



Donald Trump's Gift to Kleptocrats

By Trevor Sutton and Alexandra Schmitt | October 21, 2019

President Donald Trump's attempt to enlist Ukrainian President Volodymyr Zelensky to assist him with his reelection campaign is alarming on many levels. Although the full details of the July 25, 2019, phone call between Trump and Zelensky have yet to be established, by the White House's own account, Trump floated a deal in which Ukraine would receive U.S. support in exchange for launching an investigation in an attempt to damage his political opponent, former Vice President Joe Biden. Even if the story ends there, it's clear that the president sought to use his authority as commander in chief to influence the actions of a foreign nation in a way that would have carried no national security benefit for the United States but would have had the potential to significantly benefit Trump's political interests. Subsequent events, such as the president's public call for Chinese authorities to investigate Joe Biden and his son, appear to confirm this understanding of Trump's motives.¹

These actions are first and foremost a gross abuse of office and an attack on the integrity of U.S. democracy. Impeachment, therefore, is an appropriate response. These actions are also a case study in how not to treat geopolitical partners: Ukraine is a troubled state on the front lines of Russian aggression that has for years struggled to break away from Moscow's sphere of influence. By conditioning U.S. support on a specious investigation, Trump has sent a clear signal that U.S. commitment to Ukraine is grounded not in shared values or interests but rather in his personal whims and political aims. It would make sense for Zelensky to question the reliability and value of a bilateral relationship with Washington when confronted with a request to manipulate his country's legal system in exchange for U.S. assistance.

On these terms alone, Trump's attempted shakedown of Zelensky is one of the most disgraceful chapters in modern U.S. presidential history. But Trump's actions are also damaging in a more insidious sense: They mark an escalation in his administration's efforts to roll back and politicize U.S. efforts to fight corruption and promote accountable, democratic governance around the world. Rather than aiding Ukraine's efforts to root out corruption, as the president has implausibly claimed,² Trump has undermined Ukraine's fragile democracy and dealt a significant blow to U.S. credibility on anti-corruption issues.

This issue brief discusses the United States' leading role in making anti-corruption a global priority in the years before Trump's election and explains why corruption poses a grave threat both to American values and to U.S. national security. It then details the Trump administration's anti-corruption record to date and examines the impact of the Zelensky call on America's standing in the fight against graft.

America has long been a global leader in anti-corruption efforts

Today, fighting corruption reliably occupies a prominent place on the agendas of international organizations, multilateral financial institutions, and most national governments. More than 180 countries have signed the U.N. Convention Against Corruption,³ a landmark international agreement that commits states to take measures to prevent corruption inside their borders and assist other states in investigating and prosecuting graft and recovering stolen assets. Fighting corruption is also a critical component of the United Nations' sustainable development goals and is a programmatic priority for virtually every major international development organization and most national foreign assistance agencies. Corruption has been the topic of a special session of the U.N. Security Council⁴ and was the organizing theme of a major convening of world leaders in London in 2016.⁵

While the idea that countries should collaborate to fight corruption may seem like common sense now, the emergence of this effort on a global scale was by no means inevitable. For most of world history, corruption was viewed as a purely domestic issue; until recently, many countries even allowed corporations to claim a tax deduction for bribes paid abroad.⁶ International organizations, meanwhile, largely avoided the topic. As a former senior official at the World Bank noted, "Corruption was a taboo subject. ... It used to be referred to discreetly as the 'c word' [inside the organization]."⁷

The sea change in attitudes owes much to the efforts of civil society and grassroots anti-corruption and transparency movements in countries around the world. But national governments have also played an important role. And while Washington has not always been a paragon of rectitude, no country has done more to mainstream anti-corruption as a global policy priority.

The United States was the first major power to pass a law criminalizing foreign bribery, the Foreign Corrupt Practices Act of 1977, and it was the driving force behind a landmark anti-foreign bribery convention now ratified by dozens of countries.⁸ Washington was also a founding member of the Financial Action Task Force in 1989,⁹ a global organization that combats money laundering, and the Open Government Partnership in 2011, a multilateral initiative in which countries collaborate with each other and with civil society to improve their transparency and accountability.¹⁰ More recently, the United States passed the Global Magnitsky Act of 2016, which empowers the U.S. government to sanction corrupt actors

anywhere in the world. Five countries, including the United Kingdom and Canada, have passed legislation modeled on the law, and the European Union is considering implementing a comparable sanctions framework.¹¹

