

NHH



Prospects of Corruption Control

A Cross-Country Perspective

TINA SØREIDE



NHH



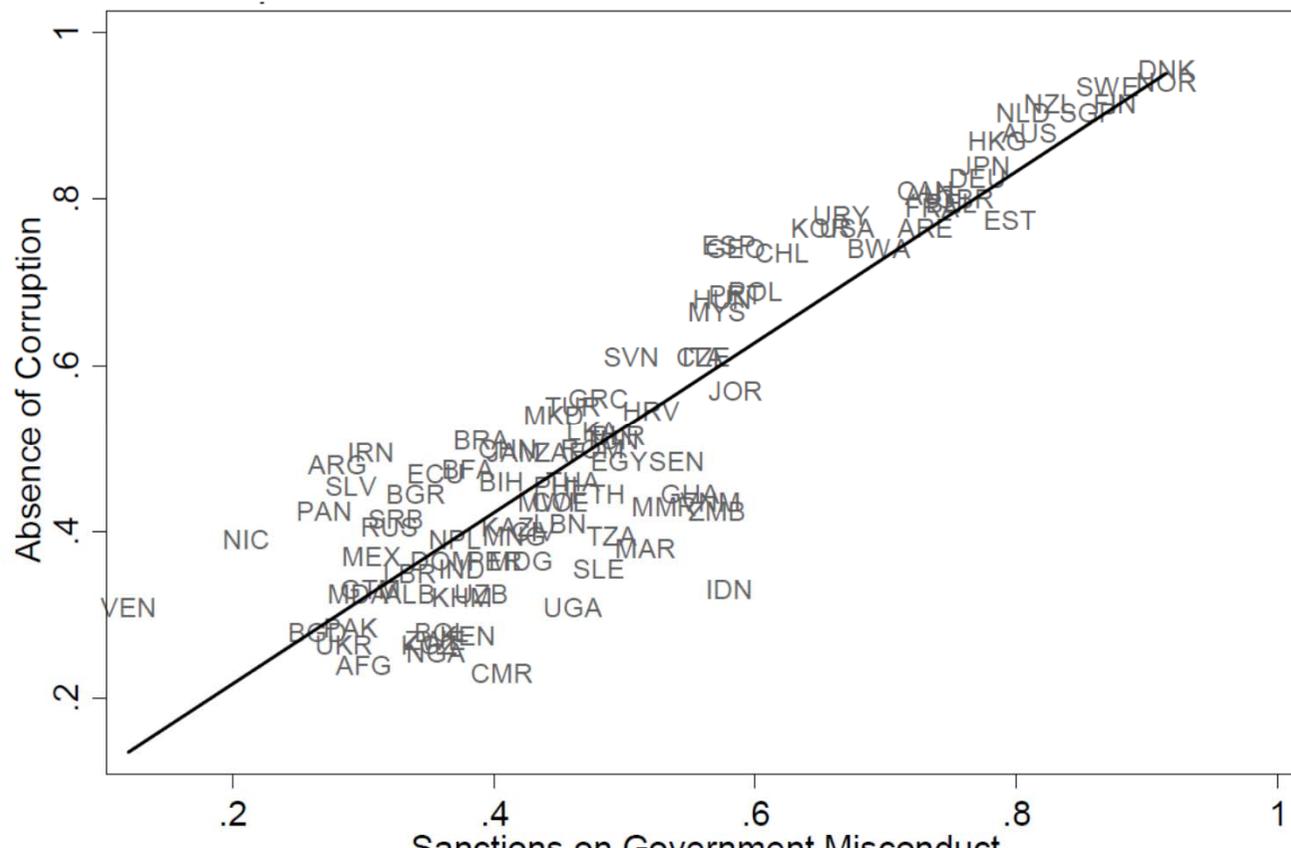
Why is criminal law regulation of corruption enforced so differently across countries?

Law enforcement matters

NHH

Corruption and sanctions on government misconduct

Data from The World Justice Project (average years 2013 and 2014)



Formally, countries have in place similar integrity mechanisms

- *The big differences emerge once we consider actual enforcement*

NHH



UNDUE INFLUENCE/ CORRUPTION	LEGAL APPROACHES	
	<i>PREVENTION</i>	<i>DISCLOSURE</i>
STATE ADMINISTRATION AND REGULATION AND CONTROL	Public administration act, criminalization of corruption, procurement rules, employer liability, competition law,	Audits, investigation, access to information laws, sanction rebate for self-reporting, whistle-blower protection, confidentiality-rules,
POLITICAL LEVEL UNDUE INFLUENCE AT/FROM	Constitutionally defined checks and balances, independent courts, public lobby register, impartiality requirements, independent sector regulation and control	Prosecutorial bodies (incl. independent anticorruption agencies), media/investigative journalists, watchdogs, whistleblowers, auditors/NAO

