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Disrupting Incidental and Systemic Corruption

O M A R A Z F A R

During the 1990s, Vladimir Montesinos, the chief of Peru's secret police under Alberto Fujimori, bought off the media, the opposition, the judiciary, and the armed forces, extracting large rents for himself and possibly Fujimori.¹ Such systems of rent extraction are not rare. In fact, hybrid regimes that are democratic but lack genuine political competition represent a significant and rising proportion of the world's governments (Diamond 2002). While in some cases the goals of such regimes may simply be power itself, in most cases at least a secondary purpose is rent extraction.

This chapter examines how these systems can be disrupted. The first part of the chapter analyzes how an honest principal can deal with incidental corruption. It compares two strains of the literature on corruption—the economics of crime (prevention) and principal-agent theory—and proposes some concrete policies and reforms that could help alter incentives in incidentally corrupt systems. The second part addresses the problem—widespread in developing countries—of the sale of jobs and the effect the practice has on mechanisms of accountability. The third part analyzes corruption that involves the principal (systemic corruption). The fourth part draws on evidence from case studies of Belarus, Brazil, Kenya, and Turkey to show how systems of corruption can be exposed, disrupted, and eliminated. The chapter closes with recommendations

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about what various actors—citizens, the media, activists, NGOs, universities, foreign governments, aid agencies, the World Bank, and local governments—can do to prevent and expose systemic corruption.

Dealing with Incidental Corruption: Principal-Agent Theory versus the Economics of Crime

Two strains of microeconomic theory relate to the control of incidental corruption: principal-agent theory and the economics of crime. (The term *incidental* is meant to convey that the various acts of corruption are not part of the same system. The term is not meant to denote rarity: incidental corruption can be rare or widespread.) Each suggests a different approach to fighting corruption (table 8.1).

The fundamental insight of principal-agent theory is that a principal can induce an agent to undertake actions optimal for the principal even if the principal can observe only outcomes and outcomes are affected by unobserved factors in addition to the agent's actions. The archetypical case is the owner of a firm who gives managers or workers incentives to exert effort by sharing some of the firm's profits with them, where profits depend on many variables other than effort.

The economics of crime focuses on how potential criminals can be dissuaded from committing crimes by punishments based on observable and verifiable behavior. The fundamental insight of the economic theory of crime is that as the verifiability of punishments decreases, the severity of the punishment should rise.

Application of the economic theory of crime to corruption may involve setting very high penalties, because the probability of detecting a corrupt transaction is low. For many acts of corruption that are tolerated in various societies, this may lead to reluctance to report the crime, even on the part of people who would like corruption to be eliminated. Consider the example of a school teacher who sells grades. Even upstanding, socially responsible people in many societies would not report the teacher to the police if the consequence involved sending the teacher to jail. They are more likely to report a teacher if the likely consequence is termination of employment. Proving that the school teacher actually took bribes is, however, very difficult. Hence the likely consequence is that reforms based solely on incontrovertible evidence of criminal wrongdoing are unlikely to be effective.

Principal-agent theory would advise that rather than look for evidence of actual bribery, exams should occasionally be rechecked. If a teacher is

TABLE 8.1 Examples of Anticorruption Efforts Suggested by the Economics of Crime and by Principal-Agent Theory

Form of corruption	Economics of crime solution		Principal-agent theory solution	
	Remedy	Evidence required	Remedy	Evidence required
Doctors dilute vaccines	Try doctors for diluting vaccines	Evidence of actual dilution	Provide doctors with kits to check if vaccines are at required strength, and punish doctors (with fines or suspensions) found giving substandard vaccines	Substandard vaccines
Loans in microfinance programs meant for poor farmers are given to the nonpoor or to nonfarmers in exchange for bribes	Try loan officers for taking bribes and misallocating funds	Bribes	Punish loan officers (with fines, suspensions or dismissals) found giving loans to nonpoor and nonfarmers	Names of nonpoor, nonfarmer loan recipients
Regulatory officials create deliberate delays to extract ransoms	Try officials caught taking bribes	Bribes	Punish officials (with fines, suspensions or dismissals) for not registering companies on time	Delays in registration required

Source: Author.

found to veer too far from reasonable grading, he or she should be gently punished—by having to take a salary cut, for example, or attend a summer course on grading. Such a reform would not eliminate corruption; a teacher who favored a few students by giving marginally better grades would be difficult to detect. The reform could, however, lead to improvements in grading even among honest teachers.

To take another example, consider two reforms for dealing with the problem of civil servants who systematically miss work. In the first reform, severe punishments are handed out for unjustified absences. This may lead to a more diligent pursuit of collecting the proper—if false—justifications

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for absences. It is easy to obtain a fraudulent doctor's notes in many countries (it is also often difficult for a genuinely sick person to obtain one). A set of reforms in Venezuelan hospitals that punished nurses for unjustified absences did not reduce absences but did lead to a reduction in unjustified absences (Jaen and Paravisini 2001).

The second reform, suggested by principal-agent theory, would set a limit on total absences. Some absences are caused by factors outside the agent's control. But as long as punishments are not draconian and rewards significant but not extravagant, there is no great injustice in providing incentives for attendance. Deducting 2 percent of teachers' monthly salary for each day of absence, for example, regardless of the reason would motivate teachers to show up without creating an undue burden. (Exceptions could be made in the case of severe chronic illnesses, in which case illness would have to be observed by a supervisor.)

In many cases, principal-agent theory, rather than the economics of crime, suggests a more realistic set of reforms for controlling corruption. It is important to keep in mind, however, that principal-agent theory is a poorly understood tool. Agents respond to the incentives they are given, not to the reason why the principal gives them the incentive. Give a teacher incentives for better student performance, for example, and grades will often improve. The result may reflect teaching for the test or even teacher-induced cheating, however (Jacob and Levitt 2003 find that this happens even in U.S. public schools). Incentives must be given in such a way that agents can reap higher payoffs only by actually improving performance on factors that the principal really cares about. Azfar and Zinnes (2005) find that giving trainers incentives based on students' performance on 80 questions improved performance (measured by satisfaction ratings, not test performance), but giving incentives based on 20 questions did not, perhaps because trainers were teaching for the test. Incentives should be given on the basis of broad measures of performance and exams should be proctored and set by people other than those who teach the class.

