

COVID-19, QUALITY OF GOVERNANCE AND INSTITUTIONAL CORRUPTIONNikos Passas¹**Abstract**

Corruption causes some crises, but others are inevitable. However, the effects of all of them are made far worse by corruption. Social problems and inequalities are thus exacerbated, justice and rule of law are undermined, and all of this increases social turmoil and security risks. Systemic corruption, fraud and mismanagement result in a lack of crisis preparedness for the prevention of certain crises or mitigation of unavoidable disasters. When natural disasters inevitably strike or other emergencies arise, inadequate preparedness or responses result in government distrust and legitimacy crises, which aggravate problems and cause further victimization. This paper analyzes the COVID-19 crisis through the analytical lenses of “lawful but awful” practices and of “institutional corruption”. In this way, it emphasizes the need to pay attention to negative consequences some political, economic or other activities have on society, even though they are allowed by the law or promoted by governments. This form of analysis can guide debates on public policy and reform: if something is not right, we need to fix it.

Key words COVID-19 crisis, corruption, financial crimes

Introduction

Legal, policy and institutional developments over the last couple of decades gave some reasons to think that global efforts would make a positive difference and to be optimistic about the future of corruption control and quality of life around the world. Firstly, substantial resources were devoted to national, regional and international anti-corruption efforts alone or in combination with the agendas of economic development, democratization, support for civil society, public procurement regulation, judicial independence, governance, human rights and the fight against illicit financial frauds and serious transnational crime. Secondly, we have witnessed the introduction of numerous

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binding, soft-law and good-practice international standards amounting to an extraordinary body of conventions and other normative texts framing policy and practice in both the public and private sector spheres. Thirdly, many institutional reforms aiming at the creation or strengthening of independent regulatory, supervisory, preventive and law enforcement bodies added to the hope and expectations that we can do a lot better (Passas, 2014; Passas and Vlassis, 2007).

However, the results have been underwhelming or downright disappointing, as laws go unenforced or used discriminatorily, institutions get weakened or fail, processes become over-bureaucratized, formality often trumps essential objectives, and serious instances of corruption frequently get neglected or go unpunished (Bullough, 2022; Chayes, 2020; Johnston and Fritzen, 2021; Michel, 2021; Mungiu-Pippidi, 2015; Passas, 2020; Persson et al. 2012; Vogl, 2021). (Bullough 2022; Michel 2021; Vogl 2021)

Too much law, complexity, vested interests and lack of genuine political will have led to temporary results, reversible successes, lower trust in institutions and governments, waste of resources, demoralization, brain drain and growing inequalities and inequity. Values, overall purposes, and ethics are misaligned with compliance and anticorruption practice. The pandemic illustrated magnified and added new challenges to this context. It became an important test in the quality of governance at the local, national and international level for both public and private entities.

This paper proposes a theoretical framework for the analysis of this and other natural or human-made emergencies by drawing on the concepts of lawful but awful practices, institutional corruption, and criminogenic asymmetries. To illustrate this theoretical approach, it reviews some of COVID-19 challenges in terms of preparedness, response and future potential effects of new measures.

Theoretical framework

The concepts of corruption and governance are the subject of long debates and controversies the review of which is beyond our scope here. In order to address an unproductive overreliance on law and legal definitions, for our purposes, corruption is the abuse of public or private power, office or authority for private benefit. It occurs when people prioritize de facto their own interests at the expense of the organizational or collective goals they are elected or appointed to serve. Such

disservice to the common good undermines the quality of governance, gives rise to and exacerbates social problems, and undercuts society's capacity to deal with emergencies of all types, thereby adding to the victimization especially of fragile and vulnerable communities.

Governance can be understood as the set of institutions, norms and processes through which interests emerge, are acted out and conflicts between them are resolved in a given social group. It encompasses laws, principles, rules, processes and programs that frame and promote goals, demands and policies as they shape social actors' expectations, practices, interactions, conflicts resolution in local, national and world affairs. So, the unit of analysis can be an organization, corporation, industry, city, country, region or indeed the global community.

