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Navigating the political context

Practice insights and adaptive strategies to strengthen the anti-corruption and asset recovery justice chain

Saba Kassa | July 2024

Basel Institute on Governance
Steinenring 60 | 4051 Basel, Switzerland | +41 61 205 55 11
www.baselgovernance.org | info@baselgovernance.org

Associated Institute of the University of Basel

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About this report

The International Centre for Asset Recovery (ICAR) at the Basel Institute on Governance works with partner countries and their enforcement and judicial authorities to strengthen asset recovery capacity, practice and policy. Building on ICAR's longstanding track record, this paper harnesses learning and experiences to think and work politically to strengthen rule of law systems and deter corruption crimes. It contributes to the global conversation on strategic anti-corruption and asset recovery reforms. It is a living document – feedback is welcome as ICAR continues to develop its approach and strategies.

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About the author

Saba Kassa

Senior Specialist / Deputy Head, Prevention, Research and Innovation, Basel Institute on Governance

Dr. Saba Kassa is a public governance expert with over 10 years of experience in promoting democratic governance. She leads implementation of the research, technical assistance and capacity-building activities of the Basel Institute's Prevention, Research and Innovation team. Saba holds a PhD in International Development Studies from the International Institute of Social Studies in The Hague, a Master in International Development Studies from the University of Amsterdam, as well as a Master in Public Administration from Erasmus University Rotterdam.

Email: saba.kassa@baselgovernance.org

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Executive summary

Politics matters for the success of anti-corruption and asset recovery efforts. This report discusses the political and governance factors that affect the performance of the justice system in relation to anti-corruption and asset recovery. It also provides guidance on assessing these factors systematically with the goal of developing adaptive strategies to strengthen the justice chain in line with changing contexts. The Assessment and Monitoring Framework presented here is a state-of-the-art methodology to think and work politically to strengthen rule of law systems.

It draws on the experience and insights of ICAR staff working with anti-corruption institutions across the globe. It responds to a gap in the existing toolbox of anti-corruption practitioners, given that existing political economy methodologies have not sufficiently focused on the contextual factors that impinge on the performance effectiveness of the different anti-corruption institutions constituting the justice chain.

Thinking politically

The evidence shows that there is a more conducive environment for strong performance of the justice system in relation to anti-corruption and asset recovery when there is:

a. strong political independence of the justice chain;

b. strong governance within and between the anti-corruption institutions that constitute the chain; and

c. strong accountability of the respective anti-corruption institutions.

There are 12 key political and governance factors in these three dimensions that shape the effectiveness of the justice chain (see chapter 2). In this ecosystem, the justice chain sits at the centre, shaped top-down by governance factors related to political independence and bottom-up by governance factors related to accountability.

Assessing and regularly monitoring changes in these factors helps to identify opportunities and entry points for strengthening approaches to anti-corruption and asset recovery, and it also works to explain where and why barriers to change and risks may arise.

Applying the framework demonstrates that what sounds straightforward at first glance – namely that an enabling environment will influence the justice chain's performance positively – is actually much more complex:

- A seemingly conducive environment for improving the performance of anti-corruption institutions often comes with challenges and resistance. Opponents of reform fight back hard and often dirty. Solid anti-corruption and asset recovery results take time, which may fuel disappointment and discontent, hence civic expectations need

to be managed. And as the fight against corruption intensifies and anti-corruption institutions start making progress, things are often perceived as getting worse.

- The flipside of this paradox is that even in an unfavourable context, when political and governance factors appear weak, opportunities to strengthen rule of law performance in relation to anti-corruption and asset recovery can still be found.

Thinking politically allows us to make sense of this puzzle and navigate complex political contexts better. It highlights the importance of understanding how complex political and governance contexts shape the success of anti-corruption and asset recovery reforms.

The Assessment and Monitoring Framework at the heart of this paper is an evidence-based and practical tool that guides anti-corruption and asset recovery practitioners on how to tailor and localise their efforts in line with the political economy of each specific context (see chapter 3). It comprises the 12 identified factors and provides an indicator for each. Additionally, indicative topics help to assess these indicators. The framework allows for an in-depth analysis and facilitates the development of baseline and update assessments in support of adaptive programming decisions.

Working politically

Changes in the political space for successful anti-corruption reform often follow a cyclical pattern, with windows of opportunity for deep reform opening and closing as the balance of power between pro- and anti-reform forces shifts.[1] Understanding this cycle helps to identify how efforts to promote more robust performance of the justice chain can be better aligned, and made more responsive and proactive (see chapter 4).

Working politically highlights opportunities to prepare for, promote and deepen windows of opportunity to influence anti-corruption reforms. It is also helpful for thinking strategically about adapting approaches to prevent and slow regression and using anti-corruption principles to prevent abuse.