In summary, by using a combination of incentives for good behavior, civil penalties for corruption-related instances where neglect and mismanagement can be proved, and criminal penalties when evidence of the most harmful kinds of corruption can be proved, a committed principal can significantly reduce corruption by agents (box 8.1). A more difficult problem is faced when the principals themselves are corrupt and complicit in the acts of incidental corruption that most people experience.

BOX 8.1 Experimental Evidence on Controlling Corruption

Azfar and Nelson (2006) designed an experiment to examine the impact of three factors on corruption: the likelihood that effort by a prosecutor would succeed in exposing corruption of the executive, the wages of the potentially corrupt executive and the prosecutor, and the political independence of the prosecutor. They model the mechanism of exposing the executive in a way that is much simpler than obtaining a criminal conviction; the executive faces no punishment other than losing the stolen funds and (often) not being elected in the next round. This is closer to a highly publicized civil trial, except for the requirement that the investigation be carried out by a public prosecutor. The experiment involves eight players who play 12 rounds of a corruption game. In each round three players are selected as candidates and can get elected as president and in some variations elected as attorney general (in other variations the president appoints the attorney general). The president can then steal public funds, and the attorney general can expose him to the voters. Then the next round is played with a new election – the previous round's president, attorney general and a randomly selected third player are candidates. The experimental variations are wages, transparency, and whether the attorney general is elected or appointed. Their results indicate that both an increase in the ease of exposure and an increase in wages reduce corruption. Barr, Lindelow, and Serneels (2004) find similar effects in a sample of Ethiopian nurses.

Olken (2005) conducted a field experiment in which he randomly increased the probability of auditing the funds of Indonesian local governments in World Bank–financed projects. He found that credible threats to increase the probability of audits did reduce corruption. Criminal charges were seldom filed following the audits. Instead, corrupt local officials faced social and political costs.

The Sale of Jobs and Its Effect on Mechanisms of Accountability

In many corrupt systems, jobs are systematically sold by senior officials in exchange for both up-front payments to purchase the position and bribe-sharing arrangements. The practice has a long and distinguished history. The Catholic Church sold jobs in the late Middle Ages (Noonan 1984). The East India Company sold customs posts, and many European armies sold military positions. The exchange of prestigious ambassadorial positions in exchange for campaign contributions continues to the present day, even in developed countries.

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In developing countries, low-level positions such as posts as customs officers and tax collectors are sold in exchange for explicit payments to senior officials. These sales are often packaged with job protections, so the officials who buy their jobs also buy some protection from being fired. Sometimes regular civil service protections suffice; at other times extra protection is offered. These arrangements also often include bribe-sharing agreements in which low-level officials share their bribe receipts with the senior officials who hired them. Not all sales of jobs are intended to result in bribe farming. The jobs of school teachers and “ghost workers” are sold not primarily for the purpose of selling the right to demand bribes but simply in return for the right to collect a pay check.

What happens if the microeconomic remedies suggested by principal-agent theory or the economics of crime in a system are applied where jobs are sold? An increase in wages would lead to a higher price for the jobs. Such an increase in the price of the job would either constrict employability in the public sector to the elite or lead to officials having to borrow money to buy their appointments. Those who go into debt may be compelled to take bribes, even if they would otherwise not have done so. The increase in wages would also increase the value of patronage networks and may increase the proportion of people who join them. Raising public sector wages is a good preventive measure for reducing the likelihood that corruption emerges and becomes entrenched, but once systemic corruption is in place, raising salaries itself is unlikely to be effective unless combined with various other accountability measures.

The use of microeconomic incentives by increasing the likelihood of being fined, suspended, fired, or imprisoned would not be enforced. Such laws would be stillborn, rarely used, and possibly used selectively to punish those who step out of line in the system of corruption. One of the reasons why Montesinos may have videotaped the bribe payments may have been that he wanted evidence with which to blackmail anyone who stepped out of line in his system of corruption.

Dealing with Systemic Corruption

Many countries in the world suffer from systemic corruption. This type of corruption is analogous to organized crime: participants act not independently but in concert with one another, maintaining the system that allows them to extract rents and taking their own share of the rents. Systems of corruption can involve the sale of jobs, the sharing of rents from bribery or theft, and the compromising of systems of integrity that could control corruption.

Governments use several mechanisms to deal with corruption, including the judiciary, ombudsmen and inspectors general, anticorruption commissions, and legislative accountability committees. In many countries, however, these mechanisms of accountability do not work, because they are captured by a systemically corrupt government. Cases are assigned to complicit judges, or public prosecutors decline to charge officials with corruption. Ombudsmen, inspectors general, and anticorruption commissioners may target only members of the opposition or rival politicians in the ruling coalition. If they are given extraordinary powers, they might use them to punish those who deviate from the system.² These mechanisms may therefore be ineffective or even counterproductive in reducing corruption.

Vladimir Montesinos and Alberto Fujimori compromised the systems of integrity in Peru by buying the judiciary, the legislature, the press, and the broadcast media, reducing Peruvian democracy to a set of electoral formalities. This section offers a set of rules that, if implemented in conjunction with a system of regular multiparty elections, might prevent the emergence of the kind of systemic corruption that existed in Peru (table 8.2).

Elections and Recalls of Politicians

Elections offer a mechanism for the orderly removal of corrupt governments from power. They form the bedrock of accountability in the framework presented here. The basic presumption is that various mechanisms listed in this chapter will expose corruption, which will lead to the government being voted out of office.

Nondemocracies may remove corrupt governments from power by revolution, but the costs of revolution are much higher than the costs of elections and the likelihood of their occurring much lower. Elections also offer a focal point for citizen protest if they are rigged or cancelled. Ultimately, electoral systems rely on protest as a final sanction. To constrain the most corrupt regimes, there may have to be a reasonable chance of a revolution if an election is cancelled or rigged. Rigged elections precipitated protests in Chile, Ecuador, Georgia, the Kyrgyz Republic, Nicaragua, the Philippines, and Ukraine; in many instances corruption was one of the major precipitating factors of the protests (Karatnycky and Ackerman 2005).

Several arguments have been made about the advantages of democracies. This chapter focuses on the notion that democracies are likely to have less corruption than other types of regimes (Treisman 1999).

