

Anti-Corruption Commissions
Panacea or Real Medicine to Fight Corruption?

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World Bank Institute

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Introduction

Over the past decade, corruption has been identified as a costly diversion of scarce resources and an impediment to development effectiveness. Most observers note that corruption is a symptom of deeper problems in how a political leadership administers the key financial functions of state. Accordingly, a range of policies have been identified to improve public administration including reforms of public expenditure management, procurement procedures, auditing functions, and rules governing conflicts of interest. One striking development of anti-corruption commissions has been the adoption by numerous governments despite a mounting body of evidence they fail to reduce corruption. What drives policymakers to invest a portion of scarce resources in a commission that has such a doubtful impact? Why would national leaders squander their credibility with domestic constituents and international investors and donors to create an expensive agency that is likely to fail? In short, why would policymakers adopt a set of institutions that have worked in another country and allocate scarce revenues to establish a commission that consumes resources and undermines the credibility of their commitment to reform?

A cynical response to the questions above is that policymakers in what are usually the poorest of countries have no intention of reform. At an extreme, the reasons may be as simple as malice and greed; political leaders are engaged in looting the economy and an appearance of reform allows them to postpone meaningful policies. Often greed is the motive in resource abundant economies where the political leadership ability to enact anti-corruption reforms “depends on the capacity of the political state to insulate them from predatory elements within the government.”¹ In other circumstances, political authorities operate in a system of crony capitalism in which a large circle of individuals close to the centers of state receive substantial economic favors that allow them to profit at higher rates than a normally competitive market would provide.² A more common scenario is that policymakers are risk averse and reluctant to enact reforms that might threaten domestic interests or constituents who profit from systemic corruption. At the same time, governments in poor countries need international investments and donors require that they reduce corruption and improve their management of the economy. An anti-corruption commission may therefore represent an effort to satisfy international donors and placate domestic calls for reform, if only for a short while.

Anti-corruption commissions are especially problematic when political leaders are only responding to demands from international donors. In such countries, policymakers can ignore domestic demands for reform and enact minimal reforms to satisfy external agents. This minimum may be nothing more than the establishment of an anti-corruption commission, an office of the ombudsman, or an anti-fraud unit without enabling legislation, competent staff, or a budget. Having created offices to which they may point, and situating them in the presidency, policymakers may return to business as usual. In the worst cases, the commissions become tools to repress political rivals and members of the opposition or previous governments become targets of investigation. The impact is to undermine political legitimacy further.

Evidence of dysfunctional anti-corruption commissions is manifest in the numerous agencies that lack independence from the executive, receive no budgetary support from the legislature to investigate venal officials, and have no procedures for forwarding cases of corruption for prosecution by the relevant judicial authorities. Herein lays the dilemma for policymakers who want to reduce corruption and improve governance: whereas it may be desirable to enact policies to reduce corruption, a hollow commission leads to a reputation for token reforms, which

undermines the political leadership's credibility. Indeed, it is easy to explain why anti-corruption commissions fail in so many places; it is far more difficult to explain why any succeed.

This paper argues that anti-corruption commissions fail to reduce public sector venality in all but a few special circumstances. It notes that those governments that have established successful anti-corruption commissions have done so in response to demands for reform from a broad base of domestic constituents. Demands for reform generally occur after a precipitating crisis has caused deep economic hardship and a national consensus exists that reforms must be implemented. Anti-corruption commissions are effective when they respond to that national consensus and a broad domestic coalition supports reform. Without the precipitating crisis, building such domestic coalitions is a challenge for even the most popular leaders. When support is more tenuous, policymakers have an incentive to weaken reforms and avoid any threat to powerful constituents who profit from official inattention to expenditures, access to governments contracts, and other manifestations of public sector inefficiency.

Experience has shown that political leaders must forge broad coalitions that can endure efforts of an organized opposition if they hope to succeed in the fight against corruption. That success is largely contingent on a capacity to overcome the time-consistency dilemma wherein politicians cannot at low cost renege on policy commitments.³ The argument in this essay is that an anti-corruption commission is a manifestation of a policymaker's desire to renege on any stated commitment to reform. It is all too often nothing more than a token effort without the difficult reforms in procurement practices, financial management, internal and external audits, and conflict of interest laws necessary to improve public sector management and reduce corruption.⁴

What is surprising is how many policymakers have proposed special commissions to investigate allegations of venality in the public sector. Motives for establishing such agencies include a leader's genuine concern with the adverse developmental impact of corruption and a perception that any effort to reduce corruption succeeds only through the creation of a special agency to expand customary police powers. However, as Nigerian President Obasanjo's experience demonstrates, few political leaders are able to bind themselves effectively to anti-corruption reforms over an extended period of time. Before too long, strong entrenched interests militate against the commission rendering it impotent or a tool to repress political opponents. In other circumstances, commissions represent little more than a perverse effort to signal commitment to international investors and donors while avoiding tough reforms that might improve transparency and accountability in the state.

