah is both a terrorist organization and a global criminal enterprise, engaged in narcotics and other illegal trafficking, money-laundering, and a variety of other criminal lines of effort. The Islamic State, or

ISIS, engages in criminal extortion, and trafficking in antiquities, humans, and drugs. The Sinaloa drug cartel, known primarily as a criminal organization, has adopted the tactics of terrorism, as when it tossed the severed heads of five rival gang members onto the dance floor of a night club in Mexico; the propaganda of the deed. Likewise, the D-Company criminal organization led by fugitive Ibrahim Dawood has been linked to the Mumbai hotel terrorist attacks in both 1993 and 2008.

The reality of this phenomenon, which I call convergence, is demonstrated in a study published by the Combatting Terrorism Center at West Point. The study began with the identification of 40 designated international smugglers. Using an extensive database maintained by the Thompson-Reuters organization consisting of many millions of data points, a network node analysis shows that these smugglers were connected by one degree of separation with 754 terrorists, transnational criminals, and insurgents. Those 754 in turn were further connected by one degree of separation in a network of 2,739, 98 percent of which were connected within one or two degrees of separation.²⁰ The conclusion to be drawn from this is that anyone in these networks can communicate with anyone else in these networks; just a click away.

As I have written elsewhere (*Beyond Convergence: World Without Order*, 2016), this convergence is generating a global alternative political economy that is both parasitical and antithetical to our own rule-based Westphalian system. The magnitude of this threat can be estimated by the percentage of the global economy that these threat actors control. In 1998, then Managing Director of the International Monetary Fund Michel Camdessus estimated that the volume of the global illicit economy was an unbelievable 2-5 percent of total global product. It is highly unlikely that this figure has declined since that time as none of the illicit markets have been shrinking. Indeed, some estimates of the global illicit economy are as high as 15 percent.²¹ Today the global economy is roughly \$100 trillion. If the share captured by this parasitic political economy has remained consistent, the flows annually into the hands of terrorists, transnational criminal, and insurgents, might range from \$2-15 trillion. The precise amount of course is unknowable due to the clandestine nature of these phenomena, and the limitations on our forensic capacity; however even at the lower end this amount can finance highly lethal military grade weaponry, as well as the most talented lawyers, accountants, IT experts, corrupt politicians, and paramilitaries.

This threat is compounded by the collusion of corrupt officials, politicians, and criminal states, called “mafia states by Moises Naim, or “criminalized states,” by Douglas Farah. While no state is completely immune to corruption, there is a worrisome number that are significantly captured by corrupt networks, such that the state apparatus itself has begun to function as a criminal enterprise. Such states utilize the traditional tools of statecraft, such as passports, airline and shipping registries, and diplomatic pouches to engage directly in criminal activity. Venezuela, for example, is known to have issued Venezuelan passports to numerous individuals from Middle East countries providing potential influence agents, or even terrorists, the means for free passage throughout most of the Western Hemisphere. Russian intelligence services allegedly collude with Russian-speaking mafia organizations throughout Europe, the Caucasus, and Central Asia.

The convergence of terrorism, organized crime, corruption and illicit power structures constitutes a clear, present, and growing danger to the rule-based Westphalian system of states. Our challenge is to persuade the policy community that existential threats to our national security come not only in the

²⁰ Scott Helfstein, “Risky Business: The Global Threat Network and the Politics of Contraband,” Combatting Terrorism Center, May 2014.

²¹ David M. Luna, “Fighting Networks with Networks,” in Michael Miklaucic and Jacqueline Brewer (eds) *Convergence: Illicit Networks and National Security in the Age of Globalization* (Washington D.C.: National Defense University Press, 2013), 213-4.



form of mushroom clouds or airliners crashing into the World Trade Towers. Indeed, General Dunford's formulation of four plus one perhaps should be reversed with the one representing the confluence of terrorism with organized crime, corruption and illicit power structures, increasingly supported by criminal states.

**Criminalized Power Structures:
Leading Spoilers of Peace and Stability Operations
Michael Dziedzic, George Mason University and Pax Advisory**

In *Criminalized Powers Structures: The Overlooked Enemies of Peace*,²² we provide empirical evidence from ten case studies that criminalized power structures constitute a predominant spoiler threat to peace and stability operations (i.e., Afghanistan--Criminal Patronage Networks, Bosnia--Parallel Power Structures, Colombia--Paramilitaries, Democratic Republic of the Congo--M23, Guatemala--Clandestine Security Apparatus, Haiti--Gangs, Iraq--Moqtada al-Sadr, Iraq--Nouri al-Maliki, Kosovo--Kosovo Liberation Army, and Sierra Leone--Revolutionary United Front). The findings from *Impunity: Countering Illicit Power in War and Transition* confirm many of these cases and add Liberia to the list.²³

If we add up the conflicts where UN missions were plagued by obstruction from criminalized power structures, the total is 18. That equates to 70% of the conflicts where peace operations have been mounted. When it comes to NATO-led stability operations, the figure is 100%.

Four of the five cases that Stephen Stedman examined in his path breaking work, "Spoiler Problems in Peace Processes," were also kleptocratic entities (i.e. Angola--Jonas Savimbi, Cambodia--Hun Sen and Khmer Rouge, and Rwanda--Akazu).²⁴ The Enough Project, which focuses on Africa, uses the term "violent kleptocracies" and has identified such regimes or insurgencies in Burundi, Central African Republic, Democratic Republic of the Congo, Libya, Mali, Somalia, Sudan (Darfur), and South Sudan as bearing fundamental responsibility for the continuing conflicts in those countries.²⁵

Since the end of the Cold War in 1990, the United Nations has intervened in 26 internal conflicts. If we add up the conflicts identified above where UN missions were plagued by obstruction from criminalized power structures, the total is 18. That equates to 70% of the conflicts where peace operations have been mounted. When it comes to NATO-led stability operations, the figure is 100% (Afghanistan, Bosnia, Iraq, and Kosovo).

Although there are nuances of difference among the definitions for kleptocratic regimes, criminalized power structures, and violent kleptocracies, they are essentially synonymous. The defining characteristic of a criminalized power structure (CPS) is exploitation of revenue derived from criminal activities to obtain and maintain power. This revenue can be generated from two sources: the gray economy and the

²² Michael Dziedzic (ed.), *Criminalized Power Structures: The Overlooked Enemies of Peace*, (Lanham, Rowman and Littlefield, 2016).

²³ Michelle Hughes and Michael Miklaucic (eds.), *Impunity: Countering Illicit Power in War and Transition*, (Washington, DC : Center for Complex Operations, 2016).

²⁴ Stephen Stedman, "Spoiler Problems in Peace Processes," *International Security*, Vol. 22, No. 2, Fall 1997.

²⁵ J.R. Mailey and Jacinth Planer, "Bankrupting Kleptocracy: Financial Tools to Counter Kleptocracy in Africa's Deadliest War Zones," Enough Project, October 2016

black economy. The gray economy involves commodities that would normally be considered legal; however, the transactions are conducted in illegal/corrupt ways, such as the evasion of customs duties (i.e., smuggling), avoidance or selective enforcement of regulations, violation of economic embargoes, manipulation of exchange rates, and looting of raw material resources. Cash and material resources of the government may also be siphoned off through misappropriation, procurement kickbacks, stripping of assets from state-owned enterprises, diversion of foreign assistance, and privatization of state assets to cronies at below market prices. The black economy involves patently illegal commodities typically associated with organized crime. Common activities include trafficking in illicit drugs, people, and weapons (in contravention to an arms embargo), kidnapping, extortion, and money laundering.

