

**On State Capture as a major threat to nations
and enabler of human rights violations --
*The imperative of prevention***

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***Exhibits for meeting hosted by the UN delegations
from Bulgaria and Norway***

New York, June 18, 2024

This slide deck, including the data, is meant to illustrate, complementing the detailed report by the State Capture Workstream, “State Capture as Enabling Condition for Human Rights Violations” (June 2024), part of the Prevention Project. The presenter is responsible for the charts with data slides, for which details are available in a separate article and dataset, [here](#). All data is subject to margins of error; interpretative caution is in order.

THE PREVENTION PROJECT



Making
Prevention
a Reality

State Capture as Enabling Condition for Human Rights Violations

State Capture Workstream | June 2024

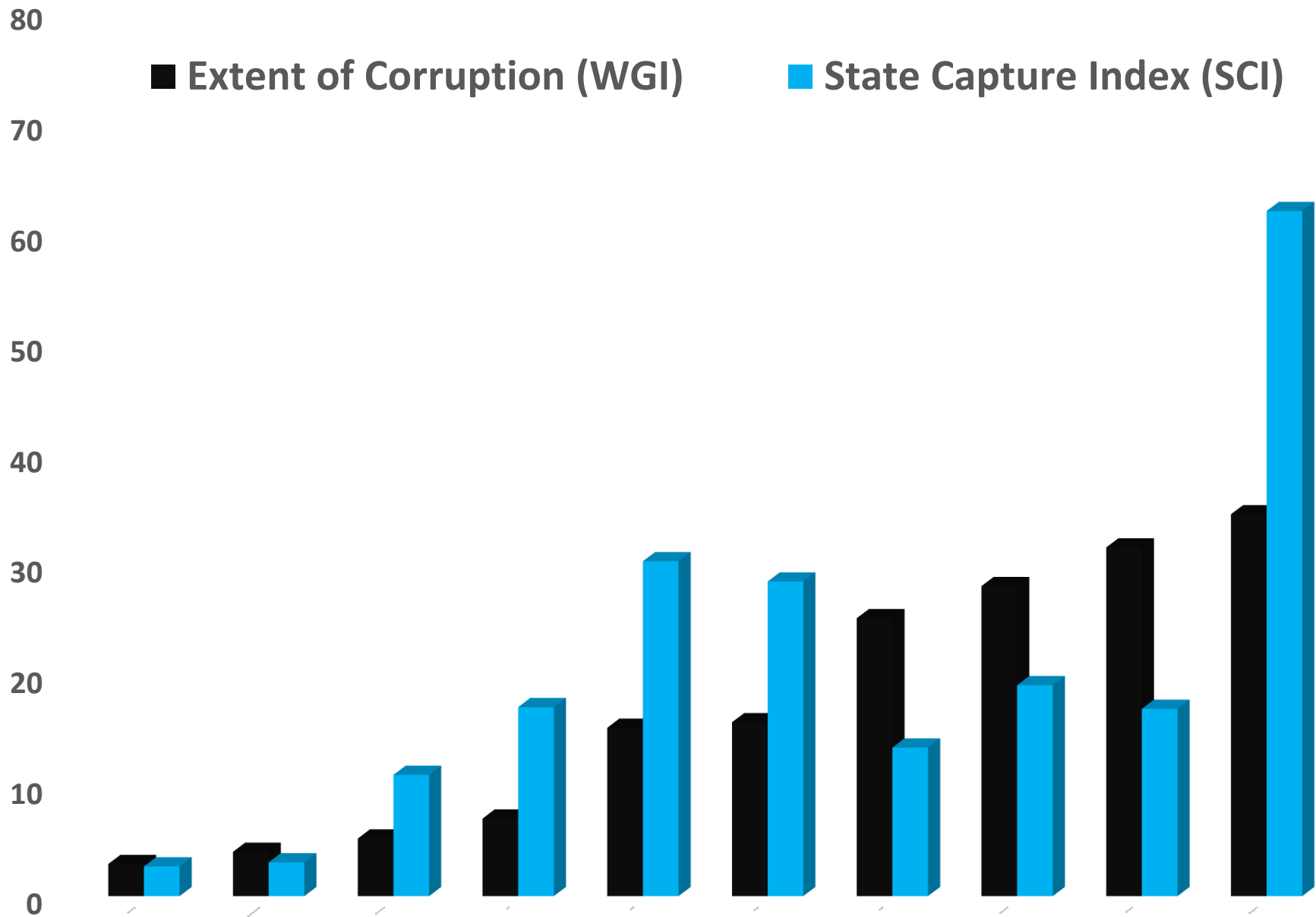
What is State Capture?