When it comes to foreign assistance, the United States has invested billions of dollars in rule of law, governance, and anti-corruption programs around the world,¹² as well as has trained and provided technical assistance to thousands of judges, investigators, and civil servants in countries grappling with pervasive graft and dysfunction.¹³ On top of all this, U.S. law enforcement has exposed and prosecuted major corruption scandals in jurisdictions from Malaysia to Switzerland to South Africa¹⁴ and has recovered billions of dollars in stolen assets under a special anti-kleptocracy program.¹⁵

In short, in the four decades that have passed between the enactment of the Foreign Corrupt Practices Act and the inauguration of President Trump, corruption has moved from the periphery to the center of U.S. foreign policy, and the United States assumed a leading role in advancing transparency standards and good governance norms in the international system. Now, the actions of Trump and his administration have put that achievement in jeopardy.

Why anti-corruption matters

There are important moral reasons why the United States should pursue an aggressive anti-corruption agenda in the international arena. Honest and accountable government is a fundamental right to which all people are entitled; as the 2010 U.S. National Security Strategy stated, “pervasive corruption is a violation of basic human rights.”¹⁶ To the extent that the United States intends to stand up for any values in its foreign policy, public integrity should be one of them.

But anti-corruption is more than a moral imperative; it is also integral to national security. Corruption is a deeply destabilizing force that eats away at a state’s ability to provide high-quality and reliable services to its citizens. It allows organized crime outfits and unscrupulous businesspeople to improperly influence public officials, and it impedes the delivery of effective foreign assistance, impoverishing the treasuries of low-income countries already grappling with limited resources. These effects can spawn grave threats. Corruption enables terrorism and human rights abuses¹⁷ and fuels transnational criminal activities such as drug and human trafficking.¹⁸ It also weakens law enforcement and contributes to security crises in countries that would otherwise be at peace¹⁹ while undermining the capacity and capability of key U.S. political and military partners.²⁰ Finally, corruption delegitimizes and weakens fragile states, which can hasten their descent into chaos and civil unrest.²¹

In addition to contributing to these negative outcomes, corruption functions as a strategic tool of authoritarian states that cultivate kleptocratic networks and expedite the payment of bribes in service of their geopolitical goals. Russia has been especially pernicious in its weaponization of graft: The country has used proxies and laundered funds to develop “an opaque network of patronage” across much of Eastern Europe, in what one analysis termed “the Kremlin playbook.”²²

The Trump administration’s anti-corruption record to date

Since its first days in office, the Trump administration has exhibited indifference—and at times hostility—toward anti-corruption efforts in U.S. foreign policy. Less than a month after his inauguration, for example, President Trump signed into law a measure repealing a 2010 Obama-era regulation that imposed transparency on the oil and gas industry, a sector that has historically been at very high risk for graft.²³ In the lead-up to the passage of this measure, former Sen. Dick Lugar (R-IN)—a sponsor of the 2010 law authorizing the regulation—warned that repeal would mean “undoing a clear act of moral leadership, turning our back on corruption. This would betray our own principles and severely undercut our allies in Europe and Canada. It would cost countless lives over the long run and harm our security.”²⁴

Trump’s early action was a portent of things to come. Over the past three years, the White House has slashed funding for vital foreign assistance programs, allowed strongmen to quash popular anti-corruption initiatives, and either ignored or threatened to undercut multilateral transparency initiatives.²⁵ Even worse, officials have actively ignored massive corruption when politically convenient, such as when Secretary of State Mike Pompeo praised the government of Guatemala despite its recent expulsion of an anti-corruption body or when Trump commended the corrupt governments of Egypt, Turkey, Russia, and Honduras.²⁶ The administration has even sought to cut the budget of the critical State Department’s Bureau of International Narcotics and Law Enforcement Affairs, which is tasked with anti-corruption policy, by around 40 percent for the upcoming fiscal year.²⁷

This retreat from anti-corruption policies has been paralleled by the president’s unprecedented use of his official position to enrich himself, his family, and his friends. After his election, President Trump refused to divest from his businesses and instead gave control to his sons, a move that transparency advocates questioned.²⁸ Foreign officials and corporations have regularly booked rooms in Trump hotels, in what may amount to public attempts to ingratiate themselves with the president.²⁹ Trump has also used his private properties to conduct official government business,³⁰ and his administration announced that the next G-7 summit would be held at Trump’s resort in Doral, Florida, before reversing the decision amid public outcry.³¹ He faces three ongoing federal lawsuits for violations of the emolu-

ments clause, which prohibits U.S. officials from receiving gifts or payments from foreign officials.³² Yet, even U.S. officials have used Trump’s properties for questionable reasons, including up to 40 trips to his Scottish resort taken by members of the U.S. Air Force.³³

The Zelensky call is a dangerous escalation

The Zelensky call represents a dangerous escalation of the administration’s approach to anti-corruption, elevating it from the realm of negligence to deliberate malfeasance. To understand why, it is instructive to examine Ukraine’s long struggle with corruption and its geopolitical implications.