A growing body of literature focuses on corporate and government practices that constitute corruption as defined above, even though they may be legal, encouraged or even subsidized by the state, many times signaling a disparity between legality and legitimacy (Passas, 2005; Passas and Goodwin, 2004; Thompson, 2018; Wedel, 2009, 2016). Transcending the intent or even knowledge of social actors, these works point to adverse social, economic, security, health and environmental consequences. This social harm or negative externalities are occasionally far worse than acts that are in fact criminalized. In instances characterized as "institutional corruption", a) organizational or institutional purposes are undermined in practice by certain influences, decisions, actions or activities, or b) the trust and confidence in a given institution is damaged (Amit et al. 2017; Lessig, 2013²). The governance issues at the heart of this literature are that collective goals are frustrated, the common good is not advanced, and those responsible get away with it.

The yardstick is not merely on what an individual or organizational actor did, but also what they could and ought to have done, but they did not do. Positive actions as well as omissions matter, because they have consequences (see for example the debate on Donald Trump's role and duties regarding the January 6, 2021 insurrection). They matter also because they affect collective objectives and purposes, even when actors are not fully aware of the consequences of their actions; that is, regardless of specific individual responsibility or knowledge. The impact on public policy and interest is significant and goes beyond criminal or other liability in courts. The point is that

² "Institutional corruption is manifest when there is a systemic and strategic influence which is legal, or even currently ethical, that undermines the institution's effectiveness by diverting its purpose or weakening its ability achieve its purpose, including, to the extent relevant to its purpose, weakening either the public's trust in that institution or the institution's inherent trustworthiness" (Lessig, 2013).

things are not going as desired, planned or anticipated and need to be fixed; policy priorities are wrong and must be rearranged. The collective or organizational goals people have been appointed or elected to promote are undercut in tangible, observable, most often measurable ways. In other words, the quality of governance leaves room for improvement, and it is our duty a) to reveal and documents such adverse consequences; b) to problematize what may be taken for granted or regarded as positive due to some short-term benefits, c) to articulate the ways in which different actors contribute and need to be held accountable (legally or socially) and d) to actively seek a rethinking of priorities and redesign of public policy.

Health-related negative externalities preceding COVID-19 include compromising legislative capacity to protect the public from unsafe drugs (Light et al., 2013), the non-publication of adverse effects of drugs on trial (Goldacre, 2013) or allowing the manufacture and export of products banned domestically due to their known harm (Cashman, 1989).

These challenges can be analyzed through the concept of “criminogenic asymmetries” (Passas, 1999, 2000, 2002), which refers to structural discrepancies, mismatches and inequalities in the realms of the economy, law, politics, and culture. Asymmetries are conducive to crime 1) by fueling the demand for illegal goods and services; 2) by generating incentives for people and organizations to engage in illegal practices; and 3) by reducing the ability of authorities to control crime. Processes of globalization bring into contact diverse systems and actors thereby multiplying, activating and intensifying the criminogenic potential of these asymmetries. The criminogenic effect is that new opportunities for crime and corruption are created, motives to avail of such opportunities emerge or proliferate, while social controls are weakened.

This analytical approach has been applied fruitfully to the study of lawful but awful and corrupt practices as well as of illegal markets, transnational crime, cybercrime, and extremism (Arroyo-Quiroz and Wyatt, 2019; Bracci et al. 2021; Dolliver and Love, 2015; Loibl, 2019; Passas, 1998; Pons-Hernandez and Wyatt, 2022; Twyman-Ghoshal, 2021; Twyman-Ghoshal and Passas, 2015; Zabyelina, 2014).

Emergencies, COVID and Corruption

Crises of all types and their effects are far less random than they may first appear. Decisions, actions or inaction by government agencies and private actors cause or contribute to crises by

either worsening or alleviating their effects. How societies fare in the context of emergencies of all types reflects essentially the quality of their governance. Beyond the social construction of crises, some argue that some disasters are welcome and deliberately taken advantage of for political or business agendas (Klein, 2007). Others suggest that “crisis” is a label, a claim of urgency employed by leaders, in order to characterize a set of contingencies that pose a serious and immediate threat to the public (Spector, 2019). Even COVID-19 needs to be examined critically, as it involves assertions of power and the promotion of interests. Some may be widely shared, while others are contradictory or disputed. Tensions and controversies have emerged regarding the origin of the virus, the responsibility of different governments, drastic measures need for no special measures, the need for focus on national priorities or on global coordination and collaboration, concerns about lasting effects – when programs acquire a life of their own and vested interests grow roots. As with past responses to the 9/11 attacks or to the financial crisis of 2008, we can expect that claims of urgency may outlive particular contingencies (Spector, 2020).