- ***Contrast*** -- Traditional notion of Administrative Corruption as acts in the *Implementation of the (given/set) Rules of the Game*, vs. State Capture = *Shaping Rules of the Game (incl. institutions) by the Economic/Politically Influential*, at expense of the public good
- Powerful actors become ‘shapers’ of the State Laws, Policies, Regulations and its key Institutions
- The focus shifts away from the ‘corrupt public servant’ to the economic/politically influential ‘captor’: can be *a powerful non-state actor, or politician, or both colluding*
- State Capture takes place where there is marked Inequality of Political Influence
- *State Capture can be Legal, by design (‘Legal Corruption’)*
- A definition: ‘Privatization of Power’ (&/or of *Public Policy, Polity*)

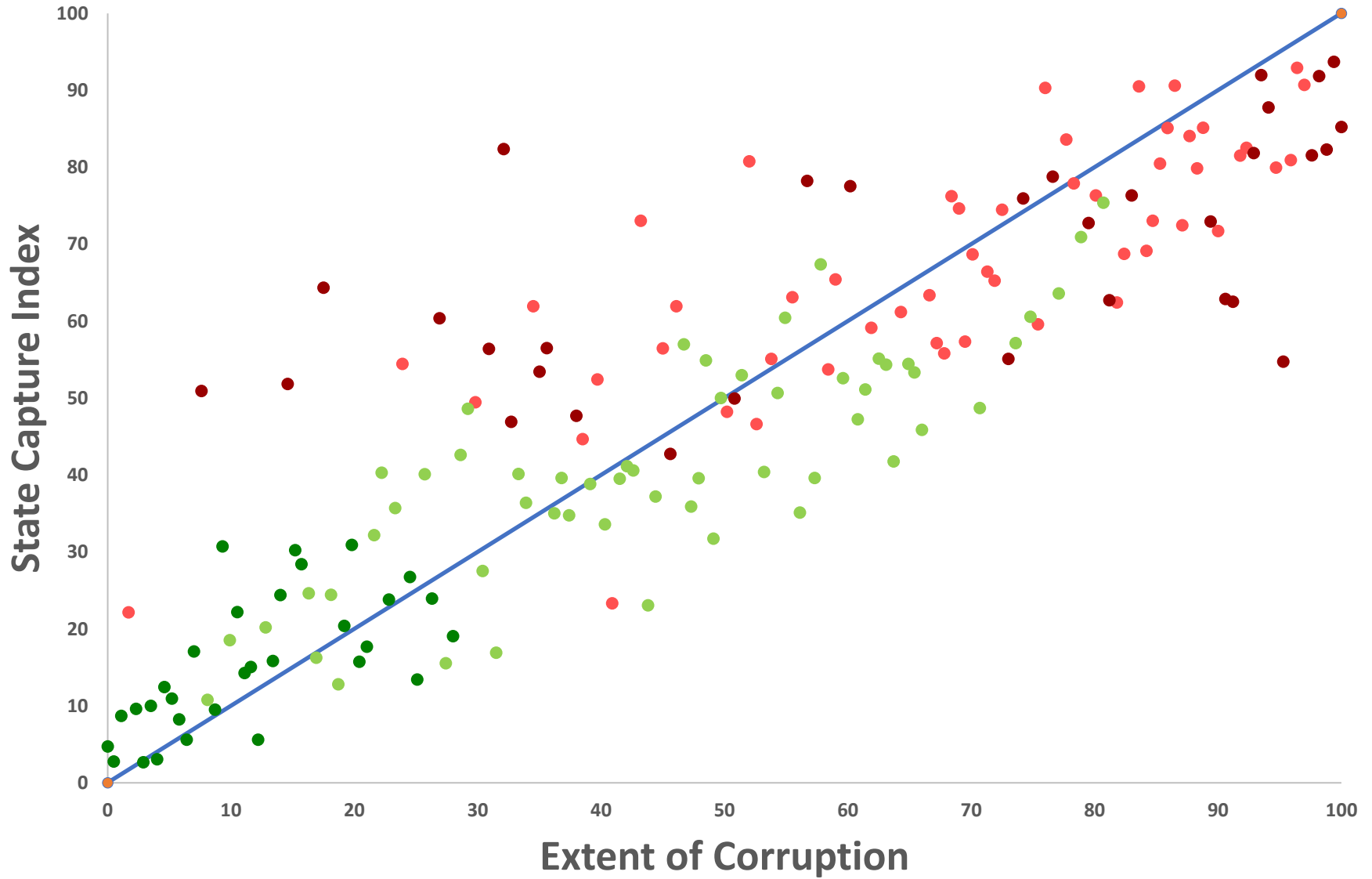
Evolutions in the study of State Capture