Key approaches for adapting in an agile manner to contexts where spaces for successful anti-corruption reforms will vary include:

- cultivating trust with partners and stakeholders;
- promoting the rule of law as a collective endeavour;
- fostering institutionalisation through policies, systems and partnerships;
- celebrating and communicating success; and
- leveraging international and domestic partnerships to strengthen efforts.

1 Guerzovich, Gattoni and Algoso 2020.

The lessons learnt from the frontline of practice emphasise that success in fighting corruption and recovering assets does not require having the perfect environment, institutions or people in place. Rather, adopting flexible engagement approaches tailored to specific contexts has proven effective.

Applying the Assessment and Monitoring Framework is helpful in a variety of ways: to comprehend the wider political and governance situation; understand the implications of changes in the political context; monitor red flags that could indicate political instrumentalisation; and identify and design responses to opening or closing windows of opportunity. Overall, it supports interventions that adapt to shifts in the political environment to achieve results.

Introduction

The International Centre for Asset Recovery (ICAR) at the Basel Institute on Governance works with partner countries and their enforcement and judicial authorities to strengthen asset recovery capacity, practice and policy.

ICAR places particular emphasis on case-based and hands-on mentoring on investigation methods and confiscation and prosecution strategies, as well as international cooperation. ICAR also delivers tailor-made trainings, supports legal, policy and institutional reform, and advances innovation and global policy dialogue on asset recovery.

As of July 2024, ICAR is supporting more than 30 anti-corruption institutions – financial intelligence units (FIU), police, anti-corruption agencies, prosecuting authorities and the judiciary – in 17 partner countries across four continents. ICAR's global team is made up of former prosecutors, lawyers and (financial) investigators from a wide variety of countries and legal traditions.

ICAR's operational strategy systematically steers away from a one-size-fits-all approach. Instead, it adapts technical assistance programmes to context, thus ensuring that activities are responsive, effective and aligned with political realities. [2] In line with this, the Prevention, Research and Innovation team at the Basel Institute has developed an evidence-based framework for assessing and monitoring the political and governance environment in support of ICAR programmes.

This ICAR Assessment and Monitoring Framework reflects on-the-ground experiences of ICAR staff in effectively adapting capacity-building support in partner countries in complex political and governance contexts. [3] It provides a strong tool for programming, monitoring and evaluation, which systematises what has been ICAR's practice for years.

Based on ICAR's longstanding track record, experience and learnings, the framework is a tool that will help anti-corruption practitioners and stakeholders operationalise context-sensitive programming decisions and activities in support of efforts to strengthen the rule of law and deter crimes of corruption. As such, it intends to contribute to a global conversation on strategic anti-corruption and asset recovery reforms.

The following chapters lay down the main features of the framework by exploring three main questions:

- What political and governance factors impact the performance of the

2 See ICAR's Operational Strategy, available at: https://baselgovernance.org/asset-recovery.

3 The insights informing the framework have been drawn from two focus group discussions with ICAR global staff and complemented by five in-depth interviews with ICAR experts from headquarters and country offices. A thorough desk review – including academic and other publications on political economy and anti-corruption, media reports, as well as governance and corruption perception studies – has complemented the findings. Additionally, the ICAR Assessment and Monitoring Framework has been successfully piloted in a country where ICAR has a long-standing programme. The pilot consisted of a focus group discussion with the in-country ICAR team and nine interviews with justice chain, civil society and media stakeholders in late 2023.

justice chain in relation to anti-corruption and asset recovery and what characterises a conducive environment for success?

- How can we assess and monitor the wider political and governance context and ensure we identify and mitigate potential risks?
- What are strategies to adapt to the shifting political realities and windows of opportunity?

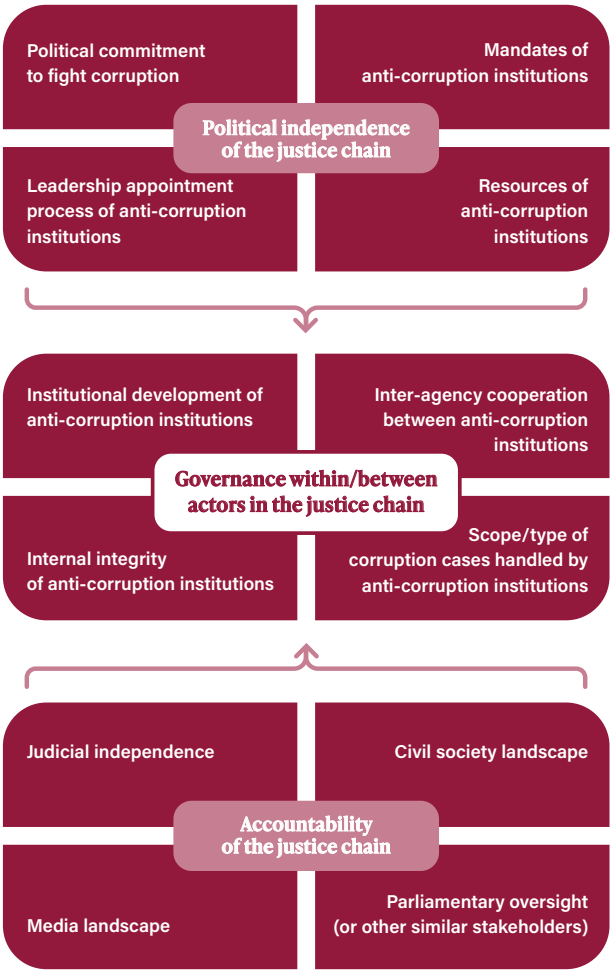
2 Thinking politically: understanding factors that affect anti-corruption enforcement and asset recovery performance