The literature shows a strong (negative) relationship between democracy and corruption. Persson and Tabellini (2005) examine the impact of various

TABLE 8.2 Alternatives to Traditional Mechanisms of Accountability in Countries with Systemic Corruption

Traditional mechanism of accountability	Why mechanism does not work in systemically corrupt countries	Alternative mechanisms
Justice system in which public prosecutors bring cases and the government assigns judges to cases	Public prosecutors will not charge public officials; the government assigns corrupted judges to cases	<ul style="list-style-type: none"> ■ Allow private citizens to charge public officials with civil charges related to corruption, or criminal charges (<i>qui tam</i>). ■ Elect or have local governments appoint prosecutors ■ Randomly assign judges to cases
Legislative accountability committees selected by a majority	Committee will be complicit with the executive	<ul style="list-style-type: none"> ■ Establish opposition-led accountability committees (although these too can be captured) ■ Allow parliamentary questions, where any member of the legislature can ask question members of the executive branch every week, and broadcast the question and answer session live
State-owned or regulated media	Media are pressured to not expose corruption	<ul style="list-style-type: none"> ■ Allow privately owned and international media, including Web sites
Impeachment	Legislators who would conduct impeachment may be complicit	<ul style="list-style-type: none"> ■ Survey citizens at regular intervals or hold citizen councils to decide on recalls
Legislative committees or ombudsmen with the right to question public officials	Committees and ombudsmen can become complicit	<ul style="list-style-type: none"> ■ Pass freedom of information acts that allow any citizen to demand information

Source: Author.

details of electoral systems on corruption. They find that presidential systems, more independent legislators, and larger electoral districts are associated with lower levels of corruption.

Both single-member districts and proportional representation have advantages in fighting systemic corruption. Single-member districts have the advantage that voters can vote against any person they consider corrupt. However, such districts encourage political monopolies and duopolies that can leave voters with a restricted set of choices—sometimes with no option

other than voting for a corrupt party. Single-member districts also reduce the number of independent legislators. There are also significant advantages to incumbency. In the United States, many legislative seats are simply not contested, especially in state elections.

Proportional representation has a significant advantage in terms of allowing a greater number of parties into the legislature. This increases the likelihood that some vigorously anticorruption legislators are elected, who, if facilitated by institutions such as parliamentary question time, could reduce systemic corruption. Proportional representation has a significant disadvantage, however, because it is difficult for the electorate to exclude corrupt politicians who buy themselves slots high on a party list.

Systems of indirect election are susceptible to corruption and capture.³ In general, therefore, direct elections may be preferable for reducing corruption (this may explain the effect that Persson and Tabellini find for presidentialism, as presidents are typically elected in direct elections unlike prime ministers who are generally indirectly elected via the legislature or sometimes appointed by the president). Systems of indirect elections of the upper houses of parliaments could be replaced with systems of direct elections. Accountability could also be increased by holding elections for upper and lower houses at different times. There is significant inertia in political systems, because those it selects typically have a comparative advantage in being selected by that system. External pressures can lead to reform, however. U.S. senators resisted changing the system of elections to direct elections until members of the House—who used to select them—vowed to follow popular referendums in their own voting for senators.

Electoral systems could also be designed that take advantage of both the benefits of proportional representation (that is, greater variety of parties in the legislature) and the ability to exclude corrupt politicians. For instance, there could be a requirement for primaries, which would allow citizens to exclude corrupt politicians at the primary stage. Alternatively, a two-stage election could be held for parliamentary seats, in which the top two vote-getters would compete in a run-off. Such a system would minimize strategic voting in the first stage and allow the entry of third parties. Citizens could also have the option of crossing out the names of candidates on a party list whom they do not want to be elected on the party slate (voters would be allowed to do so only if they voted for that party).

Citizens could also be given the right to remove corrupt elected officials through recalls. A system of recalls, whereby the electorate can call a new election by, say, collecting enough signatures, is one mechanism for getting rid of corrupt politicians. To prevent frivolous recalls, a large number of signatures

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could be required or a randomized survey of a representative sample of people could be conducted in which a high threshold (say, 60 percent or two standard deviations above 50 percent), would have to support the recall.

Participation and Surveys

The primary purpose of participatory governance is improved preference matching; improved accountability is a byproduct. A survey-based system of governance, in which preferences are elicited by surveys and communicated to public officials, could have such an effect, albeit without the benefits of discussion. One example of participatory governance, Deliberative Democracy, designed by James Fishkin of Stanford University, involves collecting a set of randomly selected people and asking them to discuss issues and vote on them (bostonreview.net/BR31.2/fishkin.html). The meetings are often televised. In some instances, they may change popular opinion about reforms.

How can participation be used to target corruption? Suppose a set of randomly selected people is asked to discuss campaign finance reforms. The result may be a franker discussion and stronger proposals for reform than in a legislature, where each member has some need for financing.

Another option would be to empower each member of the randomly selected group to identify a public official for investigation. The person could also identify who would investigate the official. This mechanism would have the benefit of having a selection system for investigation that can not easily be completely captured and does not waste too many resources on investigating obviously honest officials (as random selection of officials for investigation would).

The World Bank could use such an institution to finesse the issue of compromising sovereignty in its efforts at increasing accountability. If a randomly selected set of citizens—rather than World Bank staff—is asked whom to audit and who should audit, no reasonable notion of sovereignty is compromised. Organizations such as the Open Society Institute could sponsor these accountability councils, which could be televised, generating considerable interest. If the country had a freedom of information act, citizens could watch a citizens' council decide which congressperson's finances to audit or investigate.

Civil Charges

Changes in the law that allow private parties to bring civil charges in cases of neglect or mismanagement could be an effective remedy against forms of corruption in which the victims know they are being victimized. Another option is instituting a rule that allows private persons to file criminal charges

on their own—a process known as *qui tam*. The adoption of *qui tam* could lead to a significant improvement in integrity in many systemically corrupt countries where the prosecutor's office has been compromised.

Allowing civil charges of neglect and mismanagement to be filed in corruption-related cases in which corruption itself is difficult to prove may reduce corruption (box 8.1). Corruption itself—and its most typical manifestation, bribery—is very easy to hide. However, the consequences of corruption are not always so easy to hide, especially in the case of the more harmful forms of corruption. It is very difficult to expose the corrupt behavior of a judge who, after accepting the same bribe from both parties, then makes a fair decision; a judge who makes a large number of unfair decisions is more easily identifiable.