- 1. Concept and field of inquiry has expanded, with a more political and interdisciplinary treatment (such as in our workstream)**
- 2. Expansion in the scope of actors engaging in capture. State actors regarded as captors as well. Both non-state and state actors can be varied, and can often collude. *[Capture of the State, by the State, or both]***
- 3. More in-depth focus on the *process* of capture and on the many '*objects of capture*' -- the institutions, policies, regulations, and laws.**
- 4. Empirical work beyond the early emphasis on transition economies, recognizing that it is a universal challenge. Yet country differences.**
- 5. Increased awareness about the dire consequences and costs of state capture, leading to Commissions of Inquiry as well as the need to focus on prevention and policy responses to state capture.**
- 6. Renewed efforts at measurement – data power.**

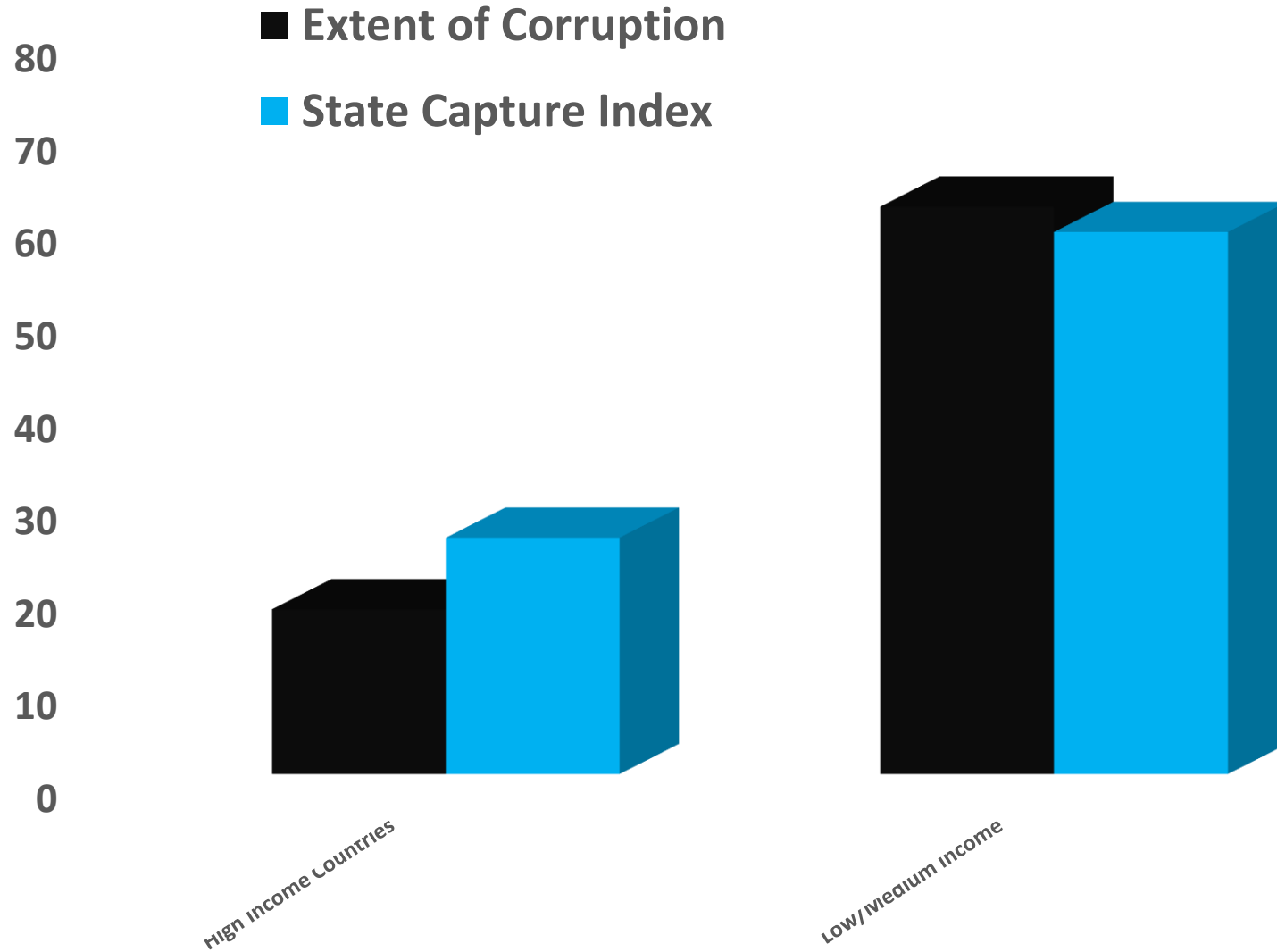
Extent of Corruption & State Capture (2020-2022) : Selected Countries