Not obvious what integrity problems to act on

Lack of data, lack of clear definitions, easy to declare commitment, corruption can go on. †

<i>LEGAL</i>				<i>LEGAL GREY ZONES</i>						<i>ILLEGAL</i>
<p>Honest and professional business conduct</p> <ul style="list-style-type: none"> Ordinary marketing Marketing targeted at specific individuals: exclusive excursions, sports tickets, gourmet evenings, etc. Unsolicited proposals, with all details of an unplanned project prepared Middlemen and agents, ‘personal relationship is what counts’ Gifts to political parties – by condition of a certain benefit Quid pro quos – a way of covering corruption? ‘Facilitation payments’ – ‘to get the procedures going’ Bargaining on opportunities for reconcessioning (profitable solutions for the firm) Violations of rules of communication (as if they were not important) Persuade politicians at home to put pressure on local govts. (difficult to prosecute) Acquire secret information about evaluation, use of ‘fronts’ Misuse of ‘facilitation payments’ (makes corruption ‘less illegal’) Expensive gifts to people involved in the tender procedure Buy secret information about competitors’ bids Local partnership with relatives of people with authority Bribes to individuals with influence on the procedure 										



Collusive corruption? Crony capitalism? Lobbyism with gifts?

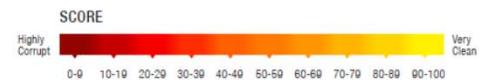
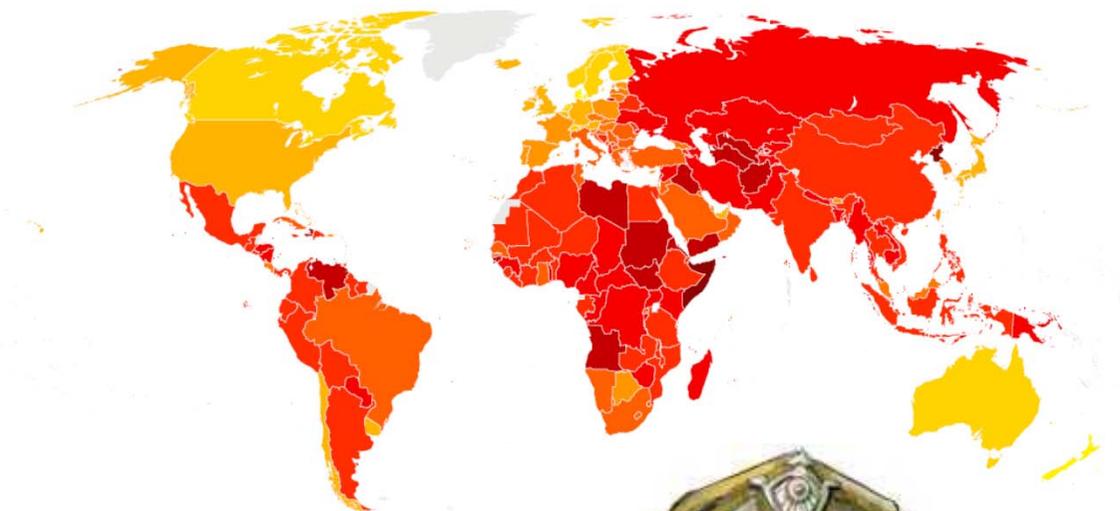
NHH



A platform for acting

- United Nations anticorruption convention
- US Foreign Corrupt Practices Act (1977) & OECD anti-bribery convention
- FATF and steps toward reduced financial secrecy and tax evasion
- World Bank emphasis on anticorruption ('cancer of corruption' speech, 1996)
- Transparency International and other NGOs
- Various business organizations
- Even the G20, since 2014: corruption is damaging!