It is hardly surprising that anti-corruption commissions have compiled a dismal record of effectiveness. The losers of policy reforms include people in business who have captured rents from a corrupt government and public servants who have profited from the discretion to allocate those rents. The machinations of venal actors in the private sector, elected officials, and appointed public servants have all too often eviscerated reformers' efforts to enact sustainable policies. Political leaders in developing economies have few incentives to implement effective public sector reform and enforce those reforms through an anti-corruption commission that risk the alienation of key supporters. However, when cronyism is a norm and political leaders are in a tenuous position, they have an incentive to create anti-corruption agencies that are hollow organizations to divert attention from other possible reforms.

To distinguish among the multitude of anti-corruption commissions in the world the paper looks at their functions and to which branch of government the commission is accountable. It

differentiates among four types of anti-corruption commission: first is the *universal model* with its investigative, preventative, and communicative functions. The universal model is typified by Hong Kong's Independent Commission Against Corruption (ICAC). Second, the *investigative model* is characterized by a small and centralized investigative commission as operates in Singapore's Corrupt Practices Investigation Bureau (CPIB). Both the universal and investigative models are organizationally accountable to the executive. Third, the *parliamentary model* includes commissions that report to parliamentary committees and are independent from the executive and judicial branches of state. The parliamentary model is epitomized by the New South Wales Independent Commission Against Corruption that takes a preventative approach to fighting corruption. Finally, the *multi-agency model* includes a number of offices that are individually distinct, but together weave a web of agencies to fight corruption. The United States Office of Government Ethics with its preventative approach complements the Justice Department's investigative and prosecutorial powers in a concerted effort to reduce corruption. In the paragraphs that follow, the paper describes the four models of anti-corruption commission to provide benchmarks by which it is possible to compare international experience. The paper then looks at commissions in various countries that have adapted the models their particular circumstances. In its conclusion, the paper poses some possible responses to the question of why would governments adopt a problematic approach to fighting corruption.

Hong Kong's ICAC: The Universal Model

Since 1974, the Hong Kong Independent Commission Against Corruption has enjoyed resounding success in fighting corruption.⁵ The ICAC was established after a botched investigation into corruption in the colonial police led to Police Superintendent Peter Godber's flight from prosecution. Shortly thereafter, Governor Sir Murray MacLehose empanelled a commission under the chairmanship of Justice Alastair Blair-Kerr.⁶ The Blair-Kerr Commission concluded that corruption was systemic in Hong Kong; high level officials as well as police officers on the street were accepting bribes. In response, the Blair-Kerr Commission recommended the establishment of a special agency to investigate allegations of corruption, prevent bribery in business and government, and educate citizens about corruption through outreach programs. To enact these changes, the Crown Colony established an independent commission to investigate allegations of corruption. In 1974, the ICAC commenced operations.

Political authorities recognized that "an essential part of the strategy was to ensure that the legal framework within which [the ICAC] was contained was as strong, clear and effective as it could be made."⁷ Existing legislation was revised and new laws were passed to set up an anti-corruption agency with a mandate to investigate any allegations of corruption and forward evidence to colonial prosecutors. The Prevention of Bribery Ordinance (PBO) prohibited the payment of bribes to civil servants. The PBO, which had originally been passed in 1948 and revised once in 1971, was amended to strengthen its powers. In October 1973, the Independent Commission Against Corruption Act set up an anti-corruption bureau independent of the Colonial Police. Its enabling legislation, the Independent Commission Against Corruption Ordinance (ICACO), established the ICAC and gave it specific police powers to investigate and prevent corruption. Finally, the Corrupt and Illegal Practices Ordinance (CIPO), initially adopted in 1955 to regulate elections, was revised to tighten the definition of what behaviors would be considered illegal in Hong Kong.⁸ These laws composed the core of Hong Kong's reforms to fight corruption and the ICAC's success attests to their efficacy.

