



Stolen Asset Recovery Initiative

The World Bank • UNODC

# Corruption Cases Involving Vast Quantities of Assets

## **Case Studies Common Elements & Initial Findings**

UNODC Expert Group Meeting  
Lima, Peru  
03 December 2018

# VQA Case Compendium

32 cases (long list)  
16 narrative write-ups

Regional diversity

Mix of older cases “classics” and more recent cases: 1965 – 2018

Selection criteria:

Cases that involve VQAs that “that may constitute a substantial proportion of the resources of states”

Sourced using **publicly available information**, incl:

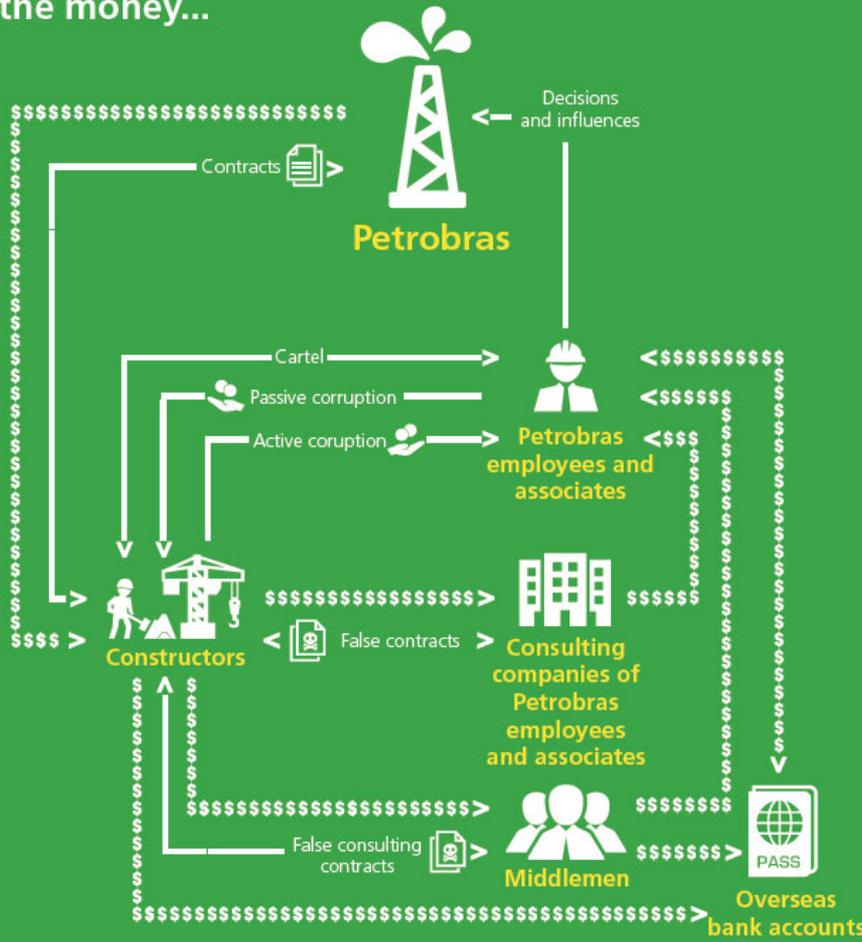
- Court judgments (if available)
- Indictments, other court filings (for ongoing cases)
- Govt/parliamentary investigative reports
- Company registries
- Original documents (contracts, CSP documents), incl. Panama Papers
- NGO & civil society investigations
- Media

# Important Caveats

- Indictments used as source material  $\neq$  evidence of guilt
- Cases study method is qualitative and non-representative
- Case studies = Neg. example of a corruption scheme  
= Pos. example of authorities using legal systems to fight corruption, often across jurisdictions

# Example #1: Operation “Car Wash” (Lava Jato)

## Following the money...



This flow-chart\* offers a simplified view of the 'bribery' part of Car Wash, as alleged by Brazilian prosecutors: some senior Petrobras employees steered padded contracts to selected construction companies, which channelled back bribes via middlemen, often using false consulting contracts and overseas shell companies. Not shown is the final destination of the bribes, alleged to include several political parties.

\*Chart kindly made available by the Brazilian Public Prosecutor's Office (MPF); unofficial translation by Global Insight.