Cross-country variation and income levels



#cpi2014
transparency.org/cpi



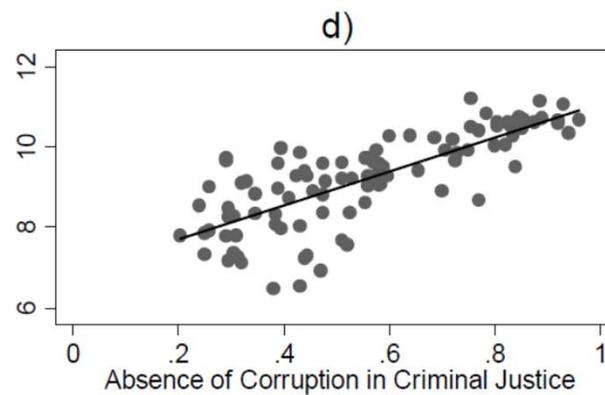
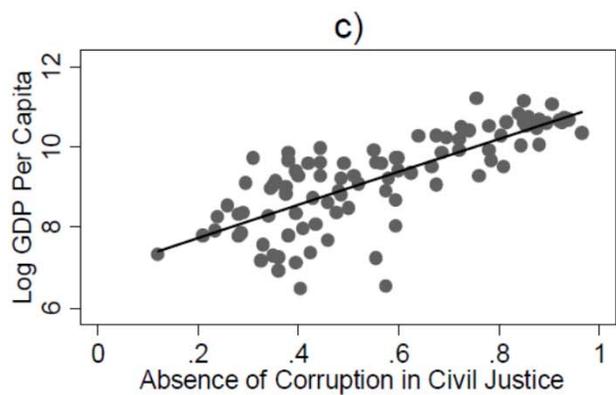
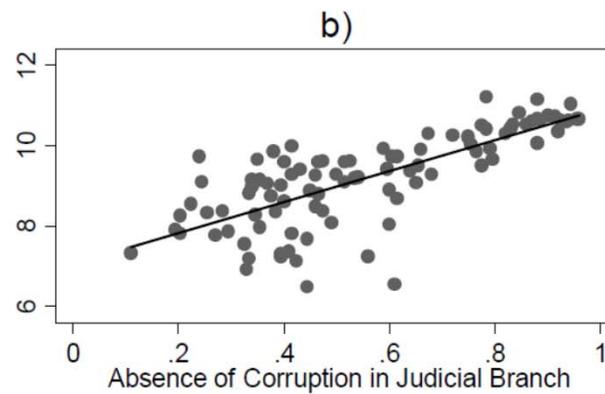
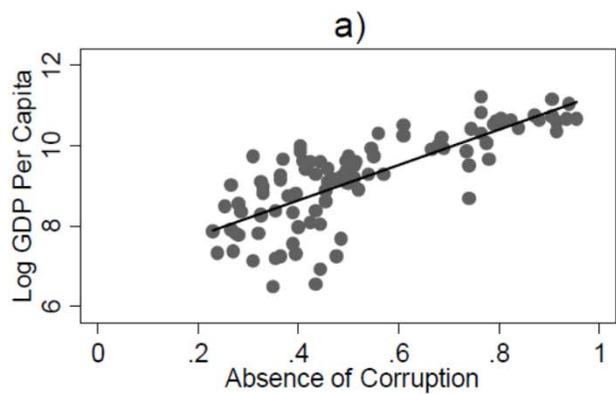
Extortive corruption decreases as income levels increase

Collusive corruption appears to be a problem in all categories of countries

Corruption and development (GDP/cap)