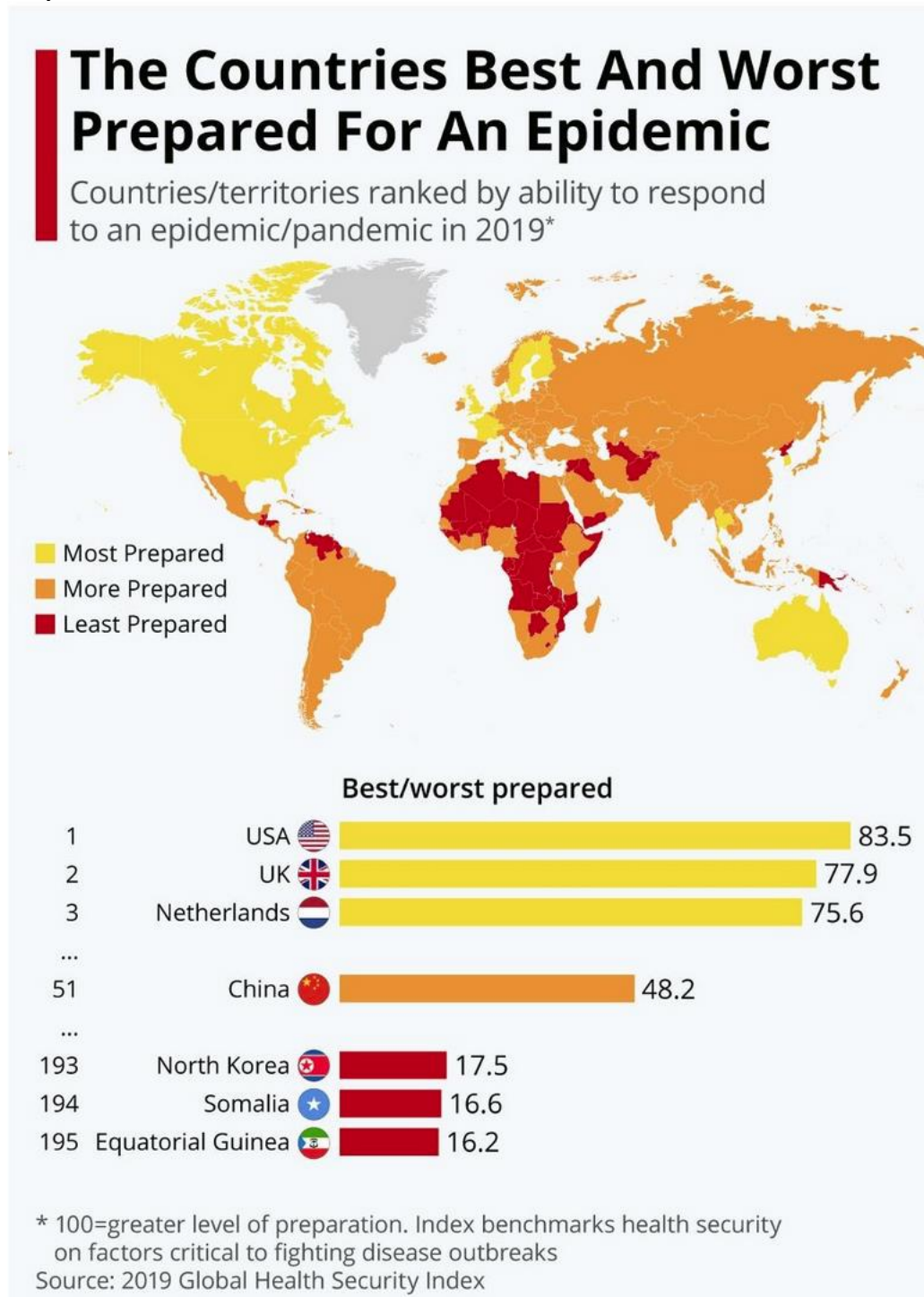
Emergencies reveal and exacerbate some problems, while also furnishing opportunities for fresh starts and reforms. They also test a system’s integrity and accountability; they render clear the foresight or negligence of leaders. COVID-19 did expose discord, fraud and corruption, which may be contrasted by examples of compassionate, empathetic and effective leadership. Nonsensical and self-serving willful blindness exhibited by some is juxtaposed by wisdom, caring and genuine pursuit of the common good and human rights (Alhashimi, 2021; Byttebier, 2022; Kahl and Wright, 2021; Kjaerum, 2021; Lupton, 2022; Lupton and Willis, 2021; Pietersee, 2021).