2.1 Key political and governance factors

ICAR's in-country support focuses holistically on strengthening the functions across the justice chain relating to anti-corruption and asset recovery specifically. This comprises the institutions that detect, investigate, prosecute and adjudicate corruption cases, such as FIUs, investigative agencies, prosecution authorities and the courts (henceforth the anti-corruption institutions).

The justice chain does not exist or operate in a vacuum. The political context and governance networks on the ground shape high-level trends in corruption and anti-corruption.[4] With political and governance factors influencing the effectiveness of any anti-corruption system, ICAR's long-term efforts to strengthen criminal sanctions and asset recovery are highly dependent on this larger political environment.

The graphic at right shows the most relevant dimensions and factors of the political and governance ecosystem that have an impact on the performance of the justice chain as a whole and of its constituent anti-corruption institutions:



4 See: https://informalgovernance.baselgovernance.org

Governance factors relating to the anti-corruption institutions that constitute the justice chain sit at the centre of this ecosystem, shaped top-down by governance factors related to political independence and bottom-up by governance factors related to accountability.

The key message is that rule of law systems are most effective when anti-corruption institutions across the justice chain:

a. enjoy strong political independence;

b. institutionalise robust governance processes internally and among each other; and

c. can be held accountable for their actions.

The 12 identified key political and governance factors are connected:

- Adequate resources allocated to anti-corruption institutions reflect high political commitment to fight corruption.

- The magnitude, scale and type of corruption cases handled by anti-corruption institutions are a reflection of i) high-level political commitment to fight corruption; ii) resources allocated to them; iii) their institutional development; and iv) the presence of effective checks and balances on their activities, such as when civil society demands accountability.

- Cooperation and coordination among the anti-corruption institutions that comprise the justice chain is impacted by (i) the appointment process for their leadership; (ii) their institutional development; (iii) their mandates; and (iv) the scope and type of corruption cases they handle.

2.2 Success is possible even in challenging governance contexts

ICAR's on-the-ground experiences echo these findings, but also showcase how anti-corruption and asset recovery institutions can achieve successful outcomes even in challenging governance contexts. Some of the political and governance factors stand out in this regard:

Strong institutional development is promoted through mentoring and capacity building and has been crucial to achieve tangible results by anti-corruption institutions in various ICAR partner countries. For example, capacity-building support strengthened financial investigations and collaboration among different anti-corruption institutions in an African country, leading to the achievement of a civil asset forfeiture order and a criminal conviction against a former public official involved in corrupt procurement deals.[5] Similarly, proactive and innovative approaches of

5 See: https://baselgovernance.org/sites/default/files/2022-11/221131_Case-Study-09b.pdf

committed prosecutors supported by ICAR in a partner country in South America were crucial for successfully initiating domestic proceedings to confiscate and recover the assets of a terrorist organisation held in Switzerland.[6]

Strong inter-agency cooperation has also been pivotal for enhancing the performance of anti-corruption institutions. For instance, effective cooperation between the police investigation team and prosecutors in an African partner country was instrumental in the country achieving its first-ever money laundering conviction.[7] In another example, collaboration among different anti-corruption institutions was foundational for the proactive informal cooperation with counterparts in Jersey, which eventually resulted in the return of confiscated funds to a partner country in Africa.[8]

Internal integrity and **resources available to anti-corruption institutions** are considered two main factors driving success. The former sets the stage for achieving institutional objectives, and the latter is indispensable to enable adequate operations and collaboration among different institutional actors.

The examples provided above show that success does not depend on having the perfect environment but rather on strengthening specific skills, processes and relationships so that it is possible to deliver results despite challenges in the broader context.

3 Assessing the political context, red flags and changes over time

3.1 Assessment and Monitoring Framework

The core ideas outlined in Chapter 2 have been translated into a framework for assessing a country's wider political and governance environment and monitor changes in the key factors over time. The methodology that has been developed for this Assessment and Monitoring Framework is informed by ICAR's practice and experiences and constitutes a novel contribution to the wider community of anti-corruption and asset recovery practitioners. The framework serves three primary purposes:

- It focuses political economy monitoring on factors relevant to the work of the community of anti-corruption practitioners who, like ICAR experts, work towards strengthening the justice chain.