Data from The World Justice Project and World Bank

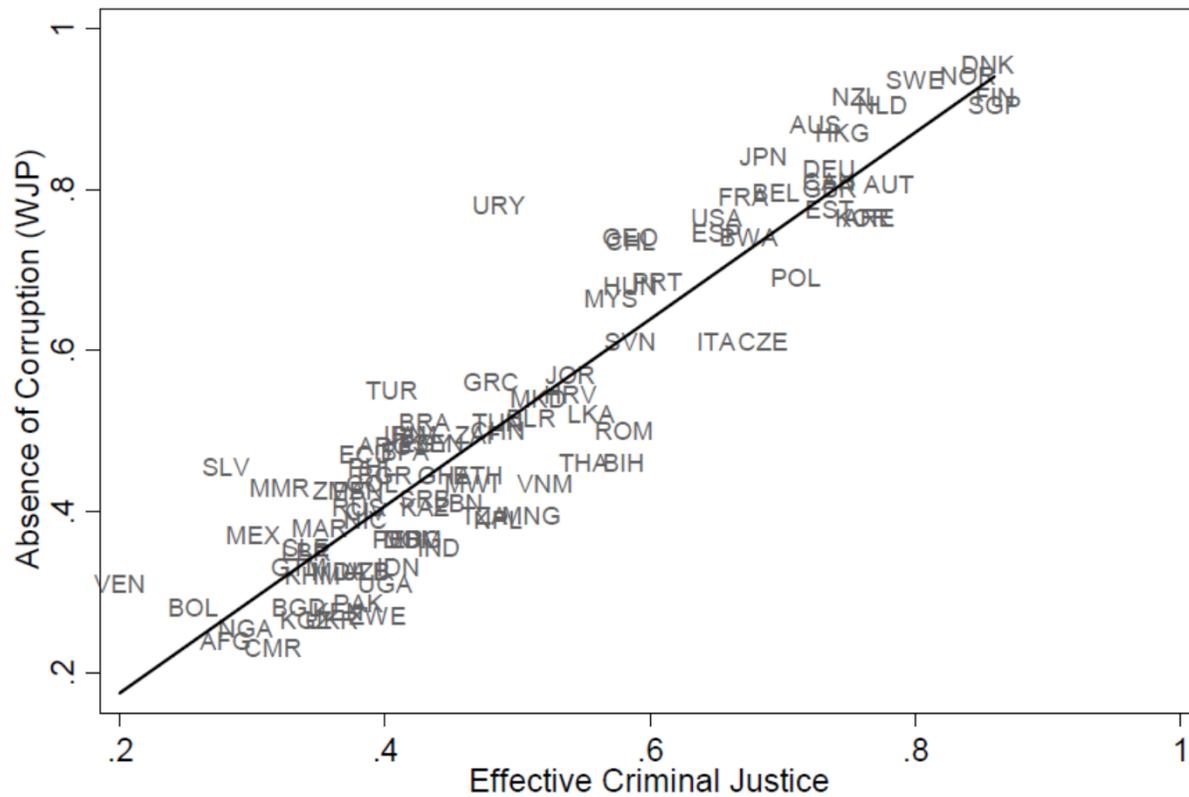
NHH



GDP per capita. Income is measured by the natural logarithm of purchasing power parity adjusted GDP per capita from the World Bank's World Development indicators. We use the average for the period 2005 to 2013. World Bank (2012). *World Development Indicators*. Washington, DC: World Bank

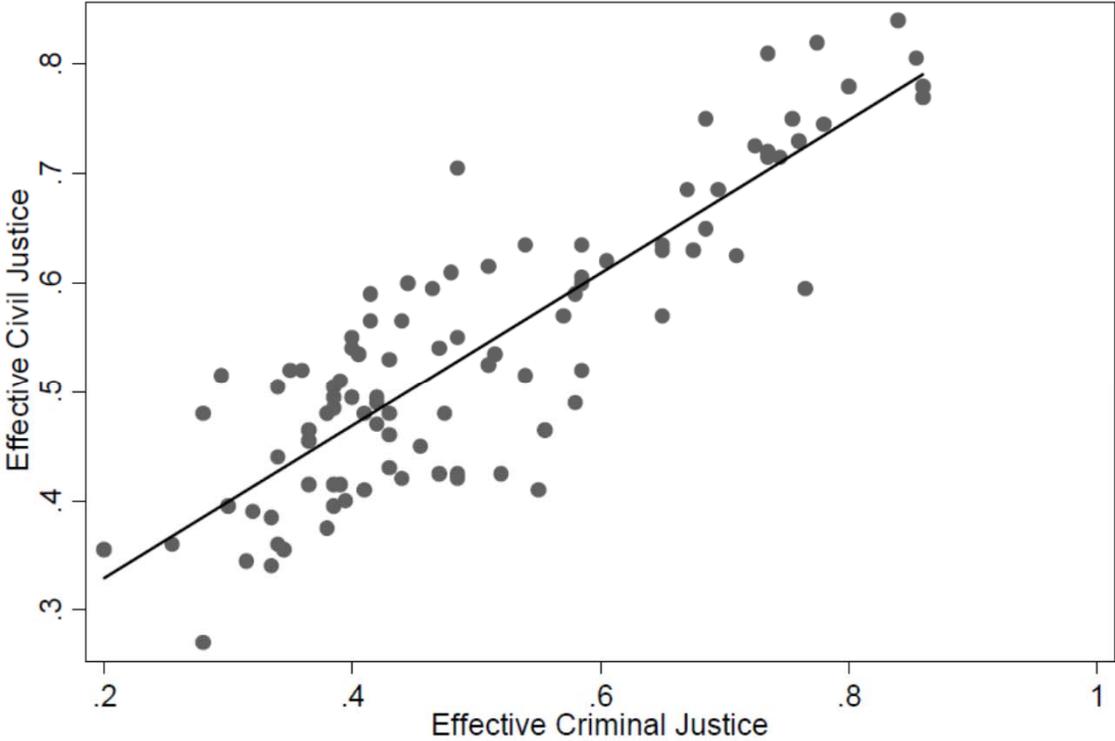
Effective criminal justice system and absence of corruption