- Example of a vast **corporate bribery scheme**, remarkable for the formalization of bribery as part of ordinary business operations
- 3.2 billion Reais seized by Brazilian prosecutors (MPF) (USD \$846m)
- Odebrecht & Braskem: guilty plea, 2016  
\$3.5 BN = largest corruption penalty ever levied

# Example #2: OPL 245 deepwater, offshore oil block off the Nigerian coast

## BLOCK 245 MALABU RESOLUTION AGREEMENT

THIS RESOLUTION AGREEMENT is made this 29<sup>th</sup> day of April 2011

Between

THE FEDERAL GOVERNMENT OF NIGERIA (hereinafter referred to as the FGN) represented by Honourable Attorney General of the Federation and the Minister of Petroleum Resources; and

MALABU OIL AND GAS LIMITED, a company incorporated under the laws of the Federal Republic of Nigeria having its registered office at 35 Kingsway Road, Ikoyi Lagos (hereinafter referred to as MALABU, which expression where the context so admits shall include its successors-in-title and assigns),

FGN and MALABU may also be referred to herein individually as a "Party" or, collectively, as the "Parties".

WHEREAS:

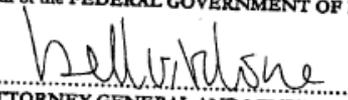
A. On the 29<sup>th</sup> of April 1998, the FGN granted an Oil Prospecting License (OPL 245) over oil block 245 ("Block 245") to MALABU.

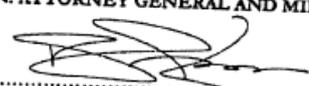
B. On 30<sup>th</sup> March 2001, ...

which all Parties to this Resolution Agreement execute this Resolution Agreement.

SIGNED AND AGREED the day and year first above written.

For and on Behalf of the FEDERAL GOVERNMENT OF NIGERIA:

  
.....  
THE HON. ATTORNEY GENERAL AND MINISTER OF JUSTICE.

  
.....  
THE HON. MINISTER OF PETROLEUM RESOURCES

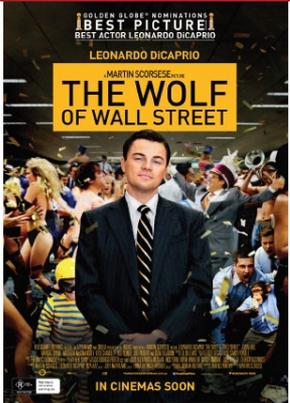
- Example of **privatization of public resources, 'self-dealing'**, by those in control of state functions, hidden behind veneer of legitimacy
- Controversial 2011 deal between oil companies Shell & Eni over \$1.3 billion for access & exploration rights
- \$1.1 bn was directly diverted to a shell company beneficially owned by a former oil minister via an escrow account at J.P. Morgan in London
- Ongoing trial in Milan



2011 "Resolution Agreement" between the Nigerian government and Malabu, a Nigerian shell company

# Example #3: 1MDB

1Malaysia Development Berhad



- Example of **embezzlement of public resources** at a massive scale
- “More than \$4.5 billion” allegedly embezzled (U.S. DOJ civil forfeiture claims); other estimates up to \$7bn
- Remarkable for novel techniques of raising funds specifically for graft, incl. through bond issuance, underwritten by Goldman Sachs

# Example #4: Gulnara Karimova



- Example of confluence of business and politics; **exploitation of a sector of economy for private benefit of those in power**
- \$850 million in illegal bribes paid (DOJ) for licensing deals in the Uzbek telecoms sector
- Settlement between VimpelCom to US & Dutch authorities - combined criminal & regulatory penalties paid: \$795m

# Case Study Analysis

These examples show that vastly different types of corruption cases are included in the compendium.

Are there any common elements at all?

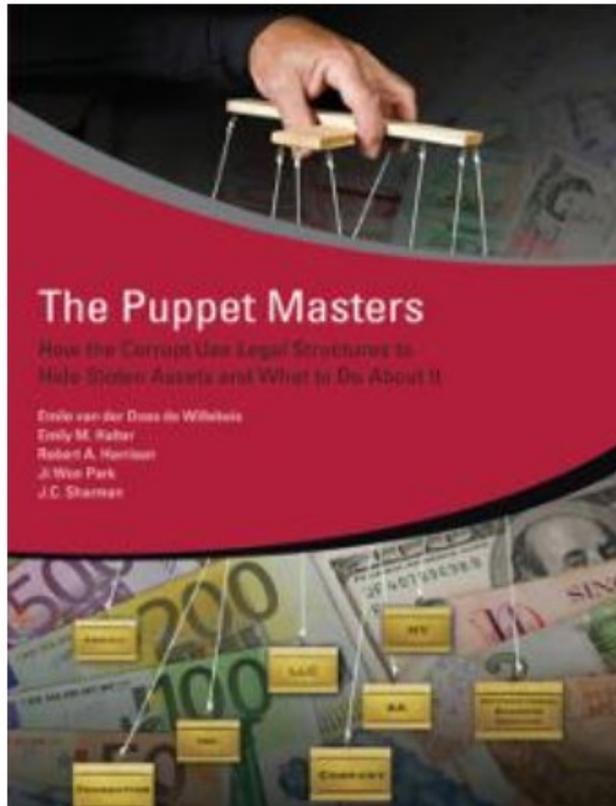
For each case, we looked at:

- “Corruption Mechanisms”
- Investigation Catalysts
- Enabling Conditions
- Major Consequences

# “Corruption mechanisms” featured in case studies

	Featured in # of cases
Misuse of foreign shell companies (incl. offshore)	13/16
Use of nominees or associates to obscure connection to PEP	9/16
Misuse of domestic shell companies	6/16
Fake consultancy agreements	4/16
Bid rigging/preferential treatment in public procurement	
Privatization of state assets	3/16
Deceptively named corporate vehicles	2/16
Misuse of foundations	
Use of cash	
Related party lending	1/16
Manipulation of regulations and import quotas	
Use of share purchase agreement to disguise bribes	
Use of bearer shares	
Fake Invoices	
Misuse of trusts	
Misuse of IOLA lawyers account	
Use of financial restructuring to cover up embezzlement	
Raising funds for graft through bond issuance	

# 2011 StAR study “The Puppet Masters”



- Focused on misuse of corporate vehicles in corruption schemes
  - Relevant to top 3 “corruption mechanisms” identified in the case studies
- Study includes a ‘Grand Corruption database’ with 150 cases involving misuse of CVs
  - Statistics from a limited 2017 update of 32 cases are included in Annex
- Mystery shopping solicitation exercise
- Interviews with practitioners

# Investigation Catalysts

**“Investigation Catalyst” here can mean either:**

- 1) Critical factor that brought the corrupt acts to light (if corrupt acts were conducted in *secrecy*)
- 2) Critical factor that made the investigation possible

*Sourced using **publicly available information only** – in some cases, actual investigation catalysts may not be in the public domain.*

## **Findings:**

- Investigative reporting was the most frequent catalyst, played a critical role in at least half of all case studies
- Notably – revolution or change in government was the 2<sup>nd</sup> most frequent catalyst; featured in 5 of 16 cases.
- CSO investigations, leaks, and whistleblowers each featured as important catalysts for investigations in some cases (3/16), often combined with media coverage.
- A high profile investigation or prosecution can also serve as a catalyst that leads to additional investigations, e.g. Lava Jato

Investigation Catalysts	Featured in # of cases	Examples
Investigative Reporting (Media)	8/16	1MDB Gulnara Karimova Kirchners Diezani Alison-Madueke Kabul Bank + others
Revolution/change in government	5/16	Zine el Abidine Ben Ali Viktor Yanukovich Jean Claude Duvalier Ferdinand Marcos
Whistleblower	3/16	1MDB Council of Europe Bribery Scheme
Leaks		Kirchners Operation Lava Jato
CSO investigation		Dan Gertler OPL 245
Report to authorities (STR or other)	2/16	Operation Lava Jato Council of Europe Bribery Scheme
Civil Lawsuit		OPL 245 Kirchners
Bank Collapse	1/16	Moldovan Bank Fraud
Others...		

Multiple catalysts per case possible.

# Enabling Conditions

- What were critical factors or conditions that allowed the corruption scheme(s) in this case study to be carried out successfully?
- Focus was on *external* enabling conditions, not on personal motivations or other internal drivers of corruption.

# Enabling Conditions

	Featured in # of cases
Availability of corporate structures that conceal beneficial ownership	12/16
Complicity at high levels of government/state capture	10/16
Weak due diligence in public procurement/ weak oversight in public spending	10/16
Weak rule of law	5/16
Lack of transparency in licensing in the extractives sector	4/16
Complicity of international financial institutions	3/16
Weak monitoring & oversight of financial institutions	2/16
Lack of transparency in licensing in other sectors	1/16

Multiple conditions per case possible; some overlap between conditions exists.

# Major Consequences

- Major consequences of grand corruption cases are plentiful and extremely varied
- The distribution and order of importance are less interesting and harder to identify
- Anecdotally, major consequences of the corruption cases observed include, among others, in no particular order:
  - Erosion/undermining of public trust in government
  - Loss in public revenues
  - Loss in foreign aid
  - Erosion/undermining of economic competition in affected sector
  - Political instability & mass public protests
  - Inflated consumer prices in affected sectors
  - Long-term harm to financial sector, incl. currency depreciation
  - Erosion of public trust in financial institutions

# Common Elements (if any)?

Vastly different types of corruption cases are included in the compendium. Clearest high-level commonalities are found in terms of:

## 1 Similar mechanisms of hiding money trail

Abuse of int. fin. system

Abuse of corporate structures to disguise beneficial ownership



## 2 How do they spend it? “Integration” of proceeds of corruption into the economy

e.g. through acquisition of real estate, cars, yachts, jewelry, and other luxury assets



### Importance of going after stolen assets

Available tools depend on legal system – criminal, civil, administrative

# Initial Takeaways #1

- Top 3 corruption mechanisms & #1 enabling condition



## **Importance of Beneficial Ownership Transparency**

Make it harder to conceal BO through opaque company structures by closing loopholes as soon as systematic abuse is exposed

- #2 enabling condition (complicity at high levels of government/state capture) & #2 investigation catalyst (revolution/change in government).