As a comprehensive bundle, the new laws criminalized corruption by defining a lengthy list of offences that include the obstruction of justice, theft of government resources, blackmail, deception, bribery, making a false accusation, or conspiracy to commit an offence. Most pertinently, the legislation reinforced the PBO by giving authorities discretion to conduct searches, examine bank accounts, subpoena witnesses, audit private assets, and detain individuals. Section 10 of the ICACO permits officials to seize passports, property, and incarcerate suspects when evidence suggests a risk of flight. Although such powers violate fundamental tenets of due process embedded in Western legal thought, the unusual circumstances in Hong Kong required special provisions to prevent suspects from escaping prosecution by passing through the territory's porous borders.

Putting into operation stringent laws requires solid budgetary support. For example, in 2001, the ICAC was appropriated the equivalent of U.S. \$90 million, an amount that is viewed as fully justified when compared with the costs of unchecked corruption.⁹ This allocation pays the salaries of approximately 1,200 officers who work on a contractual basis at the ICAC. Employment contracts for ICAC staff members are independent of civil service rules and made on the basis of mutual consent. Officers join the ICAC through a special examination and cannot enter the Hong Kong government after they leave the Commission. The agency benefits from low turnover; over half of its officers have been with the ICAC for over 10 years, and a stable employee base has contributed to the development of internal expertise in fighting corruption.

The ICAC controls corruption through three functional departments: investigation, prevention, and community relations. Largest among the departments is the Operations Department that investigates alleged violations of laws and regulations. Almost three-fourths of the ICAC's budget is allocated to the Operations Department and many talented officials gravitate to that department. The Corruption Prevention Department funds studies of corruption, conducts seminars for business leaders, and helps public and private organizations identify strategies to reduce corruption. The Prevention Department has funded several thousand studies for public sector agencies and businesses in Hong Kong.¹⁰ These studies inform an interested public about how corrupt officials adjust to changes in laws and regulations. The Prevention Department therefore regularly reviews laws and suggests revisions on the basis of conclusions from its studies. The Community Relations Department informs the general public of revisions of laws and regulations. Its role is to build awareness of the dangers of corruption by poster campaigning, television commercials, and even films dramatizing the investigation and apprehension of corrupt officials by ICAC officers.

The ICAC's reporting hierarchy includes the Special Regional Administrator, the ICAC Director, and three oversight committees. This system requires that the ICAC submits regular reports that follow clear procedural guidelines for investigations, seizures of property, and the duration of inquiries. Since the ICAC has no prosecutorial role, its investigations try to have the highest levels of integrity that its three oversight committees seek to ensure. The three committees are the Operations Review Committee, the Corruption Prevention Advisory Committee, and the Citizen Advisory Committee on Community Relations. Members are nominated in recognition of their distinguished reputations in the larger community and they meet at regular intervals to review the ICAC's activities and issue a report to the Hong Kong Special Administrator. These reports are published and disseminated on the internet.

Each oversight committee responds to the competencies of the three ICAC departments. The Operations Review Committee (ORC) examines reports on current investigations, cases over 12

months old, cases involving individuals on bail for more than 6 months, and searches authorized under Section 17 of the Prevention of Bribery Act. The ORC enforces a level of accountability that prevents the ICAC from evolving into a tool of repression or political favoritism. For example, the ORC maintains both a supervisory and advisory role over any investigation and a case cannot be dropped without its approval.

The other two committees examine and approve outreach strategies to increase public awareness of the costs of corruption and what may be done to combat it. The Corruption Prevention Advisory Committee receives reports on strategies to demonstrate the costs of corruption to private sector actors. Activities of the Prevention Department complement those outreach programs of the Community Relations Department. Hence, the Citizens Advisory Committee has a crucial role in the content of films, billboards, and other forms of advertising to educate the public. Again, the distinguished composition of both of these committees endows them and the ICAC with a high degree of credibility.

When first established, the ICAC had marginal success; domestic constituents mocked its efforts and its signals lacked credibility. However, the repatriation and successful prosecution of Peter Godber increased the ICAC's credibility and Hong Kong's citizens began to report incidents of bureaucratic corruption. Since that time, the ICAC has built an impressive record of investigations that have resulted in numerous convictions. Nowadays, Hong Kong ranks one of the least corrupt jurisdictions in East Asia, and this reputation is despite its free-wheeling market economy.