NHH



Criminal and civil justice system

NHH



NHH

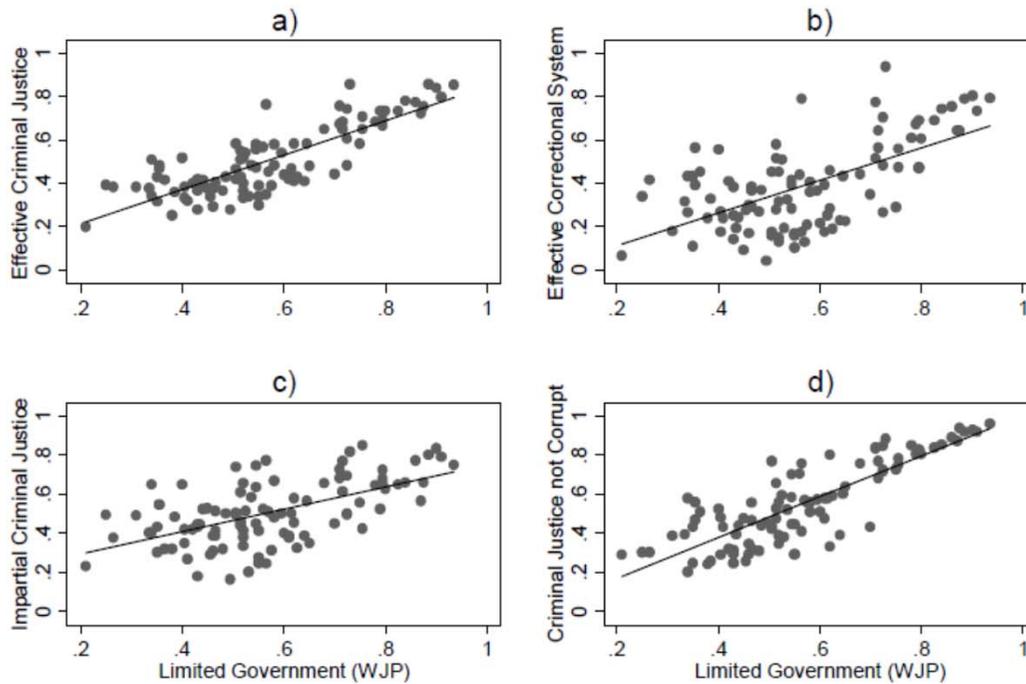
Laws are enforced well where they are enforced well...

Difficult to interpret what these results tell us

- Good governance? Independent prosecutor? Democracy?
- Organization of prosecutor independence: inconclusive results (biased judiciary is caused by external and/or internal pressures/problems; difficult to confirm effects empirically)
- Results in the literature: positive correlation between democracy and absence of corruption
- Considering limits on executive powers (more specifically); results are not so clear...

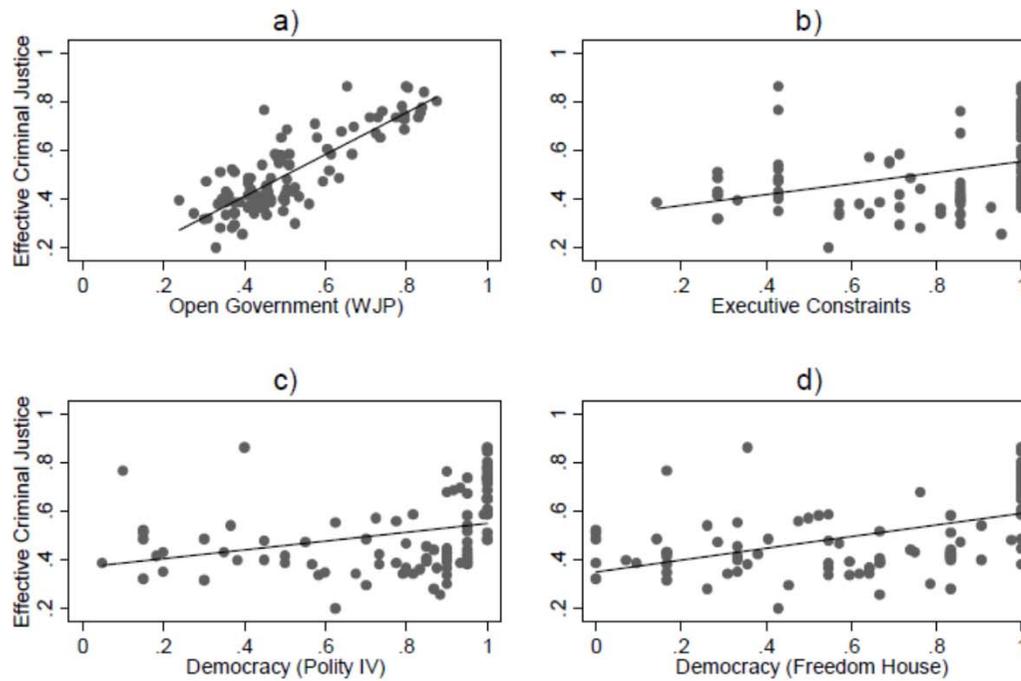
Limits on government powers (i) – using World Bank data - and criminal justice efficiency