- It strengthens project and activity monitoring by facilitating the development of baseline and update assessments of the political context to track progress and regression.

6 See: https://baselgovernance.org/sites/default/files/2021-06/Case%20Study%20The%20Nun_EN.pdf

7 See: https://baselgovernance.org/sites/default/files/2022-08/220929_case-study-01.pdf

8 See: https://baselgovernance.org/sites/default/files/2022-09/220912_Case-Study-08.pdf

- It supports programmatic decision-making that is responsive to shifts in the political environment.

The framework includes the 12 key political and governance factors that shape the performance of the justice chain relating to anti-corruption and asset recovery. A concise indicator is assigned to each factor. To help assess these indicators, the framework includes indicative topics that provide examples and guidance. The assessment comprises a six-point scale rating with 6 (very strong) being positive and 1 (very weak) indicating significant shortcomings:

1	2	3	4	5	6
Very weak	Weak	Slightly weak	Slightly strong	Strong	Very strong

The main sources of data for informing the ratings are guided group discussions among the project teams (country staff in the case of ICAR). The discussions can also engage local and international political analysts who can help contextualise and give meaning to different events and trends in the political environment. Additional data (e.g. statistical and financial data or more qualitative insights from research and collected through targeted stakeholder interviews) may be purposefully sought out in response to specific questions. The conversation by the project teams is guided by discussing the state of affairs pertaining to the 12 factors and their interactions. It is this conversation, which triggers a joint reflection and elicits the justification for the ratings, that is the central and most critical part of the process.

Importantly, it is not just about filling out the assessment tool. Engaging in discussion helps everyone involved to critically reflect and learn about how to scrutinise specific events or developments. The aim of the scrutiny is to gain insights that can help steer activities to ensure sustained progress towards project goals, even in the face of seemingly unfavourable situations.

The framework can be adapted to each context and each project's needs. For example, it might focus exclusively on monitoring the political environment from the perspective of one key partner agency, or it can be tailored to address functions (such as the translation of detection into successful investigations) that involve the activities of several different agencies. It is a living framework and can be expanded to include new relevant issues.

Simplified version of the Assessment and Monitoring Framework:

Political independence of the justice chain relating to anti-corruption and asset recovery		
Factor*	**Indicator**	**Indicative topics**
Political commitment to fight corruption	Anti-corruption is a political priority of the national government, strongly supported by local non-state actors (e.g. civil society, private sector) and international partners.	▪ Anti-corruption has a prominent place in national strategy, policy documents and statements. ▪ Legal framework aligns with recognised international standards. ▪ There is political support for anti-corruption institutions. ▪ Head of state holds government accountable for anti-corruption results. ▪ Government engages with citizens and business on anti-corruption. ▪ There is international support for anti-corruption.
Leadership appointment process of anti-corruption institutions	Appointment and dismissal procedures are transparent and informed by merito-cratic competencies.	▪ The process of appointing is transparent, based on checks and balances, and includes vetting procedures. ▪ Appointment criteria are clear and based on merit. ▪ Dismissal criteria are clear and based on concrete performance parameters.
Mandate of anti-corruption institutions	Mandate is commensu-rate with the purpose and there is strong autonomy in operation.	▪ Anti-corruption institutions are established by law with clear duties and responsibilities. ▪ The legal mandate of the institutions empowers them with authority and decision-making capabilities commensurate with their duties and responsibilities. ▪ Anti-corruption institutions are legally and institutionally empowered to act with independence. ▪ The mandate and responsibilities among the anti-corruption institutions are coherent, mutually reinforcing and non-duplicative. ▪ Anti-corruption institutions, where appropriate to their mandate, are granted the authority to engage and collaborate with foreign jurisdictions.
Resources of anti-corruption institutions	Resources are commen-surate with purpose and are stable.	▪ Anti-corruption institutions are allocated resources adequate to the fulfilment of their mandate. ▪ Budget allocations are stable and disbursed consistently in a timely manner. ▪ Anti-corruption institutions have financial autonomy that enable them to operate independently.
Strong governance within and between actors in the justice chain		
Factor*	**Indicator**	**Indicative topics**
Institutional development of anti-corruption institutions	Strategic management is strong, resulting in effective operational strategies and results monitoring.	▪ Anti-corruption institutions operate on the basis of strategic plans implemented with strong management and leadership competencies. ▪ The staff in anti-corruption institutions possess the right technical competencies to fulfil their roles. ▪ Anti-corruption institutions develop and regularly update their operational strategies. ▪ The delegation of functions within the anti-corruption instititons is coherent and fit for purpose. ▪ Anti-corruption institions have robust performance monitoring and evaluation procedures in place. ▪ Adequate standard operating procedures are in place.
Internal integrity within anti-corruption institions	Leadership and staff behave in an ethical manner supported by strong systems and controls.	▪ Ethical standards and practices are embraced and demonstrated by the institional leadership. ▪ Anti-corruption institutions possess internal affairs units mandated with investigating cases of criminal and professional misconduct by staff. ▪ Staff recruitment is based on merit and competitive criteria. ▪ Human resource management is guided by performance-based principles. ▪ Professional development opportunities for staff are adequate and access is based on needs assessments and equitable principles. ▪ Anti-corruption institutions regularly conduct corruption risk assessments and monitor implementation of risk mitigation actions.
Magnitude, scale and type of corruption cases handled by anti-corruption institutions	Corruption investigations and prosecutions are driven by formal and legal criteria.	▪ The nature and scale (petty or grand) of the corruption cases handled by the anti-corruption institutions is consistent with the types of corruption prevalent in the country and the evidence available. ▪ Anti-corruption institutions pursue cases irrespective of the profile (e.g. politically connected, seniority) of the suspects involved. ▪ Investigations and prosecutions are conducted in accordance with the law (i.e. due process is ensured).
Inter-agency cooperation between anti-corruption institutions	Cooperation among anti-corruption institutions is strong and results in corruption cases moving forward effectively.	▪ Anti-corruption institutions have adequate and effective communication and engagement channels and arrangements that enable coordination and cooperation among them. ▪ Anti-corruption institutions have institutionalised robust information-sharing practices amongst themselves. ▪ Trust among institutions across the justice chain is present and cultivated through regular collaboration and exchange of communications.