Singapore's CPIB: the Investigative Model

Corruption was commonplace in Singapore throughout its colonial history. When police inspectors stole 1,800 tons of narcotics during the 1950s, Crown administrators passed the Prevention of Corruption Ordinance and established the Corrupt Practices Investigation Bureau (CPIB).¹¹ This ordinance was intended to signal investors that the administration in Singapore would not tolerate corruption. However, enforcement was spotty, the CPIB weak, and Singapore kept its reputation for freewheeling and corrupt capitalism. In response, in the 1970s, Singapore reorganized the CPIB and gave it considerable powers to curb endemic corruption. The reorganized CPIB concentrated its activities on investigation and enforcement. Evidence of the CPIB's success in reducing corruption is present from Singapore's highly favorable investment climate that "typically ranks among the top twenty recipients of foreign investment in the world in absolute terms."¹² This success in attracting investments attests to that government's ability to overcome the perverse effects of reputation in the persistence of corrupt behavior.¹³

A capacity to reverse reputational costs is all the more remarkable given Singapore's history. In 1959, the British granted Singapore autonomy from Malaysia and independence followed shortly thereafter. At independence, the People's Action Party implemented a set of reforms to regulate citizens' behavior and impose strict punishments for corrupt practices.¹⁴ The PAP Government recognized that a credible commitment to fighting corruption was essential to attract investors to Singapore and build an environment conducive to economic growth. Hence, it declared a set of reforms to deter potentially corrupt officials and attract foreign investors. Despite the proclaimed reforms, corruption continued to be a serious problem in Singapore into the mid-1970s when another series of scandals again implicated police officials in the narcotic trade.

These scandals prompted the government of Lee Kwan Yew to strengthen laws and revamp the CPIB to end venality in Singapore's public sector. The CPIB was devoted entirely to the investigation of corrupt acts and the preparation of evidence for prosecution. Since the 1970s, it has grown from nine investigators to its present staff of over 75 law enforcement professionals.¹⁵ Indeed, corruption in Singapore has been reduced to levels that rival the Scandinavian countries.

The CPIB derives its power from legislation that grants it remarkable discretion. First, the 1960 Prevention of Corruption Ordinance gave it a mandate to investigate allegations of corruption and prepare cases for prosecution. This original ordinance has been amended seven times and renamed the Prevention of Corruption Act (Chapter 241 of the Statutes of Singapore). The 1989 Confiscation of Benefits Act expanded government powers to seize assets of civil servants accused and convicted of taking bribes. This legislation prohibits illegal payments as well as the solicitation and acceptance of bribes. Later, the Confiscation of Benefits Act was strengthened and renamed the Corruption, Drug Trafficking and Other Serious Crimes Act of 1999.¹⁶ These acts give the CPIB discretion to seize assets and establish the preconditions wherein an individual convicted of corruption is punished by lengthy prison terms and substantial fines.

Among the CPIB's unique characteristics are its small size, narrow police emphasis, and service to a semi-authoritarian regime. With only 75 staff members, the CPIB lacks the presence of Hong Kong's ICAC, and it has accordingly a narrow investigative function. The CPIB has relied on deterrent strategies; for example, a conviction for corruption may carry a \$100,000.00 fine and up to five years in prison.¹⁷ Finally, the CPIB was an effective support of Lee Kwan Yew's semi-authoritarian regime that made economic growth its primary policy objective. Indeed, the fact that Singapore has been ruled by a semi-authoritarian regime since independence renders this commitment and threat of punishment more credible.

The organization of Singapore's CPIB is a strict hierarchy. At the top is the President who receives all reports and may act as the final arbiter of whether the CPIB takes action against alleged corruption. Below the President are the Director, Deputy Director, Assistant Directors, and special investigators of the CPIB. Reports are sent up the hierarchy from the investigative branches of the agency to the President. The CPIB's relatively narrow functions account for fewer employees and a high rate of successful investigations leading to conviction.

Fighting corruption is contentious and Singapore's political leadership encountered resistance when seeking an appropriate ministerial location for the CPIB. Between 1955 and 1970, the CPIB reported to four different ministries demonstrating the difficulty implementing a meaningful set of reforms to combat corruption.¹⁸ Although the agency has moved from ministry to ministry since being established, its present location in the Executive branch has endowed it with a great deal of influence. The CPIB is now an integral component of an apparatus of state agencies with a mandate to reduce corruption in public and private life alike in Singapore.