Direct evidence of corruption is not always necessary to fight corruption in the courts. Even though no direct evidence may exist of corrupt collusion, there may be clear evidence for neglect and mismanagement (box 8.2). It would be wrong to charge, convict, and jail an official for corruption on the basis of such evidence, but such evidence should be enough to suspend or even fire an official on charges of neglect or mismanagement. This in itself would provide some deterrence to official corruption, especially in the most visibly harmful cases.

BOX 8.2 Fighting Corruption Indirectly in Indonesia

Indonesian law made it difficult for officials to pursue corruption charges. Photocopies were inadmissible as evidence, the legal definition of corruption included only embezzlement, and a case became moot if the money was paid back.

Several cases in Indonesia suggest the usefulness of an indirect legal approach that relies on charges of official neglect rather than corruption. In Malang, East Java, corrupt businessmen who had purchased a stamp of approval from the relevant government officials were producing substandard motor oil. When Malang Corruption Watch investigated the motor oil factory, following complaints to a consumer rights association, they found that the oil was substandard. This constituted enough evidence to charge the manager of the company, who was indicted and had to shut down operations. It was not feasible to file charges of corruption against the government officials who approved the oil for sale, although charges of neglect could have been brought against them.

The Café Corporation in North Sulawesi was supposed to channel small loans to farmers. In fact, only half of all recipients were farmers—and only half of those farmers actually received their loans. When farmers who did not receive loans complained, a government agency investigated the case. Prosecutors were able to get a conviction on charges of mismanagement.

Random Assignment of Judges and Prosecutors

In many developed countries, judges are randomly assigned to cases. The process of assignment can be highly visible (a ball, a roulette wheel, or a pack of cards could be used in clear view of everyone). If there are even a few honest and diligent judges, random assignment of cases will ensure that at least some cases will receive fair hearings in court.

Criminal law systems generally require that charges be brought by a public prosecutor. Public prosecutors are typically appointed by the executive branch of government and assigned to particular cases by some higher authority. Each of these steps is liable to be captured by those running a system of corruption.

A remedy for the second problem—assignment to cases—is the random assignment of prosecutors to corruption cases. Assuming that there are some honest judges and prosecutors, and that judges are assigned to cases randomly, this would at least occasionally lead to a situation in which both the judge and the prosecutor were honest. A conviction of a low-level official could be used to gather evidence that could lead to the conviction of senior officers and other members of the system. Even if the conviction of other people is outside the jurisdiction of the case, a judicial process in which facts are found and publicized can create legal and political momentum that becomes difficult to stop.

Dealing with systemic corruption is difficult in that many of those who are counted on to expose corruption cannot or will not do so. But one or two cases may be enough to expose a system; each case does not have to be tried independently. A single exposure can cause the entire system to unravel.

Random assignment of judges and prosecutors is probably not the most efficient way of dealing with incidental corruption. It is an excellent way of dealing with the far more pernicious practice of systemic corruption, however. Given the far greater costs of systemic corruption, and the likelihood that it will emerge if given the chance, all countries would be well advised to adopt rules on randomized assignment of judges, even if they think they do not have systemic corruption.

Election of Prosecutors

One way of dealing with the risk that the executive branch may appoint lazy or complicit prosecutors to protect corrupt politicians is to involve citizens in their selection. One argument against electing rather than appointing too many officials is that elections tax the civic virtue of the citizenry, who may

not really want to decide who should be elected to various unglamorous posts (Cooter 2003). The office of prosecutor, however, is one that does interest the citizenry, particularly in places where corruption is rife.

A possible objection to election of prosecutors is that it favors people who like—or at least can tolerate—running for office. This may be a virtue, however, because the love of attention and power that come with an affinity for politics may lead to a greater enthusiasm for the diligent prosecution of high-profile cases.

In some federal systems, prosecutors are appointed by the state or provincial governments. In Pakistan, for example, Nawaz Sharif, the chief minister of the Punjab, appointed the public prosecutor who indicted Asif Zardari, the husband of Prime Minister Benazir Bhutto, for corruption. The indictment would have been unlikely had the federal government appointed all prosecutors.

An alternative to election of prosecutors would be the appointment of some prosecutors by the legislature or even by opposition parties. While possibly an improvement on selection by the executive, the process may not always be as good as direct elections, as the opposition itself may be captured (as was the case in Peru under Fujimori).

Randomized Audits and the Public Declaration of Assets

The public declaration of assets makes wrongdoing more difficult to hide. Ill-gotten gains can be hidden in the accounts of relatives, friends, and associates, but this makes them complicit and increases the likelihood of identification when systemic corruption unravels.

Requirements for public declarations of assets of public officials need to be matched with randomized audits of public officials. These audits should include the audits of relatives, friends, and associates. Audits that show how people game the system should be used to adapt the system.

Auditors should be randomly selected. Alternatively, a random selection of people could decide whom to audit and who should audit. Another option would be to allow private auditors to audit whomever they want and to offer rewards for the identification of corrupt officials.

Public Expenditure Tracking Systems and Randomized Audits of Governmental Finances

Examination of the finances of public sector entities can reveal certain kinds of corruption. Public expenditure tracking systems (PETS) that require each

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level of government to state how much it receives from and sends to every other level can reveal corruption. Reinikka and Svenson (2002) introduced a PETS in Uganda and reduced reported leakages from about 80 percent to about 20 percent. Whether actual leakages fell by quite that much is unclear, as some leakages can be hidden from PETS by determined officials who collude. If, however, the PETS were followed by a deep audit of some randomly selected points, such collusive reporting could be spotted.

Accountability Committees and Question Time

The legislature can play a significant role in exposing corruption in the executive branch if empowered to do so. Accountability committees should be headed by the party in opposition to the executive. These committees should be given significant powers to investigate members of the executive branch and to question them in the legislature. Such committees cannot prevent corruption (Montesinos had compromised the opposition), but they may reduce it.

Other reforms, such as question time, in which any legislator can ask questions of the executive in a widely broadcast regular proceeding, may be more effective at revealing corruption. The executive branch should be regularly questioned by the committee and other legislators, and the proceedings should be televised live and rebroadcast in the evening. In the British Parliament, the prime minister is questioned every week, and his senior ministers are questioned every day except Friday. Each legislator can pose up to two questions. Questions are shuffled, virtually guaranteeing that opposition members will get to ask several questions every day. Questions not answered in the oral period receive written answers, which are made public. This process ensures that any attempts to pack the proceedings with innocuous questions by the majority party is visible to the electorate. There tends to be significant interest in these proceedings, making it worthwhile for networks to carry them. The information revealed can have significant political consequences.