Accountability of the justice chain		
Factor*	**Indicator**	**Indicative topics**
Judicial independence	Judges and courts are impartial and systems and monitoring is strong in the adjudicating of corruption and financial crime cases.	▪ The rule of law is upheld in the decisions of the judiciary. ▪ Integrity of members of the judiciary is overall considered to be high. ▪ There are effective mechanisms of performance monitoring for the judiciary. ▪ Corruption cases are adjudicated following due process and in a reasonable timeframe. ▪ The judiciary operates on the basis of sound case management systems. ▪ Appointments to judicial positions are guided by merit-based criteria. ▪ A significant level of judicial oversight of the legal profession is ensured.
Parliament and other oversight institutions	Institutional mechanisms are in place to hold the justice chain to account for anti-corruption results.	▪ The anti-corruption institutions can be called upon by parliament to account for their performance ▪ There are regular and transparent performance assessments of anti-corruption institutions by their boards and oversight committees where applicable. ▪ Robust external accountability mechanisms are in place to address complaints of misconduct (i.e. an Ombudsman).
Media landscape	Media is free to investigate and expose corruption and plays an important role in providing checks and balances in the wider governance system.	▪ The media sector can operate with independence and effectively exercises its watchdog function. ▪ Investigative journalists are knowledgeable and adept at producing high-quality corruption reporting. ▪ Access to information is legally guaranteed and exercised. ▪ A majority of the population has access to quality media sources.
Civil society landscape	Civil society is free to advocate and promote anti-corruption reform and plays an important role in providing checks and balances in the wider governance system.	▪ The anti-corruption civil society sector can operate with independence and effectively exercises its watchdog function. ▪ The anti-corruption civil society sector has adequate technical expertise to identify, investigate and develop meaningful position statements on corruption issues. ▪ Civil society actors participate forcefully in the governance sphere (i.e. are vocal and engaged). ▪ Civil society can effectively undertake advocacy on anti-corruption issues. ▪ Civil society publicises and gives visibility to topical anti-corruption research.

** Each factor is scored on a six-point scale from 1 (very weak) to 6 (very strong).*

The analysis can go deeper into understanding the implications of changes in the political context for anti-corruption and asset recovery efforts by addressing the following three questions:

- What do the circumstances and timing of changes tell us about trends in the overall political environment?
- Are there changes in multiple factors that would suggest a significant shift in the political environment?
- Are the changes maintained over time such that they might suggest the political environment is undergoing broad processes of liberalisation or regression?

Monitoring the wider political environment has proven to be key to enhancing the effectiveness of ICAR's work and presumably the same should be the case for other practitioners.

Strengthening anti-corruption outcomes in the short and long term involves addressing gaps or shortcomings in the processes, policies, structures, cooperation and skills that underpin the ability of the justice chain to tackle complex corruption cases. Delivering this technical assistance effectively entails assessing when to invest in building skills, tools and institutional processes and when to move forward with high-profile cases. This also means that the visible impact of the technical assistance delivered does not necessarily occur linearly.

3.2 Monitoring red flags: risks of political instrumentalisation

ICAR works in contexts often characterised by high levels of corruption and where informal governance practices may take precedence over the law and other formal rules. Corruption and informality are not synonyms but are nonetheless highly interlinked. Operating in contexts of high informality raises specific risks that need to be monitored carefully.

