



Introducing Judicial Corruption

Contents

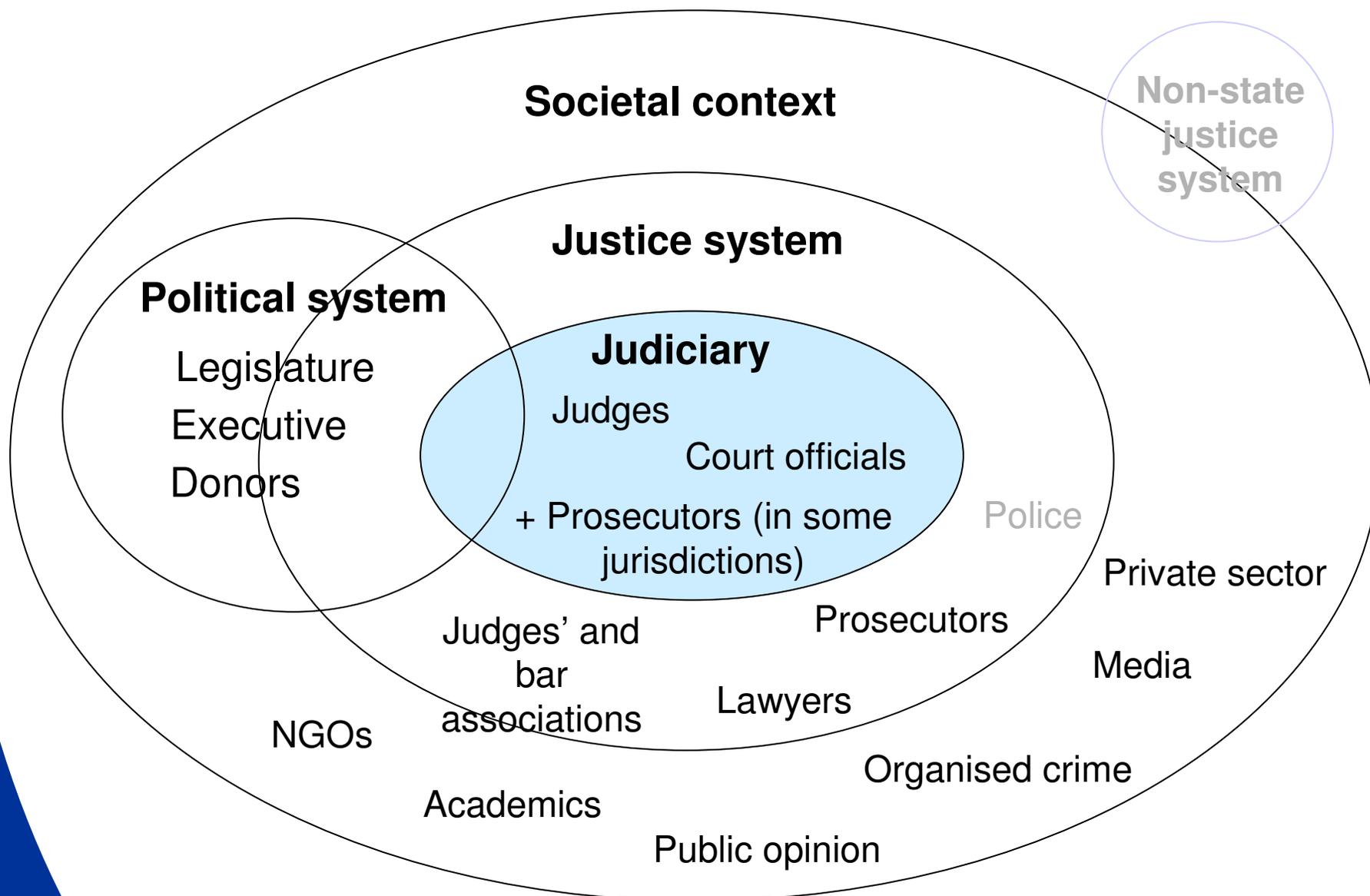
- What does TI's *Global Corruption Report 2007* contain?
- What is judicial corruption?
- Why is judicial corruption important?
- How big a problem is judicial corruption?
- What are the causes of judicial corruption?
- What are the remedies for judicial corruption?

TI's *Global Corruption Report* 2007

Corruption in judicial systems:

- 28 comparative essays on judicial corruption
- 37 country reports on judicial corruption
- 16 empirical studies on corruption-related issues

Scope of *Global Corruption Report 2007*



Other issues covered

- Role of lawyers
- Role of prosecutors
- Role of the media
- Culture
- Non-state justice systems
- Impact of judicial corruption on women
- Implications for UNCAC MLA/asset recovery provisions

Why is judicial corruption important?