When ill-gotten wealth plays a decisive role in the competition for and maintenance of political power, the result is an illicit political economy orchestrated by a CPS. Power is typically maintained by violently repressing opposition groups, securing impunity from prosecution, and dispensing patronage to privileged clientele groups. This can lead to criminalization of both the public and private sectors. The result is apt to be a zero-sum political economy conducive to conflict, but it may be masked by other cleavages in society, as was the case in Rwanda, Bosnia, and Kosovo. Criminally derived wealth may be a motivation for acquiring power, or it may be a means used by rebel groups for rectifying group grievances. CPS may either capture the state, or they may constitute an armed opposition to it.

One likely explanation for the 50% rate of return to conflict within five years after international intervention, as claimed by Kofi Annan, is that by overlooking this spoiler threat and arriving unprepared to deal with it, missions have squandered the "golden hour."

One likely explanation for the 50% rate of return to conflict within five years after international intervention, as claimed by Kofi Annan,²⁶ is that by overlooking this spoiler threat and arriving unprepared to deal with it, missions have squandered the "golden hour." In the ten cases examined in *Criminalized Power Structures: The Overlooked Enemies of Peace*, the average delay in obtaining authorization for essential authorities and capabilities to mount effective strategies has been almost five years.²⁷ The consequences include allowing CPS to become entrenched, driving down prospects for success, driving up costs with inconclusive missions, and on several occasions risking mission collapse.

The good news is that there are actionable steps that can be taken to address this recurrent risk to mission success. These are addressed below in the discussion of recommendations:

- Tailor assessment and planning to the threat from kleptocratic regimes
- Sever the flow of illicit revenue to criminalized power structures by:
 - Passing beneficial ownership legislation
 - Using data science to combat kleptocracy's threat to national security

²⁶ UN Secretary General Kofi Annan, "In Larger Freedom: Towards Development, Security and Human Rights for All" March 2005, 8.

²⁷ "Recommendations for Subduing Criminalized Power Structures," in Dziedzic, *Criminalized Power Structures*.



- Creating a database on the financial transactions of Politically Exposed Persons and a mechanism for the USG to share information about them with financial institutions
- Using the Global Magnitsky Act and other precision-guided policy tools to sever the flow of illicit revenue to kleptocrats who threaten our national security
- Use hybrid justice institutions to combat impunity by kleptocrats
- Make accountability a priority equal to capacity building

Implementing these recommendations would require little new revenue sources -- and should save billions.

Violent Kleptocracy as the Source of Genocide **Brad Brooks-Rubin, The Enough Project**

The Enough Project defines “violent kleptocracy” as a system of state capture in which ruling networks and their commercial partners hijack governing institutions for the purpose of looting public coffers and natural resource wealth while they sideline or silence those who get in their way.

The Enough Project defines “violent kleptocracy” as a system of state capture in which ruling networks and their commercial partners hijack governing institutions for the purpose of looting public coffers and natural resource wealth while they sideline or silence those who get in their way. The state is thus transformed from an institution that is supposed to provide social services and safeguard the rule of law into a predatory criminal enterprise that does quite the opposite. These regimes often deny any sort of peaceful path to political turnover or meaningful power sharing, thereby encouraging the rise of armed opposition movements, which in turn lead to cycles of increasingly deadly force. Ruling networks utilize violence to maintain power and repress dissenting voices leading to a propensity for conflicts to spiral out of control and precipitate mass atrocities and genocide. Terrorist organizations, militias, and rebel groups can also control territory and operate in a similar manner.

The focus of the Enough Project is on East and Central Africa; however, this phenomenon has also manifested itself in the Balkans and elsewhere. The most prominent current examples in Africa are South Sudan, Sudan (including but not limited to the conflict in Darfur), Democratic Republic of the Congo, Central African Republic, and Somalia. Previous African conflicts that have metastasized under the influence of violent kleptocracies include Angola, Liberia and Sierra Leone. Each is or was a violent kleptocracy, though the system differs in each country, and sometimes there have been multiple forms of violent kleptocracy within the same country. In all cases, however, the result has been destabilized/ungoverned regions, humanitarian crises, and gross human rights violations that have frequently led to mass atrocities and genocide.

Genocide and the impending threat thereof is a grave national security concern that requires an urgent and compelling response. Failure to respond effectively will only invite a multiplication of national security threats associated with failed states, ungoverned spaces, terrorism, and regional instability.

Recommendations

Tailor Assessment and Planning to the Threat from Kleptocratic Regimes Oscar Vera, SFOR architect of the strategy to defeat the Third Entity Movement in Bosnia

As demonstrated above in the discussion of national security threats from kleptocratic regimes, criminalized power structures were responsible for seriously obstructing or thwarting the stabilization process in 75% of UN interventions. When the U.S. has been involved in peace or stability operations, this figure rises to 100% (i.e., Somalia, Haiti, Bosnia, Kosovo, Afghanistan and Iraq). We chronically overlook this problem. In the ten case studies examined in *Criminalized Power Structures: The Overlooked Enemies of Peace*, almost five years elapsed before missions had the mandate and means to mount a strategy to confront their kleptocratic spoilers. Not only had the “golden hour” been squandered, the legitimacy of the mission had typically been severely compromised by ineptitude. The obvious solution is to stop overlooking the problem.

A proven assessment and planning methodology exists that was responsible for the success in Bosnia against the Third Entity Movement. It emphasizes identifying both the formal and informal components of these networks (e.g., politicians, government officials, law enforcement, military leadership, business

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enterprises, bankers, terrorists and insurgents, illicit business operators, organized crime) and the “exchanges of power” between them (e.g., illicit revenue in exchange for impunity from prosecution or repression of opposition). Vulnerable nodes and enablers in these exchanges of power and their exposure to prosecution are the keys to developing an effective strategy.

The total environment needs to be assessed with the aim of identifying not only who the potential obstructionists are but also who the supporters of the peace process are (so they can be protected) and who is on the fence (so a strategy to persuade them to take the risk for peace can be developed). The strategy needs to be iterative, take into account potential negative second and third order effects, and be constantly re-assessed. One pivotal question for properly sequencing the strategy is whether critical institutions (e.g., armed forces, intelligence service, legal system and police, customs, central bank, procurement) are politicized/criminalized and part of the problem or whether they are accountable to the law and part of the solution. By integrating this methodology or something similar into U.S. government assessments, it might be possible for future U.S.-supported international interventions to know if kleptocratic spoilers are a potential threat and for these missions to come armed from the outset with an appropriate campaign plan to defeat, disrupt, or neutralize them.

During the breakout session, the following were the most salient comments:

- Those who have been responsible for planning interventions into conflict-ridden states in the past



have invariably lacked an understanding of informal political economies leading to a failure to recognize the likelihood that kleptocratic networks would obstruct our objectives. This has been conducive to either mission failure or protracted engagements and frozen conflicts, in part because the golden hour has been lost.