In such settings, corruption is often driven by powerful informal networks connecting political elites and business interests, also typically involving particular groups of citizens.[9] The sum of their practices is a corrupt redistribution of public resources.[10]

In many countries with high levels of corruption, there is also a strong demand for anti-corruption measures. This demand fuels formal political commitments to fight corruption. The result is a seemingly paradoxical situation in which pressure for strong anti-corruption policies coexists with the fact that corruption is functional for the political survival of ruling groups. With effective rule-enforcement running counter to the logic of networked governance, high levels of corruption and weak enforcement of formal rules go hand in hand.[11]

What this contradictory scenario often results in is the instrumentalisation of anti-corruption endeavours for political purposes. Anti-corruption institutions' formal powers and influence may be undermined and/or shaped in a manner favourable to the power network.[12]

Power networks adopt three main strategies to maintain the network: cooptation, control and camouflage.[13]

- **Cooptation** refers to including valuable individuals in the ruling informal networks. In the case of the justice chain, the heads of agencies might be coopted into the informal power networks in order to protect allies from being prosecuted and enable them to retain their illegally acquired assets.

- **Control** is about ensuring discipline within the informal power networks. This often translates into scenarios where the anti-corruption legal instruments are used in a partisan manner to punish opponents and defectors. It can also mean a deliberate weakening of anti-corruption institutions.

9 Baez Camargo and Ledeneva 2017; Baez-Camargo and Koechlin 2018. On informal networks and anti-corruption, see also https://baselgovernance.org/publications/quick-guide-23-informal-networks-and-anti-corruption.

10 See: https://informalgovernance.baselgovernance.org

11 Baez Camargo and Ledeneva 2017, 52.

12 Kassa 2024, forthcoming.

13 Baez Camargo and Ledeneva 2017; Baez Camargo and Koechlin 2018. For details on these strategies see also Kassa 2024, forthcoming.

- **Camouflage** refers to strategies to protect the informal power network from being exposed as highly corrupt. Consequently, corrupt leaders frequently hide behind formal facades of anti-corruption rhetoric and adopt anti-corruption measures that are not expected to be enforced.

These strategies impact key political and governance factors that shape the effectiveness of the justice chain relating to anti-corruption and asset recovery. Thus, practitioners working in this space must be able to understand and navigate the ambivalences inherent in working in contexts characterised by high corruption and high informality. For example, an important indication of political will is whether or not an anti-corruption institution is truly independent, which in turn must be reflected in its ability to successfully investigate and prosecute high-level individuals associated with the incumbent government.

The ICAR Assessment and Monitoring Framework can help assess the risks of political instrumentalisation. Regular monitoring is important as "gradual erosion" is the most common form of democratic backsliding[14] and undermining or capturing formal state powers involves a process of big or small changes over a longer time period.[15]

Assessments of weak progress or regressions relative to the baseline assessment can indicate potential political instrumentalisation risks. The following table presents indicative examples:

Factor	Weak progress or regression in comparison to baseline assessment can indicate political instrumentalisation risks
Political commitment to fight corruption	Increased anti-corruption proclamations without commensurate increased resources to anti-corruption institutions, merit-based and independent appointments, job security of heads of anti-corruption institutions or progress with high-level cases may suggest mere lip service: → can indicate of a camouflage strategy.
Leadership appointment process of anti-corruption institutions	Increased political control over leadership appointment processes: → can indicate a cooptation strategy to ensure allies are appointed to lead anti-corruption institutions.
Mandate of anti-corruption institutions	Weakening the mandate of anti-corruption institutions by withdrawing competencies or creating duplication and lack of clear division of labour among the different actors in the justice chain: → can indicate a control strategy to limit the effectiveness of the justice chain and curb its ability to act independently of the power network.
Resources of anti-corruption institutions	Weakening anti-corruption institutions' resources or the unwillingness to increase them: → can indicate a control strategy to limit the instutitons' role in the justice chain and curb their impact on the power network.
Scope/type of corruption cases handled by anti-corruption institutions	Weakening scope (petty vs. grand, bureaucratic vs. political) or partisan selection of corruption cases: → can indicate camouflage and control strategies to ensure that formal rules don't apply to corrupt network insiders (impunity) but apply selectively to outsiders or to discipline network dissenters ("rule by law").
Judicial independence Media landscape Civil society landscape	Weakening space for accountability stakeholders: → can indicate a control strategy to limit their role in holding the justice chain to account and limit their ability to exercise a watchdog function vis-à-vis the power network. → In some contexts, political interests co-opt civil society actors. Having a "loyal" civil society constituency delivers the camouflage of ornamental watchdog institutions.

14 Cheeseman and Desrosiers 2023.

15 Dávid-Barrett 2023; Carothers and Hartnett 2024.

These insights can also help explain why and how informal resistance towards efforts to strengthen the justice chain in relation to anti-corruption and asset recovery may surface. Being aware of such dynamics, in turn, can support the development of key risk mitigation approaches:

- Preparing for success: Delivering technical assistance to strengthen justice systems must incorporate the development of pro-active counter-strategies for when (**not if**) corruption fights back.
- Identifying where and how to focus efforts to pre-empt and mitigate against the exercise of informal influences over the justice chain.