State Capture vs Extent of (traditional) Corruption: 2020-22

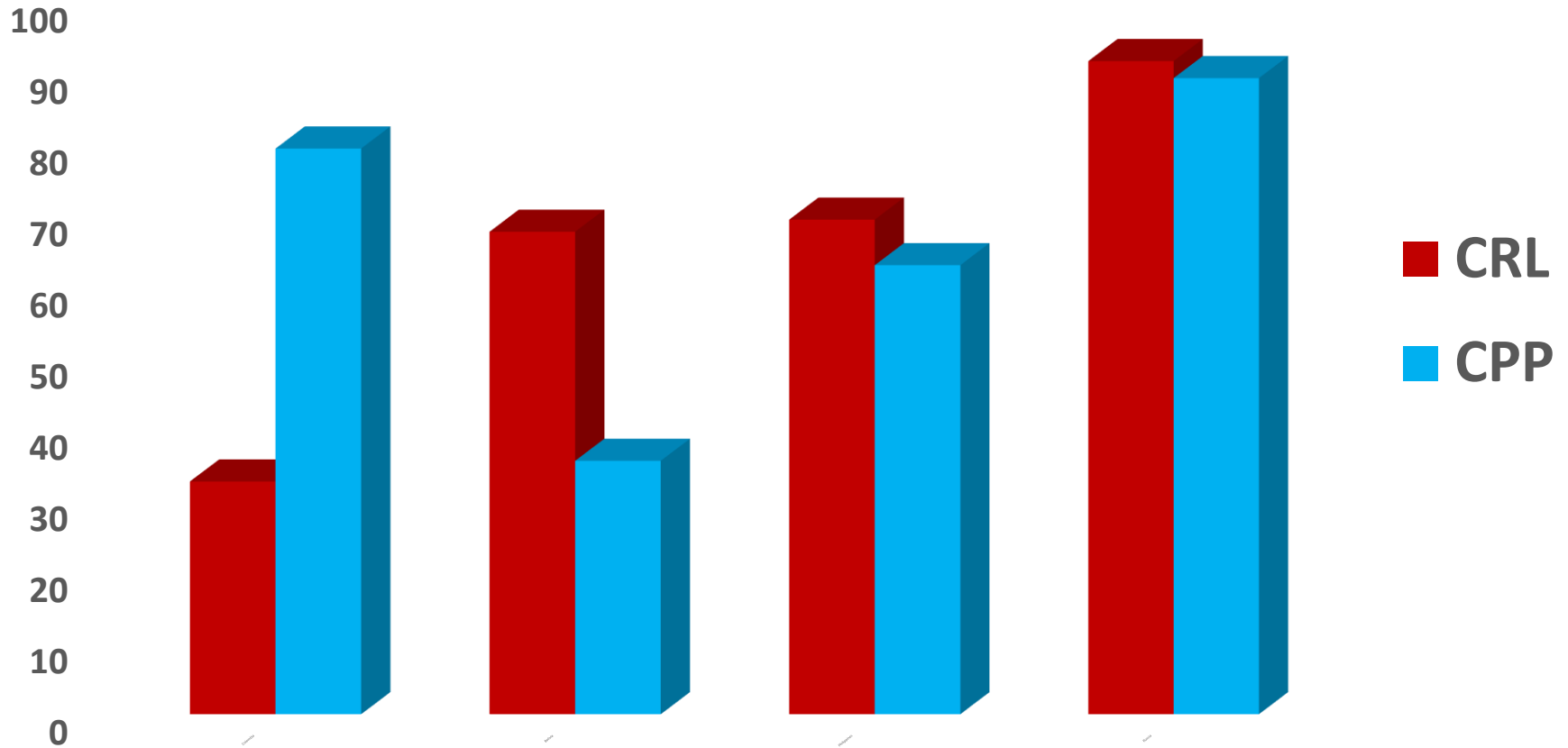


Extent of (traditional) Corruption (WGI) vs. State Capture Index (SCI) for High Income and Low/Medium Income Countries (2020-22 period)