Global emergencies, such as the climate crisis or the COVID-19 pandemic, are thus opportunities to compare the quality of governance and leadership at multiple levels: national and local government, companies, international organizations, or NGOs.

The global spread of COVID-19 brought about a perfect storm of corruption, crime and governance challenges converging at once: the effects of globalization and neoliberalism, the context of emergency, uneven state interventions in markets, some trends of -de-globalization, and anomie. The pandemic has exposed and exacerbated problems that we knew about and which relate to preparedness, response and attention to future consequences of public or private sector actions. Wanting governance, corruption, fraud and mismanagement result in a lack of preparedness for the prevention of certain crises or mitigation of [un]avoidable disasters. Ill-preparedness or

inadequate responses may lead to government distrust and legitimacy crises, which aggravate problems and cause further victimization and harm.

Preparedness



Public health is beyond dispute one of the top aims and duties in all societies. Relevant queries to explore include for example

- how comprehensive, accessible and equitable the overall public health system was;
- did governments allocate adequate resources for health infrastructure and capacity?
- did policies, laws and regulation incentivize innovation in medicine and technology;
- was adequate attention devoted to intrusions in nature and to trade in endangered species to prevent viruses from jumping to humans;
- was research/investment focused on coming coronaviruses and other diseases;
- did governments stock up personal protective equipment and medication;

Societies were quite diversely prepared to protect their citizens against a pandemic in 2019 (see data from the Global Health Security Index 2019 in graphic 1; website: <https://www.ghsindex.org/>). Both in particular countries and on the global level, it appeared that we were more prepared on paper than in reality. There were numerous warning and predictions about this and other pandemics, evidence from previous diseases, as well as scientific reports, but they went largely unheeded (Garrett, 1994; MacKenzie, 2021; Marantz Henig, 2020; Quammen 2012).

In Europe, a proposal to fund research and develop vaccines preventively was defeated by lobbyists (Boffey, 2020). Even in the USA, the country at the top of the global health security index, the grades for preparedness and response have been disastrous. For example, a Lancet Commission found that in the years preceding Trump, neoliberal policies led to lower life expectancy, rising mortality and inequality between white and minority populations, substance abuse deaths rose, welfare benefits for millions were removed, health care costs rose, public health workforce was cut down, while tens of millions are uninsured and many more underinsured (Woolhandler et al., 2021). The shortage of masks and ventilators at the start of the pandemic, the demand-supply asymmetry due lack of proper planning, resulted in a market for fakes, price-gouging and fraud (Clark, 2020; see also on N95s, the Shelley et al. paper in this issue).

An area one could explore in depth is the apparent failure of market mechanisms to set priorities for research, development and allocation of human and financial resources on the basis of scientific knowledge, proper risk analysis mindful of the thoughtfully considered public health, political and economic interests.

Response

When the pandemic exploded, societies responded in different ways, ranging from denial, neglect and anti-scientism to mask mandates, lockdowns, government interventions in markets etc. There are many more research questions to explore here; for instance:

- did we do our best to detect and control of substandard and falsified medical products?
- Did we shelter adequately fragile communities and vulnerable groups?
- Did we share data fast and openly?
- Did we guide the public on proper conduct?
- Did we seek to boost confidence in institutions and science?
- Did we coordinate treatments/vaccines meaningfully and globally?
- Did we consider ratifying the Council of Europe Medicrime convention and the application of UN instruments such as the conventions against transnational organized crime and against corruption?