Whereas some observers argue that putting the CPIB directly in the Executive branch indicates a high level of commitment on the part of Singapore's political leadership, it might also be seen as part of the structure of semi-authoritarian rule.¹⁹ Its reporting hierarchy reinforces the executive's influence while reducing the CPIB's independence. Indeed, countervailing measures that might control the CPIB, or at a minimum place some constraints through oversight mechanisms, are absent. This lack of accountability of a police function is consistent with the semi-authoritarian nature of Singapore's government.

A litmus test to assess an anti-corruption commission's accountability might be the activities of oversight bodies. In Singapore, oversight mechanisms are less clearly defined with the CPIB than in Hong Kong's ICAC. The CPIB reports to an Anti-Corruption Advisory Committee that reports directly to the President. However, since the CPIB was established, public sector corruption has declined with each consecutive year. One commentator has noted that while legislation may not have eliminated corruption, it "is a fact of life rather than a way of life. Put differently, corruption exists in Singapore, but not a corrupt society."²⁰

Singapore is a special case since its anti-corruption commission created a climate conducive for international investments while its citizens live under a semi-authoritarian regime that in some circumstances would be inimical to high levels of economic growth. Despite the centralization of power, the CPIB demonstrates that a government's commitment to combating corruption is critical for meaningful reform. In Singapore, this commitment firstly signaled domestic constituents that corruption would not be tolerated, and secondly, international investors receive assurances that their investments were secure. However, what is crucial about this type of agency is that it operates without the accountability constraints active in a democratic polity. Absent are the committee systems and multiple reporting mechanisms that work in Hong Kong. Although it would be an error to attribute the extent of foreign investment to the CPIB, it is part of an overall picture of stable property rights and rapid economic growth that has come at a high cost to political freedom.

The New South Wales ICAC: the Parliamentary Model

Prior to 1980, corruption had been uncommon in New South Wales, Australia. However, the narcotics trade in Southeast Asia presented huge profits for smugglers who bribed police and judges in countries throughout the region. New South Wales was vulnerable to these pressures and in the 1980s it was revealed that a chief magistrate, a cabinet member, and numerous public officials had accepted bribes from drug traffickers.²¹ A recognition of the influence of narcotics smugglers prompted law enforcement officials in NSW to contact their counterparts in Hong Kong. After a series of consultations, it was decided to establish an anti-corruption agency.

In 1987, political leaders in NSW decided to establish an agency that would have many of the same core functions as the Hong Kong ICAC, with a crucial difference of an emphasis on prevention.²² Despite their decision, the New South Wales Parliament held extensive debates on the proposed commission and whether it was the best means to respond to a rash of scandals involving the police and narcotics money. The first bill lapsed when the NSW Parliament went into recess without having reached closure on its debates over the measure. In 1988, the NSW Parliament again took up debate on the legislation and passed the initial ICAC bill in July. This bill underwent further amendments before being sent to the Premier in August. In September, the Premier announced the nomination of Commissioner Ian Temby; and in March 1989 the NSW ICAC commenced operations.

Legislation governing the ICAC has been amended four times since March 1989. In 1990, the ICAC's methods and scope of investigation were clarified. An extension of the definition of corruption to include Members of Parliament was added to the law in 1994. Amendments inserted new language into the code of conduct for Members of both Houses of Parliament. Over the course of 1996, further amendments were passed to improve witness protection powers.²³ Even with these changes that reinforced the NSW ICAC, a series of scandals in the police involving

bribery and protection schemes again led to the establishment of an independent investigative agency called the Police Integrity Commission in 1997.²⁴ Although the Police Integrity Commission is independent from the ICAC, the anti-corruption agency lends its expertise on prevention and public outreach. The dual commissions attest to difficulties that anti-corruption agencies face in circumstances involving the large profits available from drug trafficking.

Since the ICAC was established, it has effectively built public trust through its emphasis on leadership in government and the private sector. For example, the ICAC successfully broke up organized rings of car thieves who were active in the “rebirthing of automobiles” in which they bribed civil servants to help them change vehicle identification numbers.²⁵ Another example of probity in the NSW ICAC was when it was revealed that the Premier who oversaw the agency’s creation had offered a civil service job to a supporter of a rival politician as reward for ending obstruction to favored legislation. The Premier was accused of corrupt patronage and subsequently forced to resign.²⁶ Since its creation, the NSW-ICAC has adopted three principles as the basis of corruption prevention: First, prevention is better than the cure. Second, prevention is better than punishment. And third, prevention is better than management.²⁷ To complement these principles, the NSW ICAC has published a series of Corruption Resistance Reviews that it disseminates on the internet and through government offices. These reviews help prevent corruption by giving advice to private and public sector actors about the costs of venality. In these reviews, the NSW ICAC has invested considerable effort and resources into improving public support for its duties.