Manifestations & Extent of State Capture differ across countries

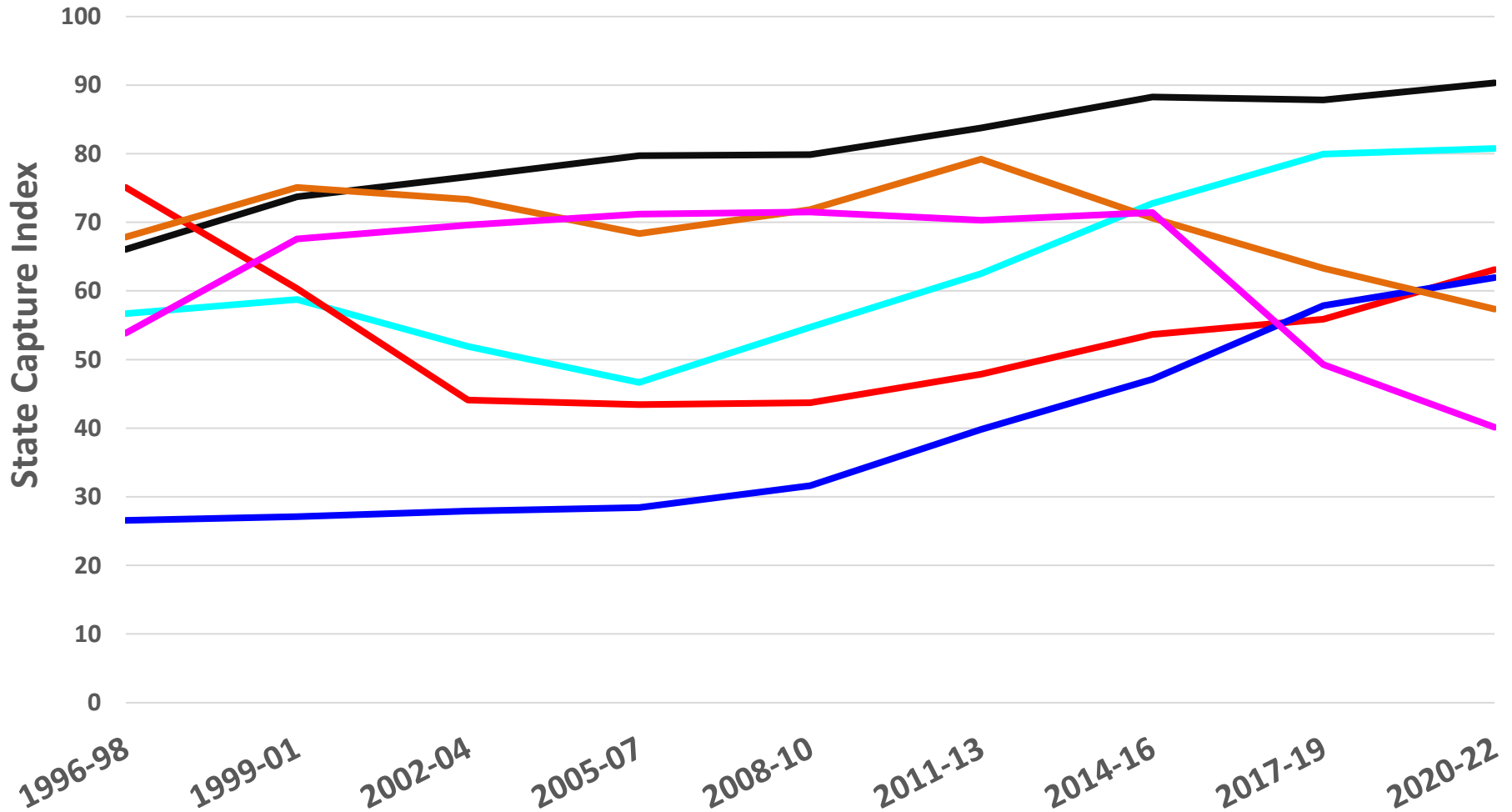
Capture of Rule of Law (CRL) vs. of Polity & Policy (CPP) in select countries