Government and other actor responses included misinformation, populisms, vaccine and other nationalisms, and controls or interference with domestic and international trade in critical products stemming from and contributing to health asymmetries and inequalities, blocked access to needed materials, demand-supply mismatches, abuse of market power, substandard, illicit and falsified medical products as well as fraudulent documentation on tests and vaccinations, extraordinary enrichment of the top 1% globally, economic dislocation and disruption, and rule of law problems as criminal groups took advantage of new opportunities for illicit gain (Davis, 2021; McSwane, 2022; OECD & European Union Intellectual Property Office, 2022; Oxfam, 2022). These are some opportunities for research on the adequacy and effectiveness of policies while focusing on consequences and results, rather than just which acts or activities violated the law.

Again, the USA's approach left a great deal to be desired, as millions of people contracted the disease, were hospitalized, suffered long-term consequences and over a million died. A Lancet Commission took a detailed look at the Trump administration response to COVID-19; its critique was straightforward, carefully documented and devastating. It found that it:

- “Politicised and repudiated science, leaving the USA unprepared and exposed to the COVID-19 pandemic
- Eviscerated environmental regulation, hastening global warming
- Incited racial, nativist, and religious hatred, provoking vigilante and police violence
- Denied refuge to migrants fleeing violence and oppression, and abused immigrant detainees
- Undermined health coverage
- Weakened food assistance programmes
- Curtailed reproductive rights
- Undermined global cooperation for health, and triggered trade wars
- Shifted resources from social programmes to military spending and tax windfalls for corporations and the wealthy
- Subverted democracy both nationally and internationally” (Woolhandler et al., 2021).

Another study at Columbia university concluded that the inadequate pandemic response resulted in 130,000-210,000 avoidable deaths only up to the summer of 2020 (National Center for Disaster Preparedness, 2020). In short, we faced a predictable, predicted and confirmed emergency with specific information on good practices to prevent and mitigate individual and collective harms. In a country with the technology, infrastructure, human capital, financial resources and infrastructure of the United States, there is no excuse for the disproportionate death toll, hospitalization and morbidity that was worse than developing countries and regions. An additional research question to be explored is how a society more reliant on prescription and other drugs in general ended up with high rates of vaccine hesitancy and resistance.

A more general field of study is how the combination of unprecedented use of public funds for the support of companies, industries and individuals with the relaxed control typical of emergency situations have given rise to a wide range of crimes, corruption, abuses and malfunctions from unemployment fraud to small-business claims to benefits big and powerful organizations were not qualified to receive.

As almost everyone is under stress, and pressure to take measures, make decisions and do something about a crisis mounts on politicians, the usual anti-corruption controls and procurement procedures are adapted or temporarily bypassed. Yet, it is precisely when crime opportunities,

motives and control weaknesses grow that when control, integrity, transparency and accountability mechanisms are most needed. Especially so, when trillions of dollars are spent in short periods of time.

Attention to future effects of emergency responses and measures

As policy makers push buttons, take actions, apply technologies and introduce law or new institutions, it is vital that we keep an eye on the future, that we do not create precedents and vested interest with a life of their own and lasting consequences affecting future generations. Big questions in this respect include whether we are paving the ground for readiness against the next pandemic. Do we investigate and act on some human-made causes of this and potentially future pandemics. Many viruses exist in nature but do not affect humans until they jump (Quammen, 2012). Jumps are caused by our invasion of the space/territory of different species, which then are forced to shift habitat, come into closer contact with humans and thus enable viruses to jump. In other words, rather than a “foreign” problem or “invasion” from other countries, we have opted or certain lifestyles, crossed lines and produced these effects. Identifying those responsible and holding them accountable is essential, but a key and hopeful consideration is also the following: if we have contributed to the problem, it means it is not out of our control. We have handles to deal with this type of challenge. To a large extent, we are in charge and should act on the basis of information, knowledge and science.