In Croatia parliamentarians can ask 30 questions of the executive branch every month. One such set of questions on a bribe allegedly accepted by Foreign Minister Miomir Zuzul led to his resignation. President Stjepan Mesic easily won a reelection soon after, suggesting that political fall-out from a corruption scandal can be limited (International Herald Tribune 2005).

Whether to allow the legislature itself to dismiss the government following the revelation of corruption in question time is not clear. On the

one hand, it would make the legislature look like an impotent debating society if it could not dismiss the government following such a demonstration. On the other hand, allowing the legislature to dismiss the government runs counter to presidential systems, which appear to reduce corruption. One possibility is to authorize the legislature to call for a large nationwide survey about a recall, calling a new election only if a supermajority asks for a recall. The survey could explicitly ask whether people thought the government was corrupt, rather than whether voters wanted the government recalled. This would not prevent citizens from opportunistically responding that the government was corrupt simply to get a chance to change it, but with a modicum of civic virtue among a proportion of the citizenry, asking specifically about corruption may reduce recalls for other reasons.

There should be a political mechanism to dismiss a government that appears to be corrupt even in the absence of incontrovertible evidence of corruption. Elections are supposed to dismiss governments that are incompetent or establish priorities that are not consistent with the people's will. In the case of corruption, however, the electorate should not be required to wait for a scheduled election to change government.

The political and judicial mechanisms for dismissal are not mutually exclusive. The system could allow for both; depending on the complexity of the case or the sophistication of the form of corruption, the judicial mechanism may be more effective. The two mechanisms may even be complementary. The facts found in a judicial investigation may help bolster a political ouster. The advantage of the political process is that it allows a corrupt government to be dismissed even in the absence of incontrovertible evidence, without compromising the rule of law—which for very good reasons is based on the need for incontrovertible evidence in criminal cases. It makes sense to have high standards of proof before subjecting people to severe criminal punishment; there is no need to have the same standards of proof to dismiss a government.

The question of parliamentary immunity is a difficult one. It is needed to prevent legislators from being intimidated by governments, but it offers refuge to criminals. The freedom of a few criminals is often a small price to pay for the benefits of an independent legislature. There does not need to be immunity from investigation, however. In fact, a few members of parliament should be randomly selected for investigation every year. Random selection will prevent the government from using the investigations for retaliation, and occasional selection for an investigation will create some incentives for legislators to be honest.

The Media

The media play a crucial role in both investigating and publicizing systemic corruption. Two reporters, Carl Bernstein and Bob Woodward, exposed the Watergate scandal; Montesinos and Fujimori were eventually brought down by the airing of a video of Montesinos paying a bribe; and the media led the investigations that resulted in resignations of senior politicians in Brazil in 2005.

Systemically corrupt governments spend a lot of money, effort, and political capital corrupting the media. Indeed, Montesinos spent most of his bribe money bribing the media. He used bribery, intimidation, defamation, and state ownership of media to control the content provided to the public. Many other electoral dictatorships use similar tactics. The Committee to Protect Journalists (www.cpj.org) and Reporters without Borders (www.rsf.org) both document the ways the press is intimidated and suppressed in many countries.

A variety of verifiable rules can be implemented that make it likely that there will be at least some inquisitive, independent, and diligent journalists who will expose corruption if systemic corruption exists. An advantage in fighting systemic corruption is that only some instances need to be exposed for the system to unravel. Another advantage is that a system of corruption creates a lot of evidence, even if it is all private knowledge. Montesinos bribed hundreds of people. Even small systems of systemic corruption generally involve dozens of people. A diligent investigator could uncover parts of such a system, leading to the unraveling of the system. But such investigators can be threatened or neutralized: Reporters without Borders reports that 63 journalists were killed, 800 arrested, and 1,300 physically attacked or threatened in 2005. In addition, 1,000 media outlets were censored in 2005.

To prevent such intimidation, policymakers can take several steps:

- Prohibit censorship. Prohibiting censorship will not prevent subtle forms of censorship, including inducements for self-censorship by, for example, withholding advertising revenue from newspapers, but it can prevent the most obvious forms of corruption.
- Commit to allowing an international investigation into the death of any journalist, and allow all imprisoned journalists to appeal in an international court.
- Allow private television channels, and ban state-owned newspapers. State ownership of the media is correlated with worse governance across countries (Djankov and others 2001). While there are anomalies, such as

National Public Radio in the United States and the British Broadcasting Company, which provide excellent coverage, in general allowing the government to own the media creates space for systemic corruption.⁴

- Allow foreign journalists to cover domestic stories. In many small developing countries, too few journalists have the training and independence to cover stories. Allowing foreign journalists to cover stories would increase the likelihood of exposing corruption. Foreign journalists also have the benefit of protection from their embassies.
- Allow foreign transmissions of radio and television broadcasts and Web sites of foreign newspapers. With increased access to the Internet and the improvement of computer translations, allowing foreign media into a country could significantly increase the ability of activists to obtain news.

Freedom of Information Acts

A freedom of information act allows the general public to access information by filing requests. Supplementary legislation that requires local governments, political parties, and public officials to disclose their finances makes freedom of information acts a useful anticorruption tool.

Many freedom of information acts have been adopted in the past few years. In some developing countries and transition economies, these acts have actually leapfrogged over similar laws of developed countries. An example is India's recent law, under which all government documents not specifically classified as secret are accessible by the public (sadly, the act explicitly omits Kashmir from its purview) (Ministry of Personnel, Public Grievances and Pensions 2005).

The effectiveness of freedom of information acts can easily be verified. Civil society organizations and even private citizens can file requests for information and record how quickly and how well public servants respond to their request. Freedom of information acts can be used both for the initial exposure of corruption and in the process of unraveling systemic corruption, by starting independent investigations of officials who may be implicated in a scandal.

Freedom of information acts are typically limited by concerns about privacy and national security. The appeals process that decides whether some requests for information should be denied should include members of the opposition, and a unanimous vote should be required to classify a document as secret. Doing so would make it less likely that information that could expose corruption would opportunistically be labeled as a national security secret.