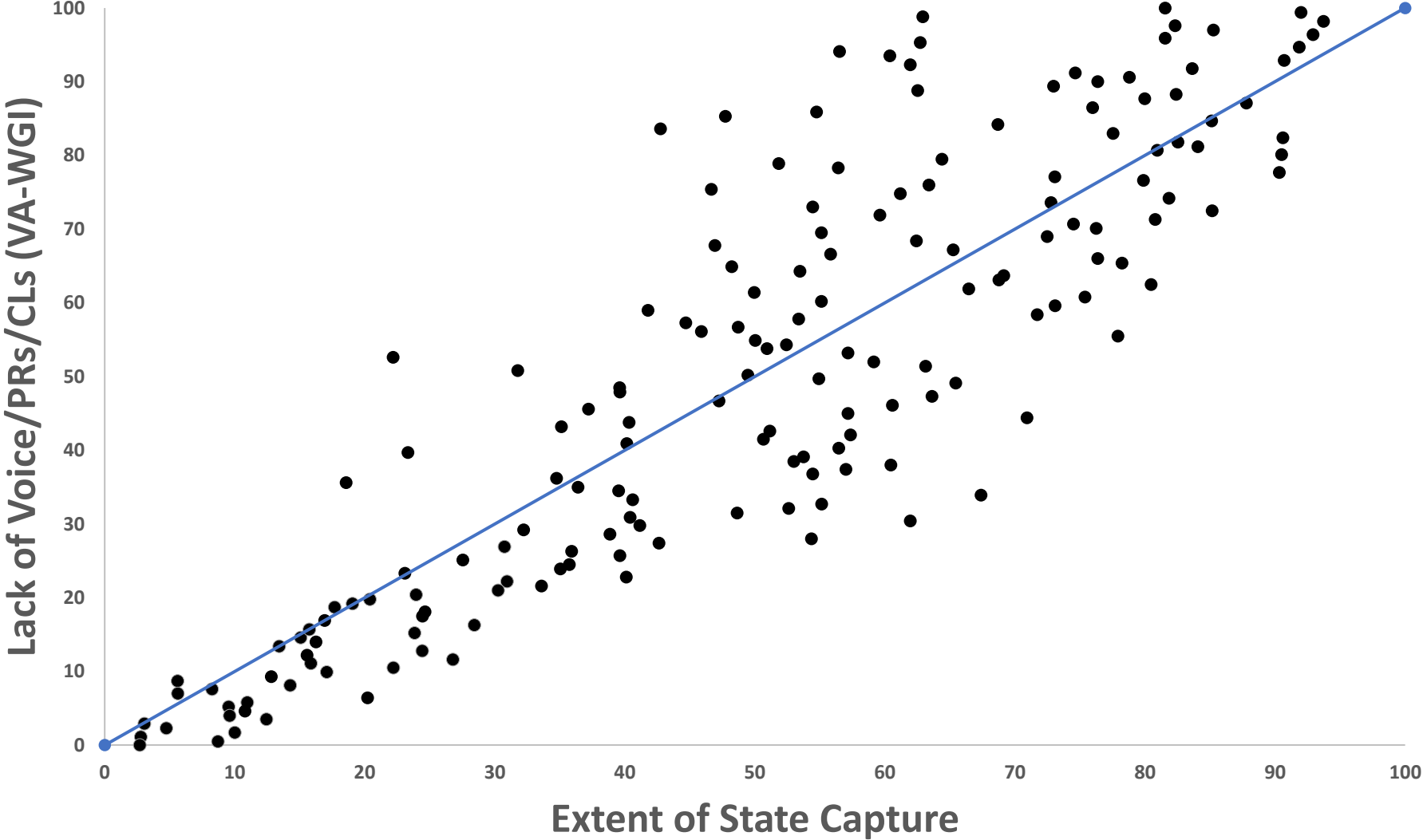
Non-linear Evolution of State Capture 1996-2022 *(selected countries)*