After the breakup of the Soviet Union, Ukraine and other newly established states began an often turbulent journey toward democracy. As is often the case in countries in democratic transition, one of the greatest challenges facing these new polities has been the creation of accountable and competent political institutions, particularly those involved in law enforcement such as courts, prosecutors’ offices, and police.

Ukraine has been no exception. Much of the country’s post-independence politics can be described as a struggle among oligarchs—some aligned with Moscow, others threatened by Russian aggression—to exert control over the country’s weak government amid widespread public discontent with endemic graft. In 2013, this resentment erupted into a series of massive protests over Ukraine’s failure to enter into an association with the European Union. This civil resistance ultimately led to the overthrow of Ukraine’s pro-Russian president, Viktor Yanukovich, who was widely viewed as an emblem of a deeply corrupt political system that had become subservient to the Kremlin. A key demand of the protesters was for more transparent and representative governance.³⁴ Although Yanukovich’s successor, Petro Poroshenko, affiliated Ukraine with the European Union and made tentative but slow steps toward reform, he proved either unwilling or incapable of making real progress in reforming an entrenched kleptocracy, frustrating many Ukrainian citizens.³⁵

Given this history, Zelensky’s rise to the presidency was as improbable as it was fortunate for the reform cause in Ukraine. Prior to his victory, Zelensky was a successful comedian and starred in a Ukrainian television show in which his character unexpectedly became president after his anti-corruption rant went viral. Zelensky’s campaign mostly avoided specific policy issues, but he pledged to “clean up” Ukrainian politics and “reboot” peace talks with Russian-backed separatists in eastern Ukraine.³⁶ In April 2019, he defeated Poroshenko by a landslide.

Zelensky’s election offered hope to a nation that has long struggled with corruption at all levels of government. Among his most significant achievements, he has made tangible progress in reforming Ukraine’s police and courts; in most cases,

these are the most crucial but also the most difficult components of a successful anti-corruption reform program. For example, Zelensky appointed a new prosecutor general with a strong anti-corruption record,³⁷ and he recently signed legislation that created a new High Anti-Corruption Court.³⁸ He has submitted 74 other bills targeting corruption to parliament.³⁹ Although Ukraine has a hard road ahead of it, from a governance standpoint, Zelensky's first six months in office have made this the most promising time in contemporary Ukrainian history.

Zelensky's efforts have occurred against the backdrop of billions of dollars in U.S. foreign assistance and a sustained effort by American and European diplomats and civil servants to strengthen rule of law in Ukraine.⁴⁰ For the current fiscal year, Congress appropriated more than \$100 million for democracy, human rights, and governance programs that would help anti-corruption efforts in Ukraine.⁴¹ Specific programs target transparency and accountability in public administration and seek to strengthen the judicial sector.⁴²

Viewed in this context, Trump's efforts to extort Zelensky seem especially outrageous. By pressuring the Ukrainian president to use the machinery of justice for political ends, Trump in effect demanded that Zelensky betray the very mandate that vaulted him to power. This could have potentially set back Ukraine's anti-corruption reform efforts by years, while undermining the millions of U.S. taxpayer dollars already spent to battle corruption. Zelensky appears to have demurred on Trump's request, but merely being party to the solicitation is likely to damage his reformist credentials inside Ukraine and provide fodder for his critics.