The organizational hierarchy of the NSW-ICAC includes a Commissioner, an Assistant Commissioner, and directors of four operational units. Operational units include first, the Investigation Unit that conducts investigation analysis and assessments of alleged incidents of corruption. Second, the Legal Unit serves as a liaison to the Parliamentary oversight committees. It provides legal advice on operations, reviews on-going investigations, and drafts information for the Parliament Joint Committee. Third, the Corruption Prevention, Education, and Research Unit operates in areas of corruption prevention, education, research, and the relations with the media. Finally, the Corporate and Commercial Services Unit provides private sector actors with information through its information technology, information services, records and property, and other branches.

Accountability in the NSW ICAC is imposed by a requirement that it submit annual reports and internal and external audits must be prepared on ICAC operations. This provision recognized that effective oversight is crucial if the commission is to be accountable for its actions. The NSW-ICAC operates under the supervision of two committees: a Parliamentary Joint Committee and an Operations Review Committee. Responsibilities of the 11 member Parliamentary Joint Committee include supervision and review of ICAC activities.²⁸ Members of the Parliamentary Joint Committee represent the parties in Parliament and are selected from either House of Parliament. As part of its responsibilities, the Parliamentary Joint Committee submits regular reports on specific issues or sometimes in response to questions from either House. The Parliamentary Joint Committee is also responsible to answer to citizens’ complaints that are made to the office of the Ombudsman or Parliament. While the Parliamentary Joint Committee responds to Parliamentary concerns, it is the Operations Review Committee that holds the ICAC accountable for its actions, investigations, and general comportment as a government agency.

The Operations Review Committee’s eight members have a narrow task of advising the Commissioner whether to continue, suspend, or terminate an investigation. Any investigation

must first be vetted by the Operations Review Committee after a review of written documentation of evidence. If the Committee finds merit with the evidence, it gives approval for an investigation to be launched. Follow-up on investigations comes in the form of oversight by this committee that is a critical source of accountability. Every three months it determines the appropriateness of on-going investigations; it reviews on-going investigations; and it communicates its findings regularly to the Commissioner.

Other methods to enforce accountability include term limits for the Commissioner, budgetary accountability to the Treasury, privacy laws, and freedom of information laws. In addition, the Ombudsman inspects telephone intercepts and records of investigations to prevent any abuses of power. The effect is an agency operating in “the context of a vibrant Westminster-style democratic system” that ensures a high degree of integrity for New South Wales.²⁹ Although the ICAC has had a mixed record of successful prosecutions, its major contribution has been as a prevention agency that changed the norms of how business is conducted in New South Wales.

The United States Office of Government Ethics: the Multi-Agency Model

Corruption in United States history has prompted reforms and laws against bribery and corrupt acts. Reforms have followed such incidents as the Credit Mobilier scandal of the 1870s, the decades’ long scandals of Tammany Hall in New York City during the 19th century, Teapot Dome, the Lockheed and Abscam scandals.³⁰ Each of these infamous chapters of U.S. history resulted in different reforms. Tammany Hall’s excesses prompted passage of the 1888 Pendleton Act that ended patronage practices and defined codes of conduct for the civil service. Teapot Dome gave impetus to the Progressive Movement’s reforms and congressional oversight of the executive. The Lockheed bribery scandals preceded the 1977 Foreign Corrupt Practices Act (FCPA) that prohibits the payment of bribes by American corporations operating overseas. Hearings and convictions from the Lockheed and Abscam scandals led to the establishment of the Office of Government Ethics (OGE) as part of a multi-agency approach to fighting bureaucratic corruption.³¹

The United States’ policy environment is characterized by cross-cutting agencies that investigate, prevent, and educate a mammoth public sector on corruption. For its size, the total number of corrupt incidents is relatively low and those cases that have emerged have generally implicated senior elected and appointed officials. The United States Office of Government Ethics (OGE) represents one component of a multi-agency approach to fighting corruption. Its legal foundation is the 1978 Ethics in Government Act with its codes defining conflicts of interest that prohibit senior officials from accepting employment with Federal Contractors, serving on boards of companies that contract with the government, and profiting from their official positions for a period after leaving office. The OGE cooperates with a variety of offices in the executive branch, including the Office of Management and Budget, Government Accounting Office, and police agencies in the Justice Department. Its mandate is to deter conflicts of interest by disseminating information on laws and regulations that govern public sector employment. What distinguishes the OGE is that it forms a part of a multi-agency apparatus that defines corrupt practices and informs elected and appointed officials about laws that the U.S. Congress has passed.