More broadly, questions to be explored revolve around whether we thoughtfully plan for the future and consider the long-term effects of responses to ongoing health and economic crisis. For example, the arguments around new technologies, human rights and surveillance capitalism (Jørgensen, 2019; Zuboff, 2020) point to privacy and control issues into the foreseeable future. We can also inquire into the tendency of some emergency laws or approaches to grow roots and acquire a long life without appropriate supervision, regulation or transparency. Another issue to examine is the financial impact of our approaches. The world had reached a record high debt level before the pandemic for governments, corporations and households. This debt mountain grew immensely during COVID-19 as trillions of dollars were created out of thin air by central banks or borrowed by public and private entities (Campos, 2020; for updates, see <https://www.iif.com/Products/Global-Debt-Monitor>) . How will this debt be managed and what effects might it have on local and global economies? Another critical matter is the role and responsibility of private sector, government and civil society – markets and neoliberal approaches

failed us, should we go back to the drawing board and rethink the division of labor and distribution of powers? As the “disaster capitalism” literature argues, the legacy of wars, natural and human-made disasters, economic crises, COVID-19, etc. is often characterized by calculated, market-based exploitative ‘solutions’ that exacerbate problems and inequalities, which is why markets are not the answer! (Franck, 2018; Imperiale and Vanclay, 2020; Klein, 2020; Lowenstein, 2017).

There are many parallels and thus lessons to learn from past emergencies, which were also accompanied by rule of law breakdowns, security problems, fraud, corruption and serious crime: tsunamis (Indonesia/Thailand/S. Asia); earthquakes (Pakistan, Haiti, Mexico); floods/hurricanes (Katrina, Sandy); famine/conflict (Somalia and other parts of Africa); wars/reconstructions (Iraq/Afghanistan); embargo and sanctions regimes (S. Africa-Israel-Iraq-Iran-DPRK). The corrupt and the desperate among us always take advantage of emergency situations, where speedy actions and time constraints tend to make us lower our guard. In the COVID-19 context, some controls were further weakened by physical distancing, lockdowns and supply chain disruptions.

As we strive to improve our governance and strategies, several risks have become clear and warrant serious attention.

The role of central banks engaging in the so called “quantitative easing”, low or even negative interest rates and intervention in the financial markets can also be researched for the extent to which it contributed to financial asset bubbles, inflation, misallocation of resources, ‘neo-socialist’ support for big and powerful industries saving them from economic trouble at the time that others lost income, jobs or capacity to operate, and growing inequalities (el-Erian, 2021, 2022; el-Erian and Spence, 2020).

Following the 2008 financial crisis, trillions of dollars of taxpayer-backed funds were deployed to support the banking sector without much accountability for excessive risk taking and even frauds. A disconnect between Wall Street and Main Street has been growing since “emergency measures” have been normalized and routinized: 13 years on from that crisis, a decade marked by austerity and quantitative easing depending on the country we examine, we observe persistent inequality. Central bank interventions with trillions of dollars drove financial markets to record highs while hundreds of millions suffer; some have been speaking of zombie markets and junk economics leading to market dislocation, inefficient capital allocation, pricing corruption, hyper-inflation risks and potential losses for ordinary investors (CNBC, 2020; Hudson, 2015), when asset bubbles eventually burst (as they always do and as we witness in 2022).

Instead of the proverbial tide that lifts all boats, this has been a tsunami that lifts well placed yachts but overturned small vessels. As COVID-19 spread, the 10 richest persons made enough money to pay for the vaccination of the entire earth population. \$1 trillion was made by the top earners made during the pandemic. At the same time, the World Food Organisation and the International Labour Office warned about massive hunger and job losses, the WHO cautioned against vaccine nationalism (while other observers employed terms like biological warfare, modern piracy or protectionism). This when, as mentioned earlier, public and private debt have reached all-time records, which should serve as alarm warning that we are borrowing too much from the future and our children will have to pay for this eventually. In the end, a marked over-emphasis on short-term objectives produces medium and long-term stability, economic growth and security risks.