- When the policy community must respond to a crisis, there's an exceedingly short timeline before serious decisions must be made--no more than six weeks. That affords virtually no opportunity to educate policymakers about the need to assess properly the threat that kleptocratic networks and criminalized power structures might constitute. Therefore, education and socialization of these ideas need to happen now so that the assessment and planning process can be adapted to cope with this recurrent threat before the next intervention is upon us.

Pass Beneficial Ownership Legislation

Elise Bean, Co-Director, Levin Center at Wayne Law

The 2016 release of the Panama Papers and the 2017 release of the Paradise Papers have provided an avalanche of data on the use of companies with hidden owners for corrupt activities. The information shows that shell companies represent a dangerous nexus of corruption, money laundering, transnational organized crime, and terrorism, all of which directly harm U.S. national security and foreign policy interests.

The vehicle of choice for most kleptocrats to disguise the source of their illicit revenue is to set up corporations where their identity is hidden. The U.S. sets up nearly two million corporations a year, but none of the states requires that the owners of those corporations be identified. Our first step in fighting back must be financial transparency where the true or “beneficial” owners are identified. We need all 50 states to join in or kleptocrats will go to the states that continue to allow the identity of owners to be hidden. Thus, federal legislation is essential.

Such legislation has recently been introduced with broad bipartisan support to directly address these

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threats: the Wyden-Rubio and Whitehouse-Grassley bills in the Senate and the Maloney–King bill in the House. These bills would all require disclosure of beneficial owners, meaning the identities of who controls or has an ownership interest in or benefits from the relevant company. One bill would have the states maintain this information; the other two would have the U.S. Treasury’s Financial Crimes Enforcement Network (FinCEN) do it. All three bills would require the same information, and they would impose civil or criminal penalties for providing false information.

These bills have been strongly endorsed by law enforcement, and now financial institutions are supporting them as well because they are required by the Treasury Department to know who their clients are. After this legislation passes, they will be able to meet their new regulatory requirements by asking their new clients to provide a copy of their beneficial ownership registrations. Many businesses also

support the legislation, because they don't want to be surprised by someone in their supply chain being engaged in illicit activity. A recent survey found that ninety-one per cent of senior executives say it's important to know who you're doing business with.

Adoption of beneficial ownership legislation would align the United States with the rest of the world. The G-20 started this trend owing to concerns about corruption, organized crime, and national security concerns. The European Union now requires all member states to have beneficial ownership information. The United Kingdom has even made its beneficial ownership information public, and it's working well.

As the rest of the world cracks down, the danger is that wrongdoers will begin to target the United States if we continue to provide anonymity to people who form U.S. corporations. The United States is one of the few developed countries that does not require or even ask who the beneficial owners are of the companies it forms. If we do not act to increase corporate transparency, the United States will become a haven for corrupt and kleptocratic regimes, facilitating all the national security perils they provoke. If this legislation is passed, however, it will deprive kleptocratic regimes of easy access to U.S. corporate and financial systems to launder the proceeds of their criminality. Requiring ownership transparency for U.S. corporations would provide a decisive tool to help cripple the kleptocratic regimes that currently threaten the United States.

The breakout session identified the following issues:

- Who will be responsible for managing the database of information on beneficial ownership?

Response: This remains to be determined since one bill would have the states maintain this information, and the other two would have the U.S. Treasury's Financial Crimes Enforcement Network do it.

- Will this information be publically available?

Response: The current legislation does not make information about beneficial owners public, but drafters are working to ensure that all law enforcement agencies have access, including federal and state authorities as well as foreign officials working through the Mutual Legal Assistance Treaty process. Financial institutions with anti-money laundering responsibilities would also have access.

Using Data Science to Combat Kleptocracy's Threat to National Security **Ted Moorman**

"The contest over information accelerates these political, economic, and military competitions. Data, like energy, will shape U.S. economic prosperity and our future strategic position in the world. The ability to harness the power of data is fundamental to the continuing growth of America's economy, prevailing against hostile ideologies, and building and deploying the most effective military in the world."

National Security Strategy of the United States of America, December 18, 2017, 3.

Increases in computing processing power and storage capability, coupled with developments in data science, make possible a range of options for improving information processing speed and accuracy for intelligence, law enforcement, national security, and strategic diplomacy.

Recommendation 1: Include Kleptocratic Regimes as Transnational Criminal Actors per National Security Presidential Memorandum #7



The recently published National Security Strategy of the United States states that:

These organizations [Transnational Criminal Organization or TCOs] weaken our allies and partners too, by corrupting and undermining democratic institutions. TCOs are motivated by profit, power, and political influence. They exploit weak governance and enable other national security threats, including terrorist organizations. In addition, some state adversaries use TCOs as instruments of national power, offering them territorial sanctuary where they are free to conduct attributable cyber intrusions, sabotage, theft, and political subversion... Terrorists and criminals thrive where governments are weak, corruption is rampant, and faith in government institutions is low.²⁸ [Brackets added]

National Security Presidential Memorandum #7 (NSPM-7), “Integration, Sharing, and Use of National Security Threat Actor Information to Protect Americans,” dated October 4, 2017, defines transnational criminal actors as:

... individuals, organizations, groups, or networks known or appropriately suspected to be engaged in an ongoing pattern of serious illegal activity involving a foreign jurisdiction and the United States or the jurisdictions of at least two sovereign states that threaten the national security interests of the United States or other global security interests, to include the security of citizens, welfare of communities, economic prosperity and trade, and regional stability.²⁹

The Deputies Committee of the National Security Council should recognize kleptocratic regimes as transnational criminal actors and transnational criminal organizations.

The Deputies Committee of the National Security Council should recognize kleptocratic regimes as transnational criminal actors and transnational criminal organizations. Kleptocratic regimes are individuals, organizations, groups, or networks using an official foreign government office to abscond with national assets and use those assets against both their own citizens and the United States and its allies. As described in the first section of this report, kleptocratic regimes very often “... threaten the national security interests of the United States or other global security interests.” Kleptocracies exhibit characteristics consistent with “state adversaries that use TCOs as instruments of national power” and the type of governments in which “terrorists and criminals thrive.”³⁰

Recommendation 2: Compile Identity Attributes and Associated Information on Kleptocratic Regimes into a Single Database

The National Security Strategy declares that:

The United States will improve its ability to assess the threats and hazards that pose the greatest risks to Americans and will prioritize resources based on the highest risks... We will establish national-level strategic intelligence and planning capabilities to improve the

²⁸ National Security Strategy of the United States of America, December 18, 2017, 12, 45. See <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>

²⁹ The White House, National Security Presidential Memorandum #7, Oct 4, 2017, 4.

³⁰ National Security Strategy of the United States of America, 12, 34, 45.

ability of agencies to work together to combat TCOs at home and abroad...U.S. agencies and foreign partners will target TCO leaders and their support infrastructure. We will assist countries, particularly in the Western Hemisphere, to break the power of these organizations and networks...We will disrupt the financial, materiel, and personnel supply chains of terrorist organizations. We will sever their financing and protect the U.S. and international financial systems from abuse...We will deny revenue to terrorists, WMD proliferators, and other illicit actors in order to constrain their ability to use and move funds to support hostile acts and operations...Economic tools—including sanctions, anti-money-laundering and anti-corruption measures, and enforcement actions—can be important parts of broader strategies to deter, coerce, and constrain adversaries.³¹

NSPM-7 declares that:

...it is the policy of the United States to: (a) lawfully identify, integrate, and make available thorough, accurate, and timely national security threat actor information [which] comprises identity attributes and associated information about individuals, organizations, groups, or networks assessed to be a threat to the safety, security, or national interests of the United States.³²

This recommendation proposes the creation of an electronically stored and computationally analyzable graph database for kleptocratic regimes that threaten the United States. The database should map the networks of the kleptocrats and Politically Exposed Persons in these regimes.