Originally, the OGE was to be housed in the Office of Personnel Management. However, in 1988, the Office of Government Ethics Reauthorization Act was passed to establish the OGE as an autonomous office. This enabling legislation went into effect on October 1, 1989, and officially

required the OGE report to the President and Congress. The OGE exercises leadership in the executive branch to inform public servants about conflicts of interest, and to resolve any issues that may occur. In partnership with Federal police agencies and the Justice Department, the OGE fosters high ethical standards for employees and strengthens the public's confidence that official business is conducted with impartiality and integrity. The OGE's organizational goal is to create an ethical environment by coordinating multi-agency cooperation while acknowledging the autonomy enjoyed by each individual agency.³²

The OGE enforces a set of laws that define conflicts of interest and specify penalties for violations. It defines the length of time between when an official may leave office and accept employment with firms that conduct business with the government, the terms under which a government official may advise a private company, and regulates other activities that involve elected or appointed officials and private sector companies. Unlike anti-corruption commissions in many countries, the OGE has no investigative function, but serves to inform public officials about actions that might represent potential conflicts of interest. As a consequence, its role is entirely preventive and its operations are to improve bureaucratic understanding of laws and regulations. Its reports are submitted to the President and Congress for review and when it determines evidence of malfeasance, it submits such evidence to the Department of Justice for investigation and prosecution. Investigation and enforcement are the domain of the Department of Justice with its multiple agencies that perform police and prosecutorial functions. Hence, the OGE serves to disseminate information to elected and appointed officials without any mandate to enforce provisions of laws and regulations.

Other Experiences

Anti-corruption commissions may be classified according to both their stated and *de facto* functions. The more functions a commission seeks to fulfill, the greater its demand for revenues. Despite the expensive nature of anti-corruption commissions, the successful establishment of Hong Kong's ICAC has encouraged other governments to create similar organizations. Indeed, countries as diverse as Argentina, Bosnia-Herzegovina, Guinea, India, Mauritius, and South Korea have joined others in the establishment of universal anti-corruption commissions. These governments have tried to the extent possible to replicate the three-tiered functions of investigation, prevention, and education. However, in many states, low levels of political commitment, disarticulation among branches of state, and severe budgetary constraints prevent the establishment of a large and expensive anti-corruption commission. As a consequence, policymakers create those commissions they can and adapt them to local conditions. Such commissions typically fail to reduce corruption.

Among the states that have adopted the universal model, Botswana stands out. Botswana's commission evolved out of a series of scandals in which senior officials in the ruling Botswana Democratic Party were implicated in accepting bribes. In September 1994, the Botswana National Assembly enacted the Corruption and Economic Crime Act to establish the Directorate on Corruption and Economic Crimes (DCEC).³³ Botswana is somewhat unique; the country has a highly developed bureaucratic state that governs without the controls imposed by a dynamic associational milieu or media.³⁴ The Botswana legislature lacks crucial elements of independence from the executive and is subservient to the president's prerogatives. The DCEC therefore reports to the President who approves the release and dissemination of an annual report. This reporting structure is indicative of centralized executive authority that may account for the government's

extraordinary success in managing its diamond reserves.³⁵ Indeed, effective management of natural resource rents has brought the government substantial revenues that enabled it to overcome the budgetary impediment presented by anti-corruption commissions.