Monitoring red flags is crucial, also because citizens are acutely aware when power networks instrumentalise anti-corruption endeavours for political purposes. And perceptions of political influence and selective justice are detrimental for the overall goal of strengthening the rule of law and deterring corruption.[16]

4 Working politically: applying insights and adapting strategies

4.1 Preparing for resistance, managing expectations and looking out for opportunities

Positive shifts in the political and governance context have a positive impact on the performance of the justice chain in relation to anti-corruption and asset recovery. But progress is dynamic. When the key factors are favourable, making progress (e.g. securing high-level arrests and investigations) may generate resistance and challenges that need to be anticipated and prepared for.

Resistance may come from those who oppose reforms. One central insight to consider is that those who have benefitted from corruption will, in all likelihood, have the resources to recruit formidable legal defence teams able to deploy manifold legal tactics to delay and derail the cases against them. In contrast, the anti-corruption institutions of middle and low-income countries often struggle with significant financial and human resource constraints.

Two lessons arise from this insight: The first is the need to strategically identify those high-level cases that will be pursued, meticulously planning in advance legal strategies that pre-emptively take into account the tactics that will likely be adopted by the defence. The second is that simultaneously undertaking a multiplicity of legal actions against high-level figures, although appealing, risks overwhelming an insufficiently resourced justice chain.

16 See for instance Anders, Kanyongolo and Seim 2020.

Therefore, a strategic anti-corruption approach would include considering the use of alternative legal tools such as non-conviction-based forfeiture of assets or plea bargaining.[17]

Apart from resistance, managing the increased expectations and demands for quick results of those who support anti-corruption actions can also be challenging. There are two main practical considerations that should be mentioned in this regard:

First, when the capacity and will to fight corruption improve and anti-corruption effectiveness increases, more cases are detected and reported. This in turn may fuel perceptions of increasing corruption. In response, the public may lose confidence and trust in government. Therefore, it is important to raise awareness that, in the short term, better detection systems will reflect more cases of corruption precisely because they are working and that it takes time for more effective law enforcement to produce its deterrent effect, which will result in a lowering of corruption levels in the medium term.

Second, even in countries with highly institutionalised and well-resourced anti-corruption institutions, high-level corruption cases take years to result in convictions and asset recoveries because they are complex and because due process takes time. However, the public typically holds unrealistic expectations, especially following high-level arrests, of immediate punishment of perpetrators.

In both cases, the lesson is that proper public education campaigns about how to interpret measures of corruption and about the timelines and different stages of criminal cases of corruption are indispensable companions to law enforcement action to ensure continued public support of and trust in the institutions of the justice chain.

Despite the above challenges of resistance to anti-corruption reforms and the need to manage public expectations, there is hope. ICAR experience shows that even even in a less conducive environment when political and governance factors are regressing, opportunities for strengthening the performance of the justice chain and strong reforms may still arise.

4.2 Working *with* political cycles of anti-corruption reform

Evidence suggests that changes in the political space for successful anti-corruption reforms follow a cyclical pattern. Anti-corruption progress is possible due to changes in the balance of power between coalitions of reformers and spoilers in the system. Reformers inside and outside the government try to take advantage of those moments. The core idea is that particular events can widen the scope of policy possibilities, overwhelm the factions opposing change, legitimise agendas and thereby initiate new

17 See: https://baselgovernance.org/publications/lisbon-conference-en and https://baselgovernance.org/publications/navigating-between-non-conviction-based-confiscation-and-mutual-legal-assistance-mla

trajectories for change that can increase the likelihood and severity of sanctions for high-level corruption.[18]

Nevertheless, it is essential to highlight that:

- the depth and breadth of policy responses to a window of opportunity opening up can differ;
- opportunities come with risks – reformers can use windows to push for progress, but regressive forces can also opportunistically seek to appropriate the narrative and capitalise on it for their agenda;
- windows are time-bound; they represent temporary shifts in political possibilities, not permanent ones.[19]

It is important to embrace an adaptive approach that responds to changes in the political and governance environment, and adjusting programming decisions in line with the political moment, be it when a political window is opening and closing or when the status quo is stable. This is a central thesis of *thinking and working politically*.

Spaces for successful anti-corruption reforms will inevitably vary. The global experiences and insights of ICAR show that, across very different country contexts, there are five key approaches for adapting in an agile manner to help move the needle on promoting anti-corruption and asset recovery action:

- cultivating trust with partners and stakeholders;
- promoting the rule of law as a collective endeavour;
- fostering institutionalisation through policies, systems and partnerships;
- celebrating and communicating success;
- harnessing domestic and international stakeholders and partnerships.