This recommendation proposes the creation of an electronically stored and computationally analyzable graph database for kleptocratic regimes that threaten the United States. The database should map the networks of the kleptocrats and Politically Exposed Persons (See the Recommendation below) in these regimes to at least their first and second level connections, including interconnectedness between networks. The graph database should contain detailed metadata for all entities (nodes) and their connections (edges). The metadata should contain relevant fields and descriptors, such as capabilities, intentions, biographic, and biometric data, as well as an event history of communications, travel, transactions, and other relevant activities.

This would enable the development of a strategy to disrupt hubs of connectivity identified as nodes with the greatest degree centrality, betweenness centrality, or other measures of connectedness or critical dependency (See the Recommendation to “Tailor assessment and planning to the threat from kleptocratic regimes.”) The graph database must be structured to document network changes and needs to be

³¹ Ibid., 11, 12, 14, 34.

³² National Security Presidential Memorandum #7, 4.



frequently updated to ensure data are current, because a time-series analysis of historical network activity will be useful in dismantling kleptocratic regimes.³³

Recommendation 3: Standardize Reporting and Formatting of Data Related to Kleptocratic Regimes

NSPM-7 states that:

The Director of National Intelligence shall work with Intelligence Community elements to explore and implement solutions for standardizing and publishing key identity attributes captured within intelligence information reports in machine readable formats to support automated processing...³⁴

The reporting and formatting of data related to kleptocratic regimes should be standardized for computational efficiency and for ease of entry and categorization in a relational database. Also, all meta-data fields and descriptors for categorical entries should be standardized to better leverage any important relational aspects of the data. For reporting not easily categorized, require it to be machine readable to facilitate automated processing but maintain a format that can be understood by end users. Apply natural language processing and other automated methods to assist in populating existing fields and in suggesting new fields to be added, as the type of data that are relevant can be expected to change over time.³⁵

Suspicious Activity Reports (SARs) that are filed by financial institutions may provide important information on kleptocratic regimes. 2 million SARs were filed in 2016. Computational analytics and natural language processing could determine which SARs are notable and whether any important patterns exist.

For example, Suspicious Activity Reports (SARs) that are filed by financial institutions may provide important information on kleptocratic regimes. Significant time is spent reading and analyzing SARs. From numerous SAR narratives, more and better-defined categories may be constructed for SAR analysis. The Financial Crimes Enforcement Network reports slightly less than 2 million SARs were filed in 2016. Annual money laundering convictions based on SARs filed, however, are less than 0.05%, and only 0.1% of laundered money is seized and forfeited. Computational analytics and natural language processing could determine which SARs are notable and whether any important patterns exist across SARs. As a result, the scarce resources dedicated to analyzing SARs may be more efficiently used.³⁶

³³ House bill H.R. 4373, “AML and CTF Modernization Act”, requests a report on “the costs and benefits associated with the establishment, by the Federal Government or by the Federal Government in partnership with the private sector, of a centralized database to help financial institutions detect and prevent money laundering and terrorist financing, including the impact of such a database on the security and privacy of financial information and the ability of technology or changes in law to ensure the security and privacy of such information.” See <https://www.congress.gov/bill/115th-congress/house-bill/4373/text>

³⁴ National Security Presidential Memorandum #7, 7.

³⁵ House bill H.R. 4373, “AML and CTF Modernization Act”, requests a report on “actions that can be taken, administratively or through the enactment of legislation, to streamline and improve reporting requirements under the United States anti-money laundering regime.” See <https://www.congress.gov/bill/115th-congress/house-bill/4373/text> .

Recommendation 4: Fully Utilize and Integrate Collective Data Holdings Related to Kleptocratic Regimes

The National Security Strategy declares that the United States should:

HARNESS ALL INFORMATION AT OUR DISPOSAL: The United States will, in concert with allies and partners, use the information-rich open-source environment to deny the ability of state and non-state actors to attack our citizens, conduct offensive intelligence activities, and degrade America’s democratic institutions.

FUSE INFORMATION AND ANALYSIS: The United States will fuse our analysis of information derived from the diplomatic, information, military, and economic domains to compete more effectively on the geopolitical stage.³⁷

NSPM-7 states that:

...continuing efforts to achieve these goals requires both systematic collaboration across national security components and integrated practices that fully utilize our collective data holdings to support vital national security missions.³⁸

The information used to compile identity attributes and associated information on kleptocratic regimes into a single graph database (see Recommendation #2) may come from numerous databases already in existence. Financial information, such as Suspicious Activity Reports filed by financial institutions, will be useful because criminals and kleptocratic regimes seek to hide wealth. Other important financial information may come from cryptocurrency transactions, hawalas, and other non-banking money movement; however, financial information is not sufficient, because trade-based money laundering and bulk cash smuggling are other means of illicit financial activity. Therefore, data on shipping, travel, customs, immigration, etc. will also be relevant.

Those responsible for creating, maintaining, and analyzing the single relational graph database of kleptocratic regimes that threaten the United States need access to the input data sources mentioned above. Likewise, individuals monitoring and analyzing those input data sources may need access to the relational graph database of kleptocratic regimes. Ideally, linked databases will be automatically updated in near real-time by syncing all related edits and data feeds. Otherwise, detailed instructions and documentation for understanding, collecting, and merging input data will be required.

Recommendation 5: Use Data Science to Effectively Exploit Threat Actor InformationThe National Security Strategy states that:

To maintain our competitive advantage, the United States will prioritize emerging technologies critical to economic growth and security, such as data science, encryption, autonomous technologies, gene editing, new materials, nanotechnology, advanced computing technologies, and artificial intelligence. The U.S. Government must improve

³⁶ For the original source finding 0.1% of laundered money is seized and forfeited, see “Capitalism’s Achilles Heel” by Raymond Baker, 173-174. For statistics on SAR filings, see https://www.fincen.gov/sites/default/files/sar_report/2017-03-09/SAR%20Stats%203.pdf . For statistics on money laundering enforcement actions, see https://www.fincen.gov/sites/default/files/sar_report/2017-03-09/SAR%20Stats%203.pdf . For the National Money Laundering Risk Assessment, see <https://www.treasury.gov/press-center/press-releases/Pages/jl0072.aspx> . For statistics on seized assets, see <https://www.treasury.gov/resource-center/terrorist-illicit-finance/Asset-Forfeiture/Pages/annual-reports.aspx> .

³⁷ National Security Strategy of the United States of America, 32.