NHH



Limits on government powers (ii) – using other sources (Polity IV and Freedom House) - and criminal justice efficiency

NHH



NHH



Good governance facades...?

Why introduce laws if there are few intentions to enforce them?

Capacity problems?

Hoping for a norm-generating impact?

Populist support? (While few consequences if law ignored?)

Benefits in ignoring the law... ?

Low prosecutorial independence?

Lack of democracy?

Lack of political willingness to enforce... ?

CLEANING THINGS UP
MAY LOWER
MY POSTION...

KARZAI
GOVT.

CORRUPTION

FARESH...



NHH



Political willingness to enforce and the nature of the crime

- Corruption **is** a government problem: law enforcement requires self-discipline !
- Members of an incumbent regime; different attitude toward corruption
- Likely to adapt to factors determining the trade-off between personal enrichment and development of society?
- What factors? By intuition: securing a steady flow of state revenues
- State revenues are secured in different ways in different countries

Could it be that such differences matter for the government's inclination to secure law enforcement...?

If revenue base matters for law enforcement

NHH



If state revenues

- i. are secured in the form of **development aid and loans**, derived from development partners who demand certain good governance institutions, the government might find it necessary at least to pretend as if integrity mechanisms are enforced, yet the risk of them ending up as “façade institutions” is high
- ii. are secured regardless of what integrity mechanisms are enforced, as might be the case for some **exporters of non-renewable resources** – like minerals, petroleum and gas, the prospects for law enforcement might be weak because the revenues will come (almost) regardless of integrity mechanisms
- iii. increase primarily with the enforcement of integrity mechanisms (i.e. there are no other sources than domestic markets), which means tax revenues constitute the main source of state revenues, some enforcement of integrity mechanisms is necessary – simply to secure funds from which corrupt politicians can steal. The characteristics could match **emerging markets**

NHH



i) Countries dependent on development aid

As part of aid and loan negotiations with governments, development partners/donors normally **demand integrity mechanisms** in recipient societies (governance procedures of various sorts, audits of spending, and access to information etc).

While integrity is demanded, there might be **few consequences** if these integrity mechanisms are weakly law enforcement. The requested laws, institutions and procedures easily end up as “**paper laws**” – which citizens as well as politicians quickly get used to ignore.

Most aid dependent countries: Colombia, Indonesia, Egypt, Afghanistan, Ethiopia, Burkina Faso, Rwanda, Bolivia, Suriname, Senegal, Nicaragua, Mozambique, Kenya, Bangladesh, Tanzania, Ghana, Mali, Vietnam, Pakistan