The Role of Local Governments

The existence of multiple layers of government creates the opportunity for the separation of powers, in which different levels of government can discipline each other. Increasing the likelihood of audits by a central government agency reduced corruption in local governments in Indonesia (Olken 2004). If, however, the central government agency is itself corrupt, the system of audits could end up being used to cement rather than disrupt a rent-extraction system. The logic of disruption dictates that a second round of audits, in which any private firm or NGO can reaudit the central government's audit, be instated to prevent systemic corruption involving the central governments auditing agency.

One problem with fighting systemic corruption is the limited contestability of political markets. In some democratic but highly corrupt countries, such as Bangladesh, all credible leaders are tainted by corruption. Local governments provide an excellent training ground for politicians to learn both the process of governing and the process of campaigning. They thus increase the contestability of political markets. The existence of local governments can increase the choices voters have, allowing them to throw the rascals out rather than just choose among rascals.

Local governments also allow ideas to be tested in some places and then tried elsewhere if they work. They can be used to conduct a scientific analysis based on the randomized assignment of localities to treatment and control groups.

Many of the reforms suggested here could be legislated by a majority in a local council in many countries. Where reforms succeed in reducing corruption, neighboring localities could come under pressure to implement similar reforms. A university or NGO could arrange for a high-publicity competition in which localities compete for the adoption of anticorruption legislation. A recent project in Romania created such a competition for the adoption of deregulatory reforms; eventually, the central government adopted some of the deregulation reforms as well (Timisoara City Hall 2007). If reforms are effective, the process may even create a dynamic that induces the central government to adopt some of these reforms—though resistance to adopting ant corruption reforms may be higher.

Case Study Evidence on Systemic Corruption

Four case-study examples yield lessons on dealing with systemic corruption. We discuss Belarus, Brazil, Kenya and Turkey and then briefly the role of revolution sparked by electoral (or other) fraud in disrupting systemic corruption.

Belarus

Between the mid 1990s and 2005, the government of Alyksander Lukashenka subverted democracy while maintaining the facade of multiparty elections (Silitski 2004). Lukashenka used physical intimidation and constitutional reform to ensure electoral victories and remain in power. Several lessons can be learned from his rule about how to prevent democracy from being pre-empted (table 8.3).

Brazil

A recent set of corruption scandals in Brazil reveals how the interconnectedness of systemic corruption can be used to make the system unravel (Saibro 2006). Reporters from the weekly magazine *Veja* recorded the head of procurement at the post office taking a kickback. The opposition parties called for a parliamentary investigation, which the government first resisted but then agreed to. The resulting investigation implicated Roberto Jefferson of the PTB (Partido Trabalhista Brasileiro), a party allied with the government. Jefferson was also implicated in another scandal when Lidio Duarate, the head of the Brazilian Reinsurers Institute, reported to the media that Jefferson demanded kickbacks for giving Duarate his job and that Duarate hired Jefferson's associates.

Jefferson, in turn, accused the ruling party, which had only a minority in parliament, of bribing legislators to obtain a majority. Two leaders of opposition parties Severino Cavalcanti of a conservative party and Waldemar Costa Neto of a liberal party, were implicated, and Costa Neto resigned; the president's chief of staff, Jose Dirceu, also resigned. The crisis led to pressures for reforms that would combat corruption. It has been politically costly for the ruling party.

What lessons can be learned from the experience? First, the media play a critical role in investigating and publicly exposing corruption. Second, parliamentary investigations are vital. Empowering the parliamentary opposition to launch an investigation without the assent of the majority increases accountability. Third, systems of corruption that are based in the sale of jobs, can unravel as soon as someone starts talking.

Kenya

President Mwai Kibaki came to power in 2002, after winning an election against the corrupt Daniel Arap Moi. Moi had tried to rig the elections, but a combination of international observers and domestic activists foiled his

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TABLE 8.3 Rules That Might Have Prevented Democracy from Being Subverted in Belarus

Action by Alyksander Lukashenka	Rules to prevent subversion of democracy
Killed or imprisoned journalists	Government should allow independent inquiry into the death of any journalist (with the family of the journalist choosing the investigator). Imprisoned journalists should have the right to appeal to an international court. The reports of the inquiries into deaths and the judgment from the appeals process should be broadcast.
Denied accreditation to election observers	Accreditation should be given by a panel that includes an equal number of members of the opposition. There should be a simple accreditation process that can be approved in the first instance by any member of the accreditation committee. A supermajority or even a unanimous vote should be required to deny accreditation.
Stuffed election commission with cronies	An equal number of members of the election commission should be nominated by any significant party in the legislature (say, with more than 10 percent of the members of parliament). Smaller parties should also get to nominate members of the election commission. Each member of the election commission should write an independent report on the election that should be broadcast, published in newspapers, and circulated over the Internet. The broadcast of the reports of election members should be followed by a question and answer session with the press.
Disallowed exit polls	Multiple organizations should be allowed to conduct exit polls, so that pollsters could flag statistically significant differences between their polls and other polls and between the polls and the election results as evidence of rigging. Such a system might not detect minor rigging, but it would detect major vote fraud.
Shut down universities	Either ban the closure of or require a majority of the opposition to shut down a university.
Used firearms against protesters	Ban the use of live ammunition against unarmed protesters.
Changed constitution so that heads of regional administrations are appointed	Require election—preferably direct election—of leaders of provinces and capital city. These alternative power centers are important for a credible opposition.
Censored mass media	Disallow censorship in all circumstances. Allow opposition oversight of advertising budgets of state-owned companies so that critical newspapers cannot be punished by withholding advertising revenues.

Source: Silitski 2004.

attempt. The new government, beholden to the forces of integrity, appointed John Githongo as head of the Kenyan Anti-Corruption Commission.

The primary case of grand corruption Githongo investigated involved the sale of “services” by Anglo Leasing, an apparently fictitious company, to the Kenyan government. The sale required the signatures of the secretary of interior and the secretary of the treasury. Githongo uncovered evidence that at least 10 senior officials or legislators were involved in the multimillion dollar scheme and that many other similar schemes existed (Githongo 2005).

Githongo’s efforts to reverse the sale and remove the secretaries from office met with significant pressures from many senior officials. These included threats to kill him and to use the legal system against his family. His dogged pursuit of the issue did bear some fruit—some of the money was returned to the Kenyan government—but eventually he was forced to resign. After his resignation, the parliamentary public accounts committee, led by an opposition leader, interviewed Mr. Githongo in Great Britain, where he now lives in exile. The interview led to the resignation of two ministers.