³⁸ National Security Presidential Memorandum #7, 3-4.



our collaboration with industry and academia and our recruitment of technical talent. We will remove barriers to the full use of talent across Federal agencies, and increase incentives for hiring and retaining Federal STEM employees. Initiatives will include rapid hiring, swift adjudication of national security clearances, and offers of competitive salaries. We must create easier paths for the flow of scientists, engineers, and technologists into and out of public service.³⁹

NSPM-7 states that:

The United States Government's ability to effectively analyze, evaluate, integrate, correlate, and share classified national security information and other information concerning threat actors and their networks, and then use that information to support a broad array of national security missions and activities, is an essential component of our national security strategy.⁴⁰

This fundamental aim of NSPM-7 can be most effectively advanced by exploiting the capabilities of data science to combat kleptocratic regimes through the use of suspicious pattern recognition, anomaly detection, network analytics, attack path analysis, and predictive analytics. These analytical techniques are useful for lead generation, targeting, preemptive action, and evidentiary analysis. Equip relevant agencies with data scientists and data scientific software necessary for conducting this analysis.

NSPM-7 can be most effectively advanced by exploiting the capabilities of data science to combat kleptocratic regimes. These analytical techniques are useful for lead generation, targeting, preemptive action, and evidentiary analysis.

Rather than requiring non-technical analysts and agents to find, clean, merge, and analyze data through a computer programming language, ensure that advanced analytical techniques and powerful algorithms are made accessible through user-friendly tools that allow for simple querying to generate relevant information. In procuring custom tools and software solutions, ensure that requirements are driven by end users rather than by technical teams, managerial teams, or corporate vendors.

Ensure that both the experience and the results from data analysis are shared across agencies to improve success in dismantling kleptocratic regimes. To provide such universal guidance, create a master playbook standardizing how relevant data should be incorporated in the use of analytical techniques.⁴¹

Recommendation 6: Provide Incentives for External Collaborators to Assist in Combating Kleptocratic Regimes

³⁹ National Security Strategy of the United States of America, 20, 21,

⁴⁰ National Security Presidential Memorandum #7, 3.

⁴¹ House bill H.R. 4373, “AML and CTF Modernization Act”, requests a report on “the potential for artificial intelligence, machine learning, and other technologies to help detect and prevent money laundering and terrorist financing.” See <https://www.congress.gov/bill/115th-congress/house-bill/4373/text>

The National Security Strategy states that:

Protecting the NSIB [National Security Innovation Base] requires a domestic and international response beyond the scope of any individual company, industry, university, or government agency. ...Bureaucratic inertia is powerful. But so is the talent, creativity, and dedication of Americans. By aligning our public and private sector efforts we can field a Joint Force that is unmatched. [Brackets added]⁴²

NSPM-7 states that:

...the Director of the Office of Science and Technology Policy . . . [should] work with departments and agencies to align and synchronize Federally-funded research and development activities that seek to enhance the integration, management, and use of national security threat actor information.

Provide incentives for external collaborators to assist in combating kleptocratic regimes, such as awards, grants, competitions, conferences, speaking invitations, and opportunities to contribute to policy-making. To address complex problems posed by kleptocratic regimes, publish unclassified data sets or unclassified versions of data sets to attract researchers and analysts. Focus outreach efforts on academic and professional conferences that organize relevant collaborators, such as quantitative and behavioral social science associations (especially economics, finance, accounting, international relations, and political science), foreign language associations, statistical mathematics associations, computer science associations, anti-money laundering and financial crime associations, etc.

Create a Database on Financial Activity of Politically Exposed Persons and a Procedure for the USG to Share Analysis about Them with Financial Institutions

Michael J. Loughnane, President, Loughnane Associates

A significant challenge for kleptocrats (defined above as political elites who “abscond with national assets”) after they have been designated as a Politically Exposed Person (PEP) is how to effectively position their illicitly obtained wealth in financial networks for personal or political use. A PEP is defined by the Financial Action Task Force as a current or former senior official of a foreign government or of a foreign government party, immediate family member or a current or former senior executive in an enterprise associated with a PEP, or a known close associate. Kleptocrats and their associates clearly fit as a subset within this definition (i.e. while not all PEPs are kleptocrats, all kleptocrats are likely PEPs). Should a kleptocrat desire to transfer and use their illicitly obtained wealth in other parts of the world, it is critical that it be made to appear to have been derived from legitimate activities. This is frequently achieved through manipulation of world financial networks where kleptocrats launder and protect their wealth; however, such activity also creates a significant amount of information that is collected, assessed and maintained by the financial institutions involved in these transactions, in accordance with international practices, laws and regulation. This provides a treasure trove of information that could be exploited to expose the activities of kleptocrats, their associates and their networks.

At least since 1970 with the enactment of the Bank Secrecy Act, or BSA, and most certainly enhanced by Title III of the 2001 USAPATRIOT Act, the United States has required financial systems, formal and informal, to be alert to and report transactions in excess of \$10,000 and suspicious acts. Illicit actors,

⁴² National Security Strategy of the United States of America, 21, 28.



therefore, attempt to operate “under the radar” using methods such as fictitious businesses or shell companies and nominees to move and protect wealth and attempt to “launder” it to make it useable in the legitimate world.

Under BSA and Title III requirements financial institutions must perform “enhanced due diligence” to assess and monitor the activities of their PEP customers, and they must maintain that information. They will therefore obtain information directly from their customers, assess open source and proprietary data sources to monitor their customers, report PEP activities as necessary through established mechanisms such as Currency Transaction Reports and, when necessary, file Suspicious Activity Reports to the government about customer activity. Therefore, financial institutions already collect and hold substantial information as part of their business systems that would be highly impactful in detection and analysis of the networks associated with kleptocratic regimes. These data, however, are responded to reactively rather than proactively and are provided only after a transaction or other activity has been identified. Further, suspicious activity that is reported is dependent on the awareness of the financial institution of their PEP customer, and any supporting information is typically limited to the activity and provided to the government within the scope of a legal request.

The USG should institute a process to query the data collected by financial institutions about their PEP customers who are located in kleptocratic regimes. The rich trove of information can then be exploited to mitigate the threats posed by kleptocratic regimes to the U.S.

The USG should have the capability to combine its kleptocrat intelligence data with the information collected by financial institutions and produce more complete profiles of kleptocrats and their supportive networks. The USG should institute a process to query the data collected by financial institutions about their PEP customers who are located in kleptocratic regimes. The rich trove of information that is currently being collected by financial institutions on PEPs globally can then be exploited by the national security community to mitigate the threats posed by kleptocratic regimes to the U.S. (See Recommendations 1 and 2 above in “*Using Data Science to Combat Kleptocracy’s Threat to National Security*”). If a financial institution has such PEPs as customers, they should be asked to provide relevant information collected during their customer due diligence and ongoing monitoring activities about their personal and business activities. These data should be incorporated into a USG database, as described in Recommendation 2 above, enabling the USG to understand the illicit composition of PEP networks as a prelude to mounting a strategy to dismantle them. All of this should be integrated into the implementation of NSPM-7 “Integration, Sharing, and Use of National Security Threat Actor Information to Protect Americans” in support of its policy aim:

The United States Government's ability to effectively analyze, evaluate, integrate, correlate, and share classified national security information and other information concerning threat actors and their networks, and then use that information to support a broad array of national security missions and activities, is an essential component of our national security strategy.⁴³

⁴³ The White House, National Security Presidential Memorandum #7, Oct 4, 2017, 3.