Adding insult to injury, Trump has defended his request by saying that it was motivated by a good faith interest in fighting corruption in Ukraine.⁴³ Trump's anti-transparency agenda during his three years in office is by itself sufficient to justify skepticism of this claim. But the transcript of the phone call that the White House recently released also casts doubt on Trump's assertion: At no point in that record does the president mention anti-corruption efforts. Rather, he focuses on investigating Biden and his son in connection with an allegation for which there is no evidence.⁴⁴

Finally, President Trump's alleged interest in improving Ukrainian governance is also in tension with the actions of his advisers and associates, particularly those of his personal lawyer, former New York City Mayor Rudy Giuliani (R). According to news reports, Giuliani has arranged multiple meetings between himself and a number of Ukrainian officials, including the country's general prosecutor, during which he pressured these officials to investigate Biden and his son.⁴⁵ Giuliani was reportedly assisted in this effort by two U.S. citizens with ties to Ukraine; U.S. authorities recently indicted these men for violating campaign finance laws by allegedly laundering money through a Trump super PAC in an effort to influence Republican members of Congress to, among other things, remove then-Ambassador to Ukraine Marie Yovanovitch because of her strong anti-corruption stance.⁴⁶ Yovanovitch recently testified before Congress that she was recalled from her post in May because her anti-corruption diplomacy was threatening the finan-

cial interest of Giuliani and his associates.⁴⁷

Even under the implausible scenario that Trump has experienced a last-minute conversion to the anti-corruption cause, his actions would still be unjustifiable. If U.S. authorities have actionable evidence relating to a U.S. citizen engaged in corruption abroad—which, in the case of the Bidens, they do not—it should be shared with the concerned foreign government through established law enforcement channels in a manner respectful of the laws and processes of that government, and without political arm-twisting. By all accounts, Trump’s failure to do this appears to be motivated by a thirst for politicized judicial action—something that enables, rather than combats, a corrupt political order.

A colossal blow to U.S. credibility

Zelensky is not the only one whose reputation is bound to suffer. In a single stroke, President Trump has profoundly damaged the United States’ credibility and undermined the efforts of a generation of U.S. policymakers to strengthen rule of law in Ukraine and around the world. Going forward, it will be far harder for the United States to press reluctant governments to undertake much-needed reforms; the perception that the United States is acting in bad faith will make such exhortations easy to dismiss.

Just as regrettably, Trump’s effort to sabotage rule of law in Ukraine is a windfall for Russia and other autocratic states that would like to see a diminished role for the United States in the world and that routinely seize on U.S. hypocrisy to attack the legitimacy of the U.S.-led international order. When a fragile democracy such as Ukraine backslides into graft, it becomes more vulnerable to such authoritarian encroachment. It’s not surprising that many veteran Ukraine watchers are characterizing Vladimir Putin as the main beneficiary of the Trump-Zelensky debacle.⁴⁸

The implications of all this are clear. For years, the United States has been on the front lines of the global struggle against graft. Now, for perhaps the first time in U.S. history, an American president is seeking to export his own corruption to a vulnerable ally. That is a tragedy for the United States, for Ukraine, and for the world.

Conclusion: The future of anti-corruption

The harm Trump has done to the global anti-corruption movement will almost certainly outlast his time in office, and the next administration will likely be tasked with undoing the damage. If there is a silver lining to the moral outrages of the Trump presidency, it is that they can serve as a clarion call for greater international action to

combat corruption—both at home and abroad.

Going forward, the United States must do more than it has to date to identify and block transactions linked to corrupt activities and degrade kleptocratic networks that eat away at the rule of law and that empower anti-democratic and illiberal forces. Some of this can be done through more aggressive use of existing authorities such as the Global Magnitsky Act; increased appropriations for overseas programs related to transparency and rule of law; and increased resources for existing divisions of the U.S. government involved in anti-corruption activities. But it will also require new authorities.

These authorities might include measures such as a federal registry of the beneficial owners of legal entities formed or doing business in the United States, as well as reforms to the Foreign Agents Registration Act, including stricter registration requirements and potential limits on campaign contributions by registered foreign agents. They may also include an extension of federal bribery laws to cover foreign officials who accept bribes from U.S.-based people and companies.⁴⁹ Finally, the United States will need to elevate anti-corruption in its diplomacy and give it weight comparable to other critical national security issues when making foreign policy decisions. The United States should start this latter effort by working more closely and strategically with the European Union, which has robust policies on money laundering and other practices that enable corruption but suffers from decentralized and poorly coordinated enforcement and gaps in intelligence.⁵⁰

None of these measures will be a silver bullet; corruption is as old as politics and will be a reality for the foreseeable future. But its effects can be contained and mitigated with effective policies and strong leadership. Of all global actors, the United States is still the best positioned to lead the anti-corruption fight on account of its central role in the global financial system and its unrivaled geopolitical clout. That leadership cannot come soon enough, but until the U.S. government starts taking corruption seriously again, those who want a fairer, more honest world will have no choice but to wait.

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