A number of aspects of this story are worth highlighting. First, there may have been a moment of extraordinary politics at the end of the Moi regime when reforms not normally politically feasible may have become possible. It led to the appointment of Mr. Githongo. Had the forces of integrity had a set of integrity-enhancing rules, such as those discussed in this chapter, some of them may have been adopted. Second, systemic corruption involves many people, and the system can unravel. Third, the system will fight back. The rules must therefore include protections for key players on the side of integrity. Fourth details of constitutional form or political tradition like opposition leadership of the public accounts committee matter.

Turkey

On November 3, 1996, a car carrying a police chief, a prominent member of parliament, a criminal, and his mistress crashed into a truck in the roadside town of Susurluk in western Turkey, killing everyone but the member of parliament. The criminal, Mehmet Ozbay (also known as Abdullah Catl), a notorious smuggler and blackmailer wanted by Interpol, possessed an identification card personally signed by the interior minister, Mehmet Agar. The car contained a bag full of dollars and a trunk full of weapons; the passengers’ pockets were full of cocaine. The incident led to a change of government in Turkey (Akay 2003).

Immediately after the crash, student protests broke out in response to this evidence of grand corruption; they were repressed. Then a group of activists and NGOs began a nonviolent campaign by asking people to turn off their lights for one minute every evening at 9:00 p.m. The media, initially reluctant, joined the campaign, playing an important role in the dynamics of the protest. These protests became widespread: millions of Turks began turning off their lights in protest of the government's corruption. The government initially resisted the campaign and tried to discredit it, but eventually the momentum created by this campaign led the National Security Council to ask the government to resign.⁵ An accident that revealed corruption and a sustained campaign brought down a government.⁶

Several lessons can be drawn from this experience. First, exposure of corruption needs to be followed by a sustained campaign to create genuine political costs. Governments will try to suppress these campaigns, but in a country like Turkey, which cares about its international image, the ability to suppress a nonviolent campaign is limited. Second, the role of the media is important. Even if initially reluctant, the media will often join a campaign once it gets going. Third, having an external source of accountability that can call a government to resign is critical. In Turkey this body is the National Security Council, which may have asked the government to resign only because its members did not like the government in the first place. In other countries, a supreme court or constitutional court may play such a role—it was such a court that eventually asked Slobodan Milosevic to hand over power to the elected government after several days of protest in Serbia. Another option would be an explicit constitutional provision under which a group of citizens can ask for a recall.

According to the Center for Global Integrity, integrity systems in Turkey are very weak (www.globalintegrity.org). The Turkish government objected to the report, but the objectivity and specificity of the center's methodology allowed it to respond to the Turkish government's criticisms. The hope is that the Turkish government will reform its integrity system to improve its scores on the "Global integrity" matrix.

Elections and Revolutions

Popular protests and new elections have occurred in Georgia, Indonesia, Lebanon, the Philippines, Serbia, and Ukraine. Some of these revolutions were inspired by corruption; all were driven at least in part by dissatisfaction with the constitutional mechanisms of changing a government, either because an election had been rigged or because the constitutional process of impeachment was compromised (Karatnycky and Ackerman 2005). In the

Philippines after the Senate refused to impeach Joseph Estrada in 2000/2001, “people power” brought a change of government. In Ecuador the President Luizo Gutierrez’s attempt to pack the courts with his cronies led to protests that brought down the government in 2005.

One should not overestimate the power of parchment; the constitution of integrity is ultimately written on the hearts of men and women who must ultimately demand their rights when they are denied them. The role of parchment is to provide a set of clear rules, so that brave people can coordinate their demands and protests in a way that disrupts systems of corruption. Elections are one such set of rules. Holding elections regularly and often—and having a population that can be relied on to change a government by protest if an election is massively rigged or cancelled—is an important mechanism for controlling grand corruption, especially if combined with other mechanisms.

Recommendations

What can different members of society do to fight corruption? National governments in partially democratic, partially dysfunctional states cannot be expected to adopt reforms to combat systemic corruption. The recommendations provided below therefore focus on what steps other groups—ordinary citizens, the media, NGOs, international organizations, foreign governments, and local governments—can take to fight corruption.

The Role of Citizens

Citizens should pay attention to the information provided by the media and by activists on corruption and related matters. They should vote, and they should protest vociferously if elections are rigged or cancelled or the government undertakes significant anti-integrity measures, such as replacing the entire judiciary with its cronies. Citizens should also pay attention to efforts by activists to mobilize them in mass anticorruption campaigns when systemically corruption is exposed, as they did in Turkey, even if no election is scheduled. Such mobilizations can lead to recalls even if there is no such provision in the constitution.

The Role of the Media

The media have a vital role to play in preventing systemic corruption, by exposing corruption, causing it to unravel, and mobilizing the citizenry into action. If citizens are the jury in the court of public opinion, the media

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is the prosecutor. Journalists and columnists should courageously investigate corruption cases; report threats and intimidation to the Committee to Protect Journalists, Reporters without Borders, or Transparency International; publicize cases of corruption; follow leads to other involved parties; and communicate to the public the efforts of activists to mobilize them into action.

Much of the media will be co-opted into the system of corruption, but it takes only a few independent journalists to expose systemic corruption. Once exposure starts, the rest of the media may defect into the integrity camp to demonstrate they were not complicit—or at least that they are no longer complicit. In Peru after the first video of corruption was aired, even the television stations in Montesinos' pocket felt compelled to air them. In Turkey, after initial reluctance, the media started publishing stories and even publicizing the protests.

The international media also have a role to play. International journalists should work to expose corruption and to train their local counterparts if they trust them not to be complicit in systemic corruption. Foreign journalists have much greater protection afforded to them by their governments than local journalists enjoy. Foreign media should also broadcast into systemically corrupt countries. Foreign media sources should maintain their independence from their own governments and not become or appear to become mouthpieces for their governments.

In some cases the foreign media have not done enough to expose systemic corruption. In Peru, for example, it seems unlikely that a vigorous effort to expose Montesinos, who had bribed 1,600 people, would not have produced some evidence.