As evidenced in the “Panama Papers” and “Paradise Papers,” the outdated assumption that is a foundation to the 1970 BSA that financial institutions are in the best position to “know your customer” has been discredited. Today, illicit actors, including kleptocratic networks, are able to circumvent due diligence efforts and provide only the information that “they want you to know.” Therefore, the only way to be truly effective in identifying and tracking kleptocratic transactions is to require financial institutions to provide PEP data to the USG so it can be effectively analyzed against data collected from government sources, resulting in higher quality kleptocratic network analysis results.

A PEP database used to identify and follow kleptocrats and their networks would be immeasurably enhanced if it also included the identities of the beneficial owners of corporations registered to do business in the U.S. -- assuming legislation is passed requiring this (See the recommendation above to “Pass beneficial ownership legislation”). This would inhibit the use of shell companies, one of the more popular tools of kleptocrats to hide and move wealth. This also aligns with another proactive measure that will take effect in May 2018 requiring financial institutions to collect and maintain the names of natural persons who are 25% owners/beneficiaries of a “legally covered entity.”⁴⁴ This information will be maintained by financial institutions and should also be included in a USG kleptocratic threat database.

Since they only have access to their own information financial institutions are not in a position to connect the dots and identify patterns. To rectify this, financial institutions and the USG need to develop more effective information exchange processes.

As already referenced, kleptocrats and other illicit actors have been highly adept at circumventing the “know your customer” and other monitoring activities used by financial institutions. Since they only have access to their own information and not the information gathered by the USG, financial institutions are not in a position to connect the dots and identify patterns taking place across multiple financial institutions. To rectify this, financial institutions and the USG need to develop more effective information exchange processes. This should be accomplished by vetting individual members of financial institutions and providing those who are cleared the results of USG analysis. This information sharing would emulate the United Kingdom’s Joint Money Laundering Intelligence Taskforce and their vision to “provide an environment for the financial sector and government to exchange and analyze intelligence to detect, prevent and disrupt money laundering and wider economic crime threats against the UK.” The more effective the private sector can become in assessing the actions and intent of their customers and conducting due diligence activity the more effective they can be in collecting information; detecting, preventing, and disrupting money laundering and wider economic crime threats; mitigating illicit actions; and disrupting kleptocratic transactions.

⁴⁴ Federal Register, “Customer Due Diligence Requirements for Financial Institutions: Final Rule,” Vol. 81, No. 91, May 11, 2016. Available at <https://www.gpo.gov/fdsys/pkg/FR-2016-05-11/pdf/2016-10567.pdf>



Use the Global Magnitsky Act and Other Precision-Guided Policy Tools to Sever the Flow of Illicit Revenue to Kleptocrats Who Threaten Our National Security

Brad Brooks-Rubin, Enough Project

The center of gravity for any kleptocratic regime is its ability to generate and exploit ill-gotten gains to maintain itself in power. Yet the international community routinely pours billions of dollars of assistance into crisis and humanitarian response, sustainable development, and governance while failing to stanch the diversion of the host country's own financial and natural resources into the bank accounts of those responsible for the conflict. At a minimum, this enables the perpetuation of kleptocratic governance and at worst it paves the path to renewed conflict and even the risk of genocide (e.g., South Sudan). It's not enough to hope that peace processes will eventually come to grips with this problem because international interventions have repeatedly been obstructed and, according to former UN Secretary General Kofi Annan, "Roughly half of all countries that emerge from war lapse back into violence within five years."⁴⁵ As the discussion above about assessment and planning made clear, the first step is to identify the networks involved, including their facilitators/enablers and their vulnerabilities. One of these vulnerabilities is that most of the lucre derived by kleptocrats from their illicit activities transits the U.S. or European financial systems. Precision-guided policy tools should be used by the USG and its coalition partners to exploit this vulnerability by targeting the finances of those who steal from public coffers and use the money to fund war, obstruct peace processes and the rule of law, and enrich themselves and their associates.

Precision-guided policy tools include targeted sanctions (i.e., smart sanctions) focused on designating networks more than individuals, sectoral and secondary sanctions measures that use tools other than asset freezes, anti-money laundering measures (including Section 311 of the USA PATRIOT Act), and asset

Precision-guided policy tools include targeted sanctions focused on designating networks more than individuals, sectoral and secondary sanctions measures that use tools other than asset freezes, anti-money laundering measures and asset recovery/other judicial tools.

recovery/other judicial tools. They have traditionally been employed to counter terrorism, organized crime, and nuclear proliferation; we propose exploiting these tools, along with the Global Magnitsky Act, against kleptocratic regimes that pose a threat to U.S. national security.

The Global Magnitsky Act was passed in December 2016 empowering the US President to impose targeted sanctions on government officials and their accomplices involved in "acts of significant corruption" such as "expropriation of private or public assets for personal gain, corruption related to government contracts or the extraction of natural resources, bribery, or the facilitation or transfer of the proceeds of corruption to foreign jurisdictions ..."⁴⁶ Also covered by this Act are extrajudicial killing or torture of those seeking to expose criminal misdeeds by government officials. The sanctions at the

⁴⁵ UN Secretary General Kofi Annan, "In Larger Freedom: Towards Development, Security and Human Rights for All," March 2005, 8.

⁴⁶ "Global Magnitsky Human Rights Accountability Act," S-284, 114th Congress (2015-2016), 2. Available at <https://www.congress.gov/bill/114th-congress/senate-bill/284>

President's disposal under the Global Magnitsky Act include seizure of assets in the U.S., prohibition of transactions involving U.S. financial institutions, and visa denials.

The policy community, including the State Department, is generally not well versed in these financial tools, which may be why they have been used infrequently and not very creatively in situations other than those at the top of the foreign policy agenda. In addition to beginning to apply the existing repertoire of policy tools against kleptocratic regimes, these tools should also be used with greater precision. For example, Section 311 of the USA Patriot Act provides five policy options, called "Special Measures," ranging from enhanced due diligence to denial of access to the U.S. financial system, but only one of the five has ever been used.

Similarly, sanctions can be imposed against specific sectors of a country's economy, and this can entail more than freezing assets. As was recently demonstrated in Venezuela, specific types of transactions in the U.S. financial system can be denied, allowing sectoral sanctions to be tailored to specific nodes in kleptocratic networks. "Secondary" sanctions can also be imposed on financial institutions that are enabling the illicit activities of kleptocrats, allowing the denial of all or only a portion of the array of correspondent financial services provided by the U.S. financial system. By fully exploiting this underutilized range of policy tools against kleptocrats that threaten our national security, we will at a minimum gain leverage to influence them to change their conduct and if their access to illicit revenue can be severed, their ability to continue posing a threat could be terminated.

The issues raised during the breakout session included the following:

- Who would govern the use of these powerful and intrusive policy tools and prevent abuse?

Response: The same policy process that directs the use of these tools against terrorism and organized crime would be used by the National Security Council. As stated in National Security Presidential Memorandum #7:

Equally important is the United States Government's ability to conduct these activities in a manner that:...(b) properly considers, approves, and monitors the information's application and use, consistent with applicable law and Presidential guidance;...and (d) maintains and uses the information in a manner that appropriately protects individuals' privacy, civil rights, and civil liberties...

Additionally, FinCEN is starting to embark on an "Exchange" using its Advisory Committee to solicit input from financial institutions that are at the forefront of implementation and compliance. Similarly, NGOs and others help to measure the impact of punitive measures on the ground. Convening these actors to provide input on the impact of use of these tools may also help to guard against abuse.