1. High costs – direct and indirect
 - Undermines human rights (both civil and socio-economic rights)
 - Hinders economic development
 - Distorts governance
 - Fuels crime (including corruption)
2. Centrality of enforcement to anti-corruption agenda
3. Relevance to TI national Chapters
4. Opportunity to revisit work previously carried out by TI (Bangalore Principles)

Types of judicial corruption

Two main types:

1. Bribery
2. Undue influence
 - From political powers
 - From business

Types of judicial corruption

Bribery:

- Re-engineer/reduce sentence (judge)
- Speed up/slow down case (judge/court staff)
- Reduce/re-engineer charges (prosecutor)
- Admit/omit evidence (police)
- Present sub-standard case or bribe judge (lawyer)
- Embezzle court funds, put relatives on payroll (judges)

Types of judicial corruption

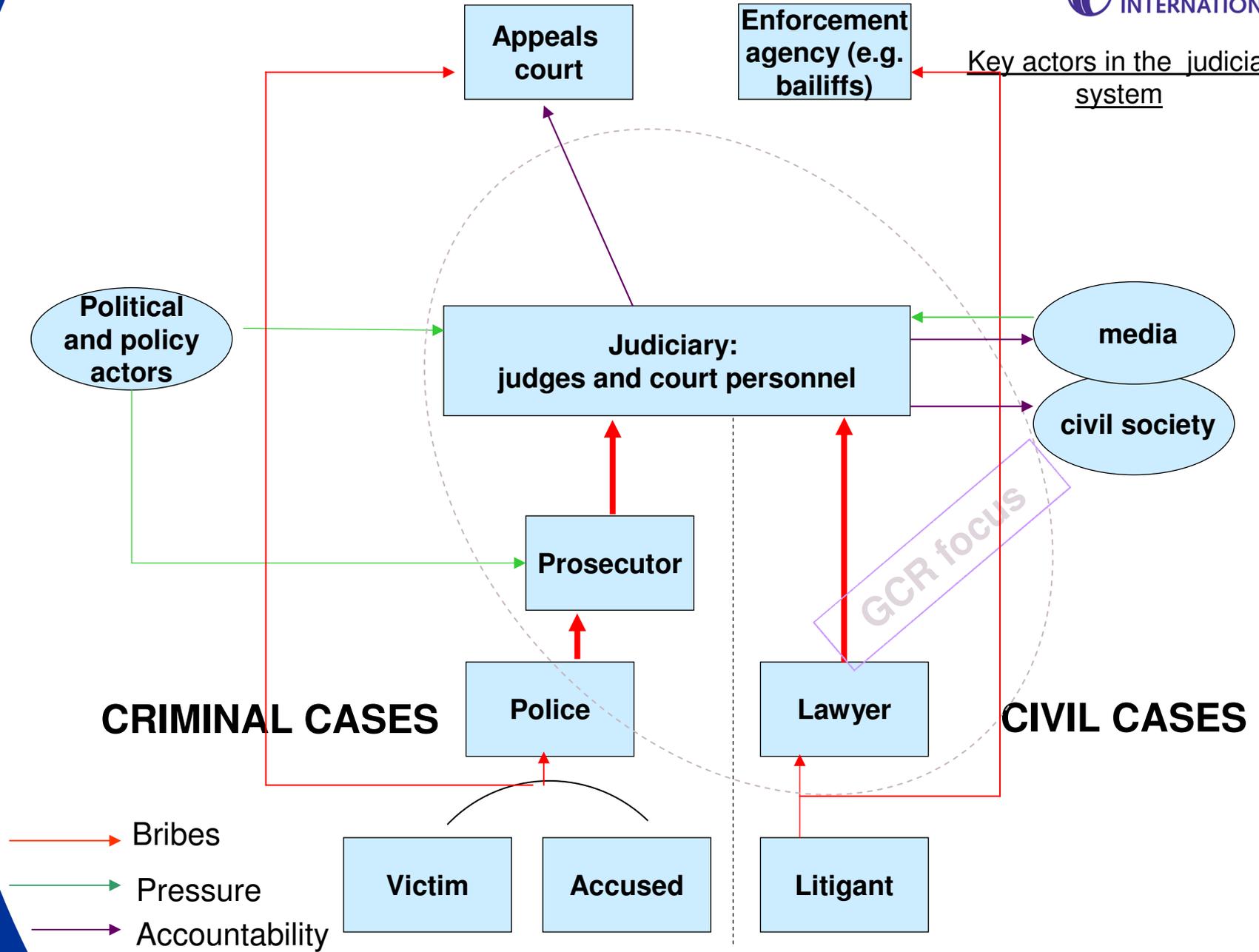
Undue influence:

From political powers

- Pliant judges appointed
- Independent judges, cowed by fear of dismissal, transfer or loss of earnings, rule in favour of political powers, including in corruption cases

From business

- ‘Buying judges’ - judges are elected in a majority of US states, leading to potential corruption in campaign funding



How big a problem?