And then, we have de-globalization risks: trade may shrink due to the extreme debt, export bans, movement restrictions, nationalisms, and populisms in several countries. We see reactive crisis management rather than strategies guided by principles, values and concern about the common future. Added deglobalization factors include lobbying from inefficient industries conducive to favoritism; higher cost of compliance with new rules and regulations; lower productivity; economic slowdown, an explosion of inflation, smaller profit margins, supply chain and food disruptions, and social unrest. With big firms often becoming more dominant and governments oversized, one can anticipate more corruption and graft in this context.

The above factors create strain on governments reducing capacity and efficiency, they place pressure on companies profit or threatens their survival, and they multiply motives to turn to corrupt criminal practices as a solution. Aid programs become more vulnerable to abuse, fraud and mismanagement. Budget cuts, labor force reduction and austerity measures in attempts to deal with financial troubles and debt, conflict and geopolitical troubles contribute to an environment where the guiding power and effectiveness of international norms and institutions is weakened (i.e. global and national anomie; Passas, 2000) leading to further deviance, dysfunctional and problematic governance and serious crime, unless corrective action and controls are put into place to stop this misconduct amplification dynamic. The question then becomes: How effectively will we address such concerns and risks? In some countries, trust in government will be enhanced. In others, we will see turmoil, chaos, protests, and general unrest.

Conclusion

Even a cursory review of the mounting evidence shows up how a pandemic renders clear the foresight or negligence of leaders, how it exposes fraud and corruption, as it also produces examples of compassionate, empathetic and effective leadership. It is not hard to find examples of willful blindness juxtaposed by wisdom, caring and a genuine pursuit of the common good.

The theoretical framework recommended here serves to emphasize the significance and importance of corruptive effects of legal practices even when actors do not intend or even aren't aware of adverse consequences. Whether allowed or prohibited, consistent or inconsistent with an entity's own particular formal goals, certain processes and activities affect entire societies or large social groups. We must learn from the lessons of the past and from warnings from specialists and science. The economic, physical, social, cultural and normative cost is staggering and signals the urgent need to reconsider our approaches and to redefine priorities, public policy and the law.

As the focus on outcomes of social actions helps transcend national or international law, we are reminded that our interests, core values and purpose of organizations, communities, societies or the global community are de facto undercut. Criminal, civil and other responsibilities must always be pursued, but this is not enough. This form of analysis removes any defense of lack of awareness or plausible deniability on the part of those who could and should have done something to prevent a disaster or mitigate its effects. It therefore facilitates efforts toward accountability and justice. Hopefully, this will help guide critical debates and a redesign of public policy, a reordering of priorities and a focus on ways in which the common good is better served.

Like other crises, COVID-19 is an opportunity for grand corruption and abuse as well as for groundbreaking change. Lessons must be learned. Next time we may not be so lucky to have a solid health system as in Italy or lower hospitalizations as in India and Africa. Younger people may be more affected. So, preparedness, response and attention to future effects are vital.

These challenges to governments, businesses, civil society, international organizations, donors, academia and individuals were produced by the old normality. We all have a responsibility to contribute to positive social change. Resilience must mean not mere system capacity to absorb disturbance and maintain integrity; it should not be regarded as preservation of the status quo or return to some old normality, but rather the capacity to create a new and better world for our children.

In many ways, this is a dress rehearsal for the climate crisis that we face in common. The best way forward is by identifying and working on common interests, where everyone has a stake in participation and success. For example, we can point to logical limits and unsustainability of short-term self interest adding to growing inequality: a point will come when people cannot afford goods and services we sell.

We cannot designate a corner of the swimming pool as a toilet and expect that we can swim cleanly in the rest of the pool. Same with the climate crisis: we cannot have pockets of clean environment and regions that are polluted or suffer droughts, fires, sea surge or extreme temperatures. Similarly, pandemics are everyone's concern; we are safe when everyone is safe: else new virus variants, economic disruptions and shrinking markets will victimize ourselves too.

In sum, we must develop consensual knowledge, a collective wisdom and conscience to counter misinformation, disinformation, self-defeating isolationism and populism.

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