- Are we willing to accept the use of these tools against the U.S.?

Response: Even if U.S. political leaders were to be branded by rival powers as kleptocrats and sanctioned, the consequences would be insubstantial since the U.S. and the European Union control the bulk of international financial transactions, unless the U.S. political leader had personal assets in the rival country that could be seized. The capacity of the U.S. to deny the rival country and its entire business sector access to our financial system in retaliation would probably be a decisive deterrent



Use Hybrid Justice Institutions to Combat Impunity of Kleptocrats **Michael Hartmann, International Prosecutor (1997-2017)**

The most decisive means of dismantling kleptocratic power structures is prosecution and adjudication of the crimes that empower them. In most of these regimes, however, the legal system has been coopted or cowed by prevailing elites. When contemplating an international intervention, the international community has shackled itself with a false dichotomy between either completely replacing the local legal system (i.e., exercising full executive authority in the UN's terminology) or merely providing advice and assistance to develop its proficiency (i.e., termed capacity building by the UN). Although exercising executive authority is a theoretical option, the UN is on record that this is unlikely and undesirable in the future. The Department of Peacekeeping Operations *Handbook for Judicial Affairs Officers*, for example, makes it clear the UN prefers the capacity building option, asserting that "International actors, including judicial affairs officers, should work with, rather than substitute for, national counterparts."⁴⁷ If, however, the essence of the threat to the rule of law, and stabilization generally, is not lack of ability but impunity for those in power, then a capacity building strategy will likely make matters worse.

The purpose of this recommendation is to expand the international community's repertoire to include an intermediate "partnership" option involving collaborative exercise of legal authority involving international and carefully selected and assiduously protected indigenous judges, prosecutors, police and corrections officials.

The purpose of this recommendation is to expand the international community's repertoire to include an intermediate "partnership" option involving collaborative exercise of legal authority involving international and carefully selected and assiduously protected indigenous judges, prosecutors, police and corrections officials. The authority of this hybrid justice institution would be limited to crimes against the mandate (e.g., gross human rights violations, murder of political rivals, theft of international assistance--by both locals and internationals, grand theft of national revenue, spying on the mission, and tampering with witnesses in these cases). For hybrid courts to be effective, they should begin to function at the inception of the mission, not years later as in Bosnia and Kosovo. The alternatives for accomplishing this are to include hybrid justice institutions in the mandate, in the peace treaty between the warring factions, in a treaty between the country and the international organization mounting the mission, or in domestic legislation. It may be necessary to condition the provision of international assistance for reconstruction on the creation of a hybrid court and supporting justice institutions. Variations on this concept are possible in states that have not suffered an insurgency, as the model provided by the International Commission against Impunity in Guatemala has now been replicated in Honduras. Feedback from the breakout session included these observations and recommendations:

- Hybrid courts are a vital means for conflict and stabilization missions that are challenged by kleptocratic power structures because if you do not have effective rule of law, military gains are going to be lost. In an operational environment, the rule of law--especially accountability for

47 Department of Peacekeeping Operations, "Handbook for Judicial Affairs Officers in United Nations Peacekeeping Operations," June 2013, 28. Available at http://www.un.org/en/peacekeeping/publications/cljas/handbook_jao.pdf.

human rights violations and corrupt behavior--is necessary to solidify the gains made through advising and capacity building (See the recommendation below that accountability should be given equal primacy with the security sector). Unless impunity for kleptocratic elites is effectively circumscribed, once the intervention force leaves the country, the gains made are liable to be reversed (e.g., Iraq in 2014).

- A Presidential Directive would be one way to accomplish the incorporation of hybrid justice institutions into the toolkit available to policy makers and planners. This should be a matter of particular salience for the Department of Defense since hybrid justice institutions are directly related to consolidating the gains made by the military during combat and for successful stabilization. This should include the creation of a quick reaction team by the Department of State to plan the intervention in advance. To avoid repeating failures of the past, the USG must properly assess the situation ahead of time, including identifying any critical gaps in the local legal framework that need to be remedied (See the recommendation above to tailor assessment and planning to the threat from kleptocratic regimes). By demonstrating to Congress that the Administration has a coherent plan for what it is going to do in future interventions based on lessons learned from past best practices as well as mistakes, legislators will be more likely to authorize the funds required, and missions will be set up for success.

**Transparency, Accountability, and Counter-Corruption (TACC)
Are Essential for Security Sector Assistance
Jodi Vittori, Co-Director, Anti-corruption Advocacy Network**

When developing and deploying security sector assistance programs, the USG often treats the security sector in those regimes as if they were somehow above the predatory politics that pervade the rest of the government, assuming that the security sector has that nation's best interests at heart, even if there are a few "bad apples" present. Unfortunately, the security sector in such regimes is not an innocent bystander but is instead a key player in perpetuating kleptocracy. Maintaining a kleptocratic regime requires a high

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degree of coercion over the population, especially the use of violence or threat of violence. Thus, control over the security sector—the police, military, intelligence services, paramilitary forces, private security companies, and others who can legally use force—is the key to maintaining the regime. Elites within the security sector are usually deeply embedded in the regime, profit handsomely from it, and are strongly incentivized to maintain it. These elites are often strongly dis-incentivized towards the establishment of rule of law, an inclusive market-based economy, democratic reform, curbing organized crime, or even the cessation of conflict because war economies are often highly profitable for leaders on all sides.

As part of "coup proofing" for kleptocratic elites, there are often numerous, competing actors in the security and intelligence sectors. This allows the kleptocratic regime to use the security sector as a form



of patronage, while at the same time using competition and mutual mistrust amongst the various security and intelligence actors to minimize the ability for a government take-over. Such countries often exhibit a two-tier system of security sector capabilities. There may be one or more mass military or police forces that are poorly trained, equipped, and paid that are formed of conscripts or marginalized groups outside the core of the elite regime. Various competing intelligence services often seem to spend more time and resources spying on one another than looking for external enemies. At a higher tier, however, is usually a better trained and equipped force in charge of providing security to elites. These units are usually led by someone very close to the inner circle, and the majority of the unit is composed of the same identity group that makes up the regime inner circle. In wartime, the poorly trained military or police institutions are often sacrificed to fight insurgent or other enemy forces; the elite forces often remain near the capital to provide protection unless the regime sees that enemy force as an existential threat.

Within the kleptocratic system, the security of the populace suffers. The corrupt security sector often preys upon its own population, extorting them for money or other resources. They may work with organized crime or insurgents, or be an organized crime group in their own right. To maintain the regime, they will often be used to ensure election results are manipulated, the press is muzzled, and that possible legitimate political alternatives are silenced.

Though security sector-related budgets may be substantial in such countries, there is often little to show for it when it comes to the capabilities of those forces. This is because security budgets are regularly exempted from oversight by legislatures, inspectors general, other law enforcement or the populations at large. These budgets act as important forms of patronage, with funds often being diverted for private use by political or military leaders. Contracts may be overpriced or be mere ruses as a means to divert money to foreign bank accounts, resulting in equipment of poor quality or unsuited for the needs of troops. Security sector elites may divert what equipment and personnel there is for their own private, commercial, or criminal purposes, rather than for security-related uses on behalf of the populace. Units may be padded with so-called ghost soldiers: soldiers who exist on paper only, but are absent from their units or who have never actually existed. There may be entire ghost units—units collecting pay, equipment, and so forth, but for which there may be few or no actual troops despite what their order-of-battle may list. As leadership in the security sector is used as a form of patronage, promotions and rank are often based more on who one knows or how much one pays rather than the actual leadership potential or merit, eroding unit esprit de corps and turning officer commissions into investments rather than service to the citizenry. As a result, the populace may be forced to rely on their own self-defense, insurgent groups, or even criminal groups rather than their own security sector for protection.