- In preparation for the *GCR 2007*, TI conducted an international survey of people's experience of the judiciary and their attitudes to judicial corruption.
- The next two slides show:
 - the proportion of people who had contact with the judiciary in the last year, and how many of them paid a bribe
 - the proportion who think the judiciary in their country is corrupt

How big a problem?

Judicial Corruption Barometer of 62 countries

Region	% who had contact with the judiciary in past year	% of them who paid a bribe
Africa	20%	21%
Latin America	20%	18%
Newly independent states	8%	15%
South-East Europe	9%	9%
Asia/Pacific	5%	15%
EU/other Western European countries	19%	1%
North America	23%	2%

Big difference between systemic and sporadic judicial corruption

How big a problem?

Judicial Corruption Barometer of 62 countries

- **Trust is low**

Region	Percentage who think their judiciary is corrupt (%)
Latin America	73%
Newly independent states	65%
South-East Europe	66%
Africa	59%
North America	43%
Asia/Pacific	40%
EU/other Western European countries	29%

In these regions
< 3% actually
experienced
bribery

When asked *who* in the judicial process is corrupt (judges, court staff, prosecutors, lawyers, police), the majority point to judges.

Causes of judicial corruption

- Undue influence by the executive and legislative branches (appointments, promotions, transfers, removals)
- Weak disciplinary mechanisms
- Low judicial and court staff salaries (but raising salaries may do little to dent corruption – e.g. Georgia and Singapore)
- Poor training
- Fear of retribution (by political or judicial powers, media, criminal gangs)
- Inadequately monitored court administrative procedures
- Lack of transparency (litigants, media, public don't know what happens in court)
- Social tolerance of corruption

Important safeguards

Safeguard	Who can implement it?
Fair appointments	<u>Executive and legislature</u> : restrict their role in appointments process <u>Judiciary</u> : be vocal in demands for independence
Decent working conditions (Salaries, tenure, training, transfers, promotion)	<u>Political powers</u> : guarantee adequate funding for judiciary <u>Judiciary</u> : ensure objective promotion and transfer system; introduce random case assignment
Accountability and discipline	<u>Political powers</u> : restrict their role in disciplinary processes; grant (limited) immunity for judges <u>Judiciary</u> : ensure that removal is considered only when serious misconduct is suspected, and after a rigorous and fair investigation; enforceable code of conduct
Transparency (media, NGOs, academics, general public should have access to info on, and be able to monitor, court performance)	<u>Legislature</u> : amend 'gagging' laws on press <u>Judiciary</u> : provide access to judgements and decisions; monitor asset declarations

Evidence from country studies

<u>Africa/MENA</u>	<u>Americas</u>	<u>Asia/Pacific</u>	<u>Europe/Central</u>
Algeria	Argentina	Bangladesh	<u>Asia</u>
Egypt	Chile	Cambodia	Azerbaijan
Ghana	Costa Rica	China	Croatia
Kenya	Guatemala	India	Czech Rep.
Morocco	Mexico	Mongolia	Israel
Niger	Panama	Nepal	Georgia
Nigeria (Lagos)	Paraguay	Pakistan	Romania
Palestine	USA	PNG	Russia
South Africa	Colombia	Philippines	Spain
Zimbabwe		Sri Lanka	Turkey
Zambia			UK

Conclusions

- Systemic judicial corruption exists in many countries around the world
- Even where bribery levels are low, trust in the judicial system is also low
- Fallout of judicial corruption casts wide web (> than bribery)
- Key safeguards do not exist in a majority of countries analysed in the *GCR* (some backsliding, e.g. Russia and Argentina)
- Where safeguards exist, they are often only implemented at the highest court level
- While judicial independence has been prioritised in international law, less has been said about importance of accountability and impartiality. Accountability can serve to protect judicial independence.
- Donors frequently ignore or, at worst, fuel judicial corruption



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