[The case for Prevention]

High Capture



State Capture & Absence of civil liberties/political rights (VA) are linked (*worldwide data, 2020-22*)



Consequences of State Capture

- **Huge Socio-Economic & Developmental Costs, incl. undermining of social & economic rights (eg discriminatory provision of public goods): *likely a multiple of the cost of traditional corruption***
- **Undermining of civil and political rights, including right to vote & freedom of association, expression, media**
- **Abuse of the judiciary and the security system (incl. threats to physical integrity rights)**
- **Growing distrust in state institutions, weakening of participation and of democratic institutions**
- **Thus, possible descent from democracy to autocracy (*research*)**
- **Captured states likely to become entrenched, hard to reverse**
- **Yet process leading to capture can be diagnosed in real time.**
- **This opens opportunities for prevention.**

Paths to Prevention of State Capture – I: 'the broad'

I. Broad contextual elements to work on strategies to prevent state capture -- recognizing both its universality as well as the major differences across settings:

- Develop an 'Early warning system': diagnostic tools, data, red flags
- Acknowledging & probing into Inequality of Influence
- Whom wields an inordinate hold on power and influence and what is the direction of travel?
- What are the key vulnerabilities in the system of checks and balances on undue influence and state capture?
- What are key areas of institutional strength for checks & balances that can be deployed in a prevention strategy (*incl. entry points*)?
- DNA of diagnosis: accounting for likelihood that capture can take place within existing legal norms – *it can be Legal*
- Multi-stakeholder: beyond traditional government + civil society, the role of industry/financial sector is also key

Paths to Prevention of State Capture: *II. The Specifics*

1. Public Access in Norm-Producing Process: *a. Open Public Hearings; b. Participatory Procedures; c. Transparency in Drafting; d. Freedom of Information Legislation*
2. Regulatory & Oversight Mechanisms: *a. Lobby Regulation; b. Whistleblower Protection; c. Independent Appeal Procedures; d. Independence of Regulatory Bodies; e. Conflict of Interest Rules*
3. Electoral Process and Political Engagement Standards: *a. Transparent Campaign Financing; b. independent regulation/oversight of electoral processes (incl. of political financing); c. Independent Electoral Districting Criteria; d. Lower Barriers for Registration; d. Rights for Opposition Parties*
4. Information Transparency & Technology Integration: *a. Procurement Transparency; b. Digital Public Information; c. Monitor Banking/Financial Sector; d. e-transparency and accountability in Extractives (eg EITI)*
5. International Collaboration and Systemic Considerations:
a. International Cooperation (recognizing int'l SC dimension); b. Foreign Investment Impact; c. Leverage Litigation (within broader strategy); d. Focus on vulnerable sectors, such as Commodities/Extractives (important to address Env/Climate Change)
6. The Role of Civil Society: *a. Promoting vibrant civil society engagement without obstacles for CSOs to function; b. strong safeguards for the media and independent investigative bodies (with protection for whistleblowers); c. Diffusion of the notion of Rights is key for participatory Prevention.*

Concluding reflections for discussion

- **State Capture is a real threat, and distinct from traditional notions of governance, rule of law or corruption.**
- **It is a universal and costly socio-economic and human rights challenge -- *with significant variations across countries, including in terms of their manifestations and types***
- **Prevention can have a large payoff. Requires timely efforts & dedicated country tailoring, with diagnostic & participation. Data and applied research/analysis matters**
- **Emphasis on particular measures would vary across settings, likely to include a set of measures and initiatives in the 'TAP' troika (*Transparency, Accountability, Participation*), including regulatory & oversight areas. Plus: electoral processes, international collaboration & sectoral focus & initiatives**

Thank you