Kleptocratic regimes and the security sectors which support them have a direct, grave impact on the United States. First, predatory governments help ignite new crises, and no amount of American equipment or training may be able to “fix” the problem, as exhibited in Afghanistan (\$85 billion expended between 2002 and 2017), Iraq (\$26 billion expended on Iraqi security between 2003 and 2012, including \$3.4 billion in equipment alone), and Mali (where \$1 billion was spent by the United States on the security sector before a military coup there ultimately created the conditions of the rise of Al Qaeda in the Islamic Maghreb).

American military assistance can also be an inadvertent contributor to the corrupt and predatory regime, helping to make it more resilient and further dis-incentivizing it away from establishing rule of law, democratic reforms, or an open market economy. American assistance creates new sources of money and patronage to disburse. The training provided by the United States can result in a more effective and well-equipped predatory force.

To improve American security sector assistance vis-à-vis kleptocratic regimes, the United States should focus on a “first do no harm” principle, as well as working to instill a national ethos, transparency, and accountability in those regimes it seeks to assist.

Do No Harm

The first step to minimizing the harm the security sector of kleptocratic regimes can do to American interests is to change the assumptions that go with working with such regimes. The United States should assume that the elites of a kleptocratic regime will seek to use American security assistance to bolster the kleptocratic regime and not necessarily for the benefit of their nation at large or for American national security interests. Such assumptions should underlie all American security assistance programs to highly corrupt regimes.

To do no harm, transparency, accountability, and counter-corruption (TACC) should be mainstreamed in all security-related assistance.

To do no harm, transparency, accountability, and counter-corruption (TACC) should be mainstreamed in all security-related assistance, including TACC-specific doctrine, policy, and training. The Department of Defense (DoD) should establish a TACC point of contact to ensure corruption is inserted in security

Corruption risk assessments and mitigation strategies for all security assistance programs should be established.

assistance, military training, doctrine, exercise inputs, and so forth. DoD personnel in particular should be trained on how corruption undermines American national security and security assistance, with additional emphasis for personnel deploying to high-risk locations or in high-risk career fields such as procurement, acquisition, and foreign military sales. It should be a special focus of the newly-established Army Security Force Assistance Brigade (SFAB) and of the Military Advisor Training Academy created to support it.

Corruption risk assessments and mitigation strategies for all security assistance programs should be established. This includes the requirement for a political economy assessment—including a corruption assessment—for recipient countries, especially those ranked as highly corrupt by the World Bank and Transparency International. Security assistance should be “red teamed” to better assess how a kleptocratic recipient might use that assistance to reinforce a highly corrupt regime, and the results of red teaming used to develop better indicators of assistance gone awry as well as mitigation strategies. Recognizing that corruption is a risk in any assistance program, a risk mitigation plan should be created, re-evaluated periodically, and updated as needed.

American security assistance contracts also require better transparency and accountability to minimize the ability for those contracts to be diverted or used for nefarious purposes. All American foreign assistance contracts should require beneficial ownership information for companies not publicly listed, and all contracts should have clauses allowing for termination of the contract in case of corruption. There should be claw back clauses, allowing taxpayer money to be recouped if contract funds are expended for corrupt



purposes. Special inspector generals should be established for all high value and high risk aid programs, along with vendor vetting cells and contract investigative units to detect corrupt contracts and contractors.

TACC Assistance to Recipient States

In addition to minimizing the likelihood of American contracts being used to reinforce kleptocratic regimes, much can be done to create the oversight needed in recipient countries to put their security sectors on a path to working more on behalf of the citizenry rather than the corrupt elite.

First, TACC training should be required as part of all security assistance programs, especially train and equip programs. Tactics, techniques, and procedures should be established for all security assistance personnel both in-country and back in the United States to recognize and report corruption, along with guidelines for responding to such reports.

Recipient governments should be required to establish robust TACC procedures in order to receive American security assistance, and the United States should provide the capacity building needed as part of those programs.

Recipient governments should be required to establish robust TACC procedures in order to receive American security assistance, and the United States should provide the capacity building needed as part of those programs. This includes the establishment of independent, vetted, and resourced inspectors general and internal affairs programs with high level political backing from senior leadership and with the authorization to conduct investigations without substantial high-level government interference. A reluctance to establish robust oversight programs can be a strong indicator of a desire by a recipient government to use American security assistance to reinforce a kleptocratic regime rather than improve security for the populace overall.

Recipient governments should be assisted in developing their own personnel and logistics systems that ensure sufficient personnel and material are available where needed, promotions are predominantly merit-based, and with logistics systems that are sufficiently responsive and with minimal leakage from the system.

Parliamentary and civil society oversight must be a requirement of American security assistance programs.

Parliamentary and civil society oversight must be a requirement of American security assistance programs. While some limited items and issues will need to remain confidential, these should be limited. Too often, any information on recipient government procurement is unavailable or even criminalized, making it impossible for the citizenry to know what their security sector is doing or how its funds are being spent.

Recipient governments should be required to establish their own strong procurement, contracting, and budgeting transparency systems in line with international standards such as the Open Contracting Principles and Open Government Principles. Recipient governments should require beneficial ownership

information on government contracts, along with anti-corruption clauses, claw back clauses, and other TACC practices. With the exception of a limited set of contracts, all contracts should be publicly tendered, preferably in line with open contracting data standards. Moreover, offset contracts should be forbidden, as they are frequently secret and subject to abuse for corruption.

Breakout session:

- Establish metrics for TACC and make capacity building assistance contingent on adequate performance

To provide clout for a risk mitigation strategy, it is essential to establish metrics for determining whether the efficacy of the TACC regime is improving or not. The metrics should be tied to a review and potential reallocation of assistance.

To provide clout for a risk mitigation strategy, it is essential to establish metrics for determining whether the efficacy of the TACC regime is improving or not, including the performance of the intelligence services which are often the instrument of choice for suppressing political rivals and those who would expose elite misconduct. The metrics should be tied to a review and potential reallocation of assistance. An annual progress report should be issued that identifies the most serious accountability deficiencies along with recommendations for correcting them and funding should be reallocated by reducing capacity building programs where the trend lines are negative and increasing spending for accountability programs where most required.

- DoD cannot develop a proper TACC regime on its own

While military security assistance providers can implement programs within host nation armed forces to develop or enhance ethics training, inspector general functions, and military justice systems, they are not in a position to address the broader and critically important need for a legal system capable of confronting impunity, parliamentary oversight of the security apparatus, human rights monitors, protections for whistleblowers, a free press, and civil society organizations devoted to transparency and accountability.

Thus, a coordinated whole-of-government approach at least involving DoD, the State Department, and Agency for International Development, and Department of Justice is essential.

- Consult with civil society in advance of and during implementation of security sector capacity building programs.
- There is a need for coordination among the multiple actors involved (international, host nation, and interagency).