18 Guerzovich, Gattoni and Algoso 2020.

19 Ibid.

4.3 Adaptive strategies

Adapting approaches to changing political and governance contexts means applying different strategies for when a political window is opening or closing or when the status quo is stable. The following graphic summarises the three broad strategy directions:[20]

4.3.1 When windows open: preparing for success

When a window of opportunity opens, it is important to focus on swift actions and achieving results that can be accelerated and multiplied. Specific strategies may include:

- building new or deepening existing partnerships with anti-corruption institutions, for instance by working across multiple teams;
- working with more stakeholders across the justice chain;
- working with accountability stakeholders (to bolster detection, demand for results, media reporting, checks and balances and strengthening the judicial sector);
- strengthening political support for anti-corruption by working with champions (but carefully mitigating against the risk of increased vulnerability to backlashes and personalisation of public office);
- leveraging micro-windows to strengthen anti-corruption (i.e. adopting a sectoral approach);
- assessing existing capabilities to potentially handle a higher volume of cases of increased complexity and ramping up the monitoring of political economy events to identify potential allies who can bolster public support and demand for the investigation of high-level cases of corruption;
- pursuing higher profile corruption cases anchored on a major case management approach (involving a dedicated task force that is isolated from other duties for the duration and involves public relations strategists).

At the same time as stepping on the gas, it is essential to prepare for possible backlash from those targeted by or otherwise opposing the anti-corruption

20 Adapted from Guerzovich, Gattoni and Algoso 2020.

drive and develop risk mitigation measures for the programme, as well as helping partner agencies develop their strategies. This can ensure the window stays open longer or reduce the impact of efforts seeking to undermine the progress. A strong focus on institutionalising procedures and partnerships before the window opens can build resilience to fluctuating political support.

After the window opens, preparing for a backlash may involve:

- capacity building through support on policies, processes, structures and cooperation that can withstand fluctuating political support;
- working with accountability stakeholders such as media, civil society, courts and parliament to promote stronger reforms;
- working on other topics such as communication (to manage expectations for results or to manage weakening trust as perceptions of corruption increase or to counter disinformation) and leadership (supporting and cultivating champions);
- working with partners beyond the traditional stakeholders in the justice chain in order to champion and shape key messages.

4.3.2 When windows close: promoting resilient justice chains

When a window of opportunity closes, it is important to preserve and sustain gains made and focus attention on actions that can help slow down the speed of the closing. Specific strategies may include:

- preserving and sustaining progress and results achieved by reaching more people across more partner agencies and focusing on institutionalising those policies and processes emanating from capacity-building support that have proven effective and impactful;
- achieving incremental results that can generate large achievements in the long term and be built on consistently;
- capitalising on low-hanging fruit by adapting ongoing work in line with political priorities to ensure political salience and identifying feasible and impactful interventions to move the needle;
- focusing on strengthening transparency efforts more broadly;
- continuously supporting demand-side actors to push back against policy backsliding.

4.3.3 Preventing backslide and preparing for the opening of the window

Anti-corruption programming often takes place in a context where the status quo seems entrenched, meaning that the power configuration between coalitions of reformers and spoilers of the system is stable. Three main strategies are key to consider:

- Efforts should be directed at preventing a potential backslide and regression in the performance of the anti-corruption system.
- Broadly, efforts that strengthen legal and institutional frameworks, training and case advice can lay the groundwork for anti-corruption reforms that are impactful, yet achievable, and can be built upon further should new opportunities emerge (incremental approach). A specific focus could be on capacity building and working with accountability stakeholders.
- Promoting innovative instruments of asset recovery through non-conviction-based forfeiture mechanisms and other innovative approaches around illicit enrichment, plea bargains, and alternative dispute resolution mechanisms are key entry points to promoting impactful yet feasible reforms, especially in contexts where the application of criminal law in investigating and prosecuting corruption and other financial crimes is challenged.

5 Final remarks

Adaptive programming is critical to respond to ever-changing political and governance contexts. The 12 identified key factors that affect efforts to strengthen the justice chain's ability to successfully prosecute crimes of corruption and recover stolen assets highlight weaknesses and strengths, opportunities and risks for programming. The ICAR Assessment and Monitoring Framework makes it possible to systematically track and analyse these factors.

It can support identifying emerging or closing windows of opportunity, finding entry points to bolster capacities to recover illicit assets and promote anti-corruption in conducive or adverse contexts, and adjusting programmes effectively. The key is to regularly monitor changes to the baseline assessment and in light of broader political dynamics that can indicate shifts in political power configurations, such as elections.

Things are never black or white. Across the world and through time there will always be a mixed and dynamic picture of political environments that are generally more conducive for strong anti-corruption reforms and others in which the rule of law is under pressure. It is therefore all the more important to work in an adaptive manner, adopting proactive, effective and feasible strategies to promote anti-corruption and asset recovery reforms that are consistent with the respective contexts.

Keeping in mind the big picture of when to prepare for, promote and strengthen openings for anti-corruption reform, and when to prevent, slow and reverse backsliding enhances the impact of the resources and efforts invested in the fight against corruption.

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