Illicit capital flow given quality of institutions and aid dependence

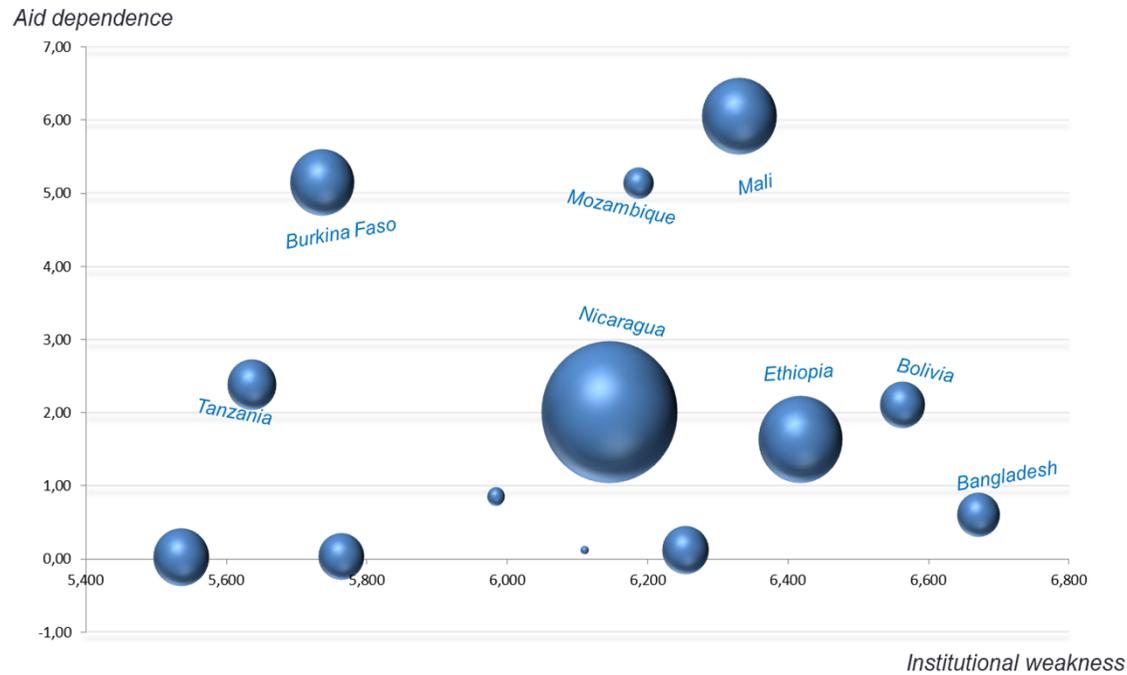


Figure prepared based on: (i) the **importance of aid transfers** in the economy (bilateral aid from DAC as a percentage of GNI), World Bank; (ii) **institutional weakness** (a geometrical mean of perceived law & order, control of corruption, the protection of property rights, and criminal law independence from government interference; data provided by the World Bank (2014) and World Justice Project (2013)); and

NHH



ii) Exporters of non-renewable natural resources

Natural resource exporters: sale of resources at international prices above production costs. Politically, important to **control the steady flow of revenues** from abroad, and if so, a tight grip on power is what it takes to keep corrupt benefits

The enforcement of **integrity mechanisms may not be a main priority**– unless used for power seizing purposes. Some state administrative corruption condoned if useful for securing loyalty to (corrupt) regime.

Most resource dependent countries: Congo, Rep., Saudi Arabia, Gabon, Angola, Libya, Mongolia, Oman, Azerbaijan, Turkmenistan, Equatorial Guinea, Brunei Darussalam, Kazakhstan, Trinidad and Tobago, Nigeria, Congo, Dem. Rep., Venezuela, Algeria, United Arab Emirates, Ghana, Indonesia

Illicit capital flow given quality of institutions and natural resource dependency