- Peculiar nature of this type of crime: high-profile corruption cases typically involve an abuse of state power for private motives by those with control over the state's functions.
- In many cases investigating and prosecuting large-scale corruption cases involving high-level government officials only happens after a change in government.



## **Critical importance of political will**

**Reliance on criminal prosecutions in affected country not enough**

# Initial Takeaways #2

- This means: increased importance of **political will at the international level** to address high-profile “grand corruption” cases, esp. if political will in affected country is lacking.



## **Shaping international norms on anti-corruption**

“Rise of the anti-kleptocracy regime” (JC Sharman)

- Examples of measures to tackle *foreign* corruption & help shape international norms:
  - Domestic laws that criminalize *foreign* corruption (1977 FCPA)
  - Dedicated prosecutors fighting corruption internationally (U.S. Kleptocracy Initiative)
  - Strengthened AML regulations and enforcement
  - Political commitment to refusing to host stolen assets
  - Better international cooperation in investigation & asset recovery through
    - Information Sharing
    - Improving MLA processes
    - Enforcement of foreign confiscation orders
  - Use of international sanctions against corruption (GloMag)

# Initial Takeaways #3

- **Investigation catalysts:** Investigative reporting, CSO investigations, leaks, and whistleblowers are all critical catalysts in exposing corruption.
  - The nature of high-profile corruption cases means that you cannot rely on law enforcement alone; normal institutional processes may be compromised if there is high-level complicity/state capture.
- **Important tools & measures:**
  - Freedom of the press
  - Resources for investigative journalism
  - Lack of political interference in CSO activities
  - FOIA laws
  - Secure communication tools for journalists
  - Secure technology for document transfers /whistleblowing software
  - Public access to court documents





Thank you!



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# Annex

# 2017 Update of Puppet Masters Database

Number of cases in the database: 32  
(Puppet Masters: 150)

Number of corporate vehicles associated with these cases in the database: 607

- “Foreign” CVs: 483 (registered in a jurisdiction other than main jurisdiction where the crime occurred)
- “Local” CVs: 80
- Unknown: 44

Large spread in # CVs per case:

- 1 – 159 CVs per case
- Average # of CVs/case: 20

Time period of corruption schemes: 1998 – 2015

# In how many cases does this jurisdiction feature?

(as jurisdiction of CV incorporation)

	Jurisdiction of Incorporation	Featured in how many cases?	
1	British Virgin Islands	24	75.0%
2	United Kingdom	14	43.8%
3	Panama	8	25.0%
4	Seychelles Hong Kong Belize Switzerland	7	21.9%
8	USA (all states) Bahamas	6	18.8%
10	Cyprus Gibraltar	5	15.6%
12	United Arab Emirates Delaware/USA	4	12.5%
14	Germany Uzbekistan	3	9.4%

Total # of cases\*: 32

\*Some cases have partial overlap between perpetrators and CVs used.

# Top Jurisdictions of Bank Account

	Jurisdiction of Bank Account	# of CVs with a bank account in this jurisdiction		Featured in how many cases?
1	Switzerland	63	34.8%	11
2	Singapore	25	13.8%	2
3	Latvia	18	9.9%	6
4	Hong Kong	14	7.7%	4
5	Cyprus	12	6.6%	1
6	USA	10	5.5%	3
7	Brazil	9	5.0%	1
8	Netherlands	5	2.8%	2
9	Estonia	4	2.2%	1
	Antigua and Barbuda			1
11	Panama	3	1.7%	2
	Barbados			1

N = 182 (# of CVs for which a jurisdiction of bank account is known)

Some CVs have bank accounts in more than one jurisdiction.

If jurisdiction of bank HQ and jurisdiction of bank branch were different, jurisdiction of bank branch was counted.

# CV Type

CV Type	# of CVs	
Corporation/ Limited liability company	538	88.6%
UNK	49	8.1%
Partnership	13	2.1%
Foundation	3	0.5%
Industrial & Provident Company	2	0.3%
Trust	2	0.3%

N = 607