The Role of Activists, NGOs, and Universities

The role of activists is to find evidence of pieces of the corrupt system and to use this to start protests, to urge the media to pursue these cases and to publicize them, to press for parliamentary inquiries, and to create greater domestic and international pressure for reform. Use of the Internet to spread information can be effective. Activists should also keep up pressure by exposing related cases all the way to the next election, so there is real political bite to exposure of corruption.

NGOs should keep their activism and service delivery wings separate; ideally, NGOs should do one or the other, not both. Activism requires a certain arm's length and adversarial relationship with the government; working on service delivery sometimes requires close coordination. Activist NGOs can

work with foreign donors, but they should be careful to resist pressures to become their mouthpieces and should not get involved with donors that intensify such pressures. Doing so would quickly rob them of their credibility. Local NGOs and universities can also organize competition among local governments on the adoption of the reforms described in this chapter. Universities could also study the impacts of reforms.

International NGOs and universities can help in two important ways. First, they can collect and publicize information on these bright line rules. Given the importance the European Union and the United States place on reform, publicizing these rules can create an important dynamic toward reform. Second, they can help NGOs learn from the experiences of other countries that have created a successful dynamic for reform.

The Role of Foreign Governments, Aid Agencies, and the World Bank

Developed country governments can make an issue of corruption by asking on visa application forms whether the applicant has ever taken a bribe. Since lying on the visa application form is a crime in the country being visited, charges could be brought in the visa-issuing country if the applicant lies. Penalties may be light, but the production of evidence would have political costs.

The World Bank could add questions about bribes to its job application forms. Since lying on these forms can lead to termination of employments, adding such questions would raise the cost of being corrupt to the many civil servants who aspire to jobs in international organizations. Civil charges against human rights violators have created significant costs, even though the civil penalties—typically fines—are much milder than their crimes warrant (Colliver and Feeny 2005).

The World Bank and aid agencies can insist that accountability committees be formed and their audits attached to projects they fund, thus creating expertise and examples of how such a process should occur. The Kecamatan Development Program in Indonesia is one example of such an effort. By insisting on community oversight, the World Bank was able to sidestep a notoriously corrupt Indonesia government, without compromising sovereignty, because it was Indonesians themselves who were empowered (Guggenheim 2007).

Aid agencies and international financial institutions can establish clear conditionalities based on the measures proposed here. Loans and aid could be granted only to countries that have parliamentary debate with

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significant public input—including televised town hall meetings—and adopt the following rules:

- The legislature should be allowed to question the executive branch every week and the chief executive at least once a month. These proceedings should be broadcast live on radio and television.
- Cases of corruption—at least cases involving public officials—should be randomly assigned to judges
- The murder or imprisonment of a journalist should be investigated by an international panel. Unless the government is completely exonerated, aid will be withdrawn entirely.
- Foreign journalists and foreign broadcasts should be allowed. Foreign Web sites should be allowed, local organizations should be free to create their own Web sites, and access should not be tampered with.
- Public officials should be required to declare their assets and incomes.
- Private auditors should be allowed to audit public officials.
- In cases of neglect and mismanagement, even when corruption may be involved, private parties should be allowed to file civil lawsuits.
- Elections should be monitored by domestic and international observers.

These agencies can also set rules, such as the Millennium Change Account's rule allocating aid on the basis of performance on governance ratings. (The Millennium Challenge Account allocates US aid on the basis of several indicators of governance, human development and economic freedom to developing countries. The countries themselves are supposed to have greater flexibility in the use of funds than they typically have over other development aid). These ratings have induced considerable reform in areas based on actionable variables, such as the number of days to start a business.

The Role of Local Governments

An honest local government can combat corruption by leading by example. It can pass local laws mandating that all public officials in the locality should declare their assets publicly; that the local executive will answer questions in the local council, which will be broadcast; that the council itself will be overseen by an accountability committee of randomly selected citizens, who will be provided with a lawyer and an accountant they can instruct to investigate financial and legal matters. Once some local governments start doing this, NGOs and universities could organize a nationwide competition among local governments. The leaders of local

governments that do well could be well placed to compete on the national political stage. The World Bank could reward these communities with more development projects.

Local governments can also use the mechanisms described above to discipline national governments by, say, questioning the relatives of national politicians who are in the local council (in systemically corrupt countries, several members of a family are often in politics; some may serve in local councils). Citizens could ask lawyers and accountants to investigate central government issues.

Demonstrating That a Government Is Not Systemically Corrupt

To establish its innocence, a government that claims to have been falsely accused of being systemically corrupt and hence denied funding or a loan could hold a referendum on adopting some of the reform measures suggested in this chapter. If a government is on the margins of eligibility on other measures of performance and conducts parliamentary debate on adopting these rules, it should be given a chance to compete for the loan or aid; if it does not hold such debate, it should not be given the chance.

These rules in this chapter are also useful to have when a new government comes in on an anticorruption platform after the dismissal of a corrupt regime. Efforts often dissolve into a mix of noble pronouncements and toothless or even counterproductive actions, such as the creation of ineffective or even politicized anticorruption commissions. The rules outlined here would give activists and honest politicians something to make the government focus on.

Notes

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1. The system is vividly documented in a series of videos and described by McMillan and Zoido (2004).
2. One of the best-known systems of corruption was created in Peru, where the government of Fujimori had given extraordinary powers to law enforcement agencies because of the struggle with the Shining Path guerrillas.
3. In Indonesia, for example, corrupt politicians bought their places on party lists after the elections were held and then sold their votes for the indirect election of the mayor. Most citizens and journalists thought the system was corrupt (Azfar 2002). The system was eventually replaced with direct election of mayors.
4. Private ownership of the media can also be problematic, especially if private owners achieve monopolies. There is no easy solution to this problem, as authorizing

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the government to tighten antitrust regulations against media monopolies could strengthen its hand against the media.

5. Per Article 118 of the Turkish Constitution, the National Security Council (the Milli Güvenlik Kurulu [MGK]) is set up as an advisory organ. The council, chaired by the president of Turkey, is made up of the chief of the General Staff, the four main commanders of the Turkish Armed Forces, and select members of the Council of Ministers. Like the national security councils of other countries, it develops the “national security policy of the state” of the Turkish republic.
6. Since the incident, Turkey has had two elections. The two parliamentarians implicated in the incident—Sedat Bucak, who was in the car, and Mehmet Agar, the interior minister who signed Ozbay’s identification card—won their seats and remain in parliament.

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