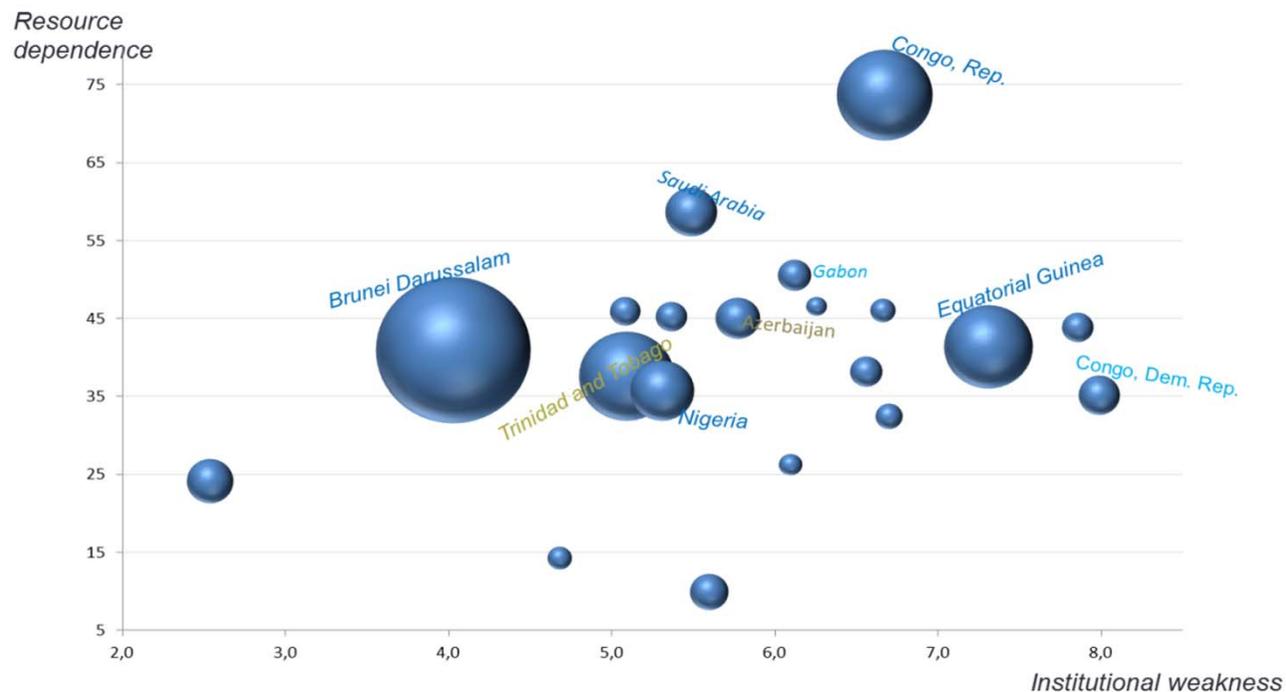


Figure prepared based on: (i) **importance of the extractive industries** (revenues from sector as percentage of GDP), World Bank; (ii) **institutional weakness** (a geometrical mean of perceived law & order, control of corruption, the protection of property rights, and criminal law independence from government interference; data provided by the World Bank (2014) and World Justice Project (2013)); and (iii)

NHH



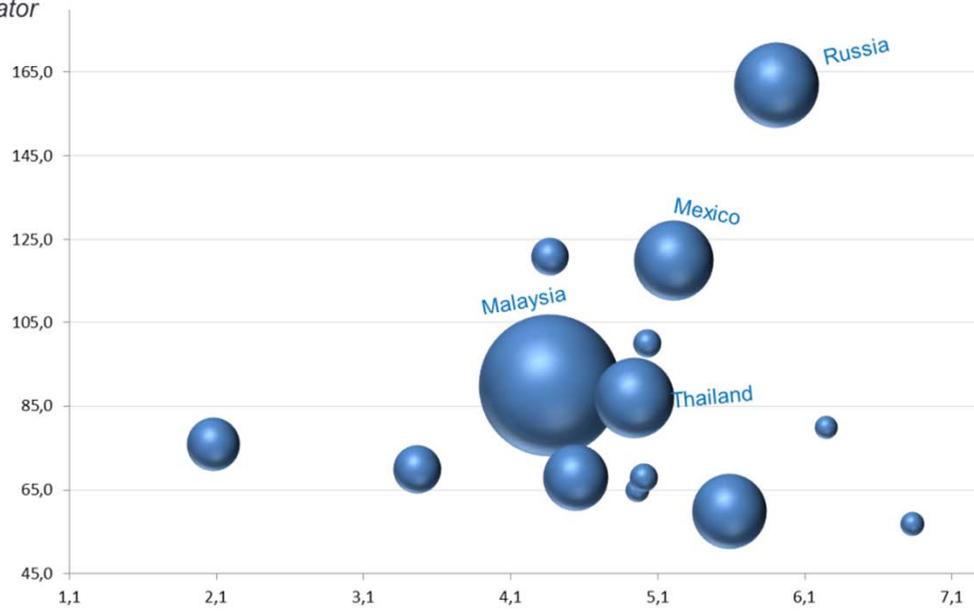
iii) Emerging markets

Emerging markets: positive developments, high growth, more jobs, expanding tax base and FDI attractiveness. With income generating opportunities in the legal and formal economy, steady flow of **revenues depends on law enforcement** (i.e. 'doing business' indicators, property rights, etc)

Institutions able to withstand attempts of political corruption? Prospects for profit huge for those who **secure a strong market position in an expanding economy**. Political corruption may hinder the development of competition/ well-functioning markets.

Emerging market economies: China, India, Russia, Brazil, Mexico, Turkey, Malaysia, Thailand, Argentina, Chile, Hungary, Peru, South Africa, Colombia, Philippines, Ukraine

Emerging market indicator



Institutional weakness

Figure prepared based on: (i) **emerging market indicator** (business indicator MSU-IBC by Michigan University) (ii) **institutional weakness** (a geometrical mean of perceived law & order, control of corruption, the protection of property rights, and criminal law independence from government interference; data provided by the World Bank (2014) and World Justice Project (2013)); and (iii) **estimated illicit capital flows** (yearly average 2002-11 as provided by Global Financial Integrity (2013)).

NHH



NHH



Discussion

- Assumptions regarding corruption in politics versus state administration
- How «forced» the government is to enforce in the three categories of countries
 - The need for hiding the corruption in the three categories of countries
 - The risk of facade institutions
 - Predicting the likelihood of political law enforcement commitment under the three scenario
- The damage caused by international infrastructures for corruption (i.e. financial secrecy, lack of mutual legal assistance etc.)
- Implications for international players/other governments