The DCEC has a mandate to investigate, prevent, and educate the public on all issues related to economic crimes and corruption. Its statutes specify that the DCEC is an independent agency that provides community outreach programs to public and private sector actors on the costs of corruption. Although the DCEC's public information suggests that it has an investigative function, annual reports reflect an emphasis on prevention and community outreach. Recently, the Directorate has assumed more of the functions of investigation. For instance, in 2001 the DCEC received 24.8% more reports of corruption than the previous year resulting in over 500 investigations under various sections of the Corruption and Economic Crimes Act.³⁶ The DCEC however has no role in the prosecution of corruption cases; evidence is forwarded to judicial authorities. However, the numbers of cases actually forwarded for prosecution has been low, which probably reflects the sensitivities of Botswana's government.³⁷

Other governments have adopted the investigative model with its enhanced police function that presents a potential for an abuse of state power. For this reason, the investigative model tends to be established in countries with centralized executives free from the institutional uncertainties of regular and competitive electoral cycles.³⁸ Investigative commissions are common in authoritarian or semi-authoritarian regimes wherein the executive has preponderant influence over the other branches of government. Many African states have established anti-corruption offices with strong investigative offices that report directly to the president.

Among transition economies, Lithuania's Special Investigative Service (SIS) stands out. The Lithuanian government established the SIS in 1997 to investigate alleged incidents of corruption and report to the president and parliament.³⁹ The agency was intentionally modeled on the Singapore CPIB; its director reports to the President, its officers have unusual police powers to investigate political venality, and, in cooperation with the Government Ethics Agency and the Office of the Ombudsman, the SIS has a free hand to investigate incidents of corruption in the public sector. When the Lithuanian Parliament voted to coordinate its anti-corruption efforts with neighboring Estonia and Latvia, they based their commissions on the SIS. Such an agency strengthens the executive's capacity to extend its influence into society and shape the character of political development.

The parliamentary model presupposes the operation of a functioning parliament with budgetary capacity to fund committees that provide critical checks on executive power. In countries with the parliamentary model of anti-corruption commissions, accountability is to the legislature that receives reports and provides oversight. However, in the absence of independence, a parliamentary commission encounters serious difficulties. For example, Thailand's Parliament established the National Counter Corruption Commission (NCCC) in the late 1970s to report incidents of corruption.⁴⁰ However, the proliferation of crony operated establishments (COEs) distributed profits to business interests who had access to the executive.⁴¹ Indeed, the reliance on cronyism undermined the NCCC and created an economic vulnerability unsurpassed in other Southeast Asian governments.⁴² In the years that preceded the February 1997 financial crisis, COEs drove up the price of real estate in Bangkok by borrowing heavily from lenders who operated in the belief that the Bank of Thailand would bail out any serious defaults.⁴³ However, when foreign banks reversed a \$1.9 billion inflow into Thailand during the first quarter of 1997 to

a reported outflow of \$6.2 billion in the second, the Central Bank was unable to weather the crisis.⁴⁴

After the financial crisis, Thailand adopted a new constitution that has established a bicameral legislature with a House of Representatives and a Senate. This legislature has also been relatively weak due to the continued influence of cronies linked so closely to the regime that that corruption in Thailand necessarily involves rent-seeking by privileged groups.⁴⁵ Perhaps the single greatest impediment to resolving crony capitalism in Thailand is that the Senate is subservient to the executive who has a decisive influence in determining the commission's composition.⁴⁶ This reporting structure prevents any independence of the NCCC from the executive and calls into question any effectiveness of Thailand's anti-corruption efforts. While parliamentary oversight is a potential control on the NCCC, the constitutional weakness of the Thai parliament makes it doubtful that it will ever exert much influence.

Another variant on the parliamentary model focuses on committees that disseminate reports of venality as a strategy to promote prevention and education. An emphasis on public disclosures of venality is exemplified by the Warioba Commission Report in Tanzania. Public outrage with police corruption exploded in the early 1990s when even street vendors had to pay militia in Dar es Salaam bribes, an action that violated "societal norms of economic justice in which the poor ought to pay the least for whatever good or services being sought."⁴⁷ In response, the 1995 Law on Ethics for Public leaders empanelled a Presidential Commission of Inquiry Against Corruption, also known as the Warioba Commission. With funding and support from the World Bank, the Tanzanian government released the Warioba Commission Report, which implicated numerous officials including the former president Ali Hassa Mwinyi, ministers, and high-level civil servants.⁴⁸ Since that time, however, the Tanzanian Government has had little success in its efforts to reduce corruption as evidenced by its ranking in the Corruption Perceptions Index (CPI) of Transparency International (TI).⁴⁹

A third variation on the parliamentary model involves governments that have established commissions to oversee executive investigative commissions. In Bulgaria, for instance, the Parliament has established an anti-corruption commission to oversee a second commission that reports to the Council of Ministers. These efforts responded to self-imposed pressures to provide "proof" that the government was taking serious measures to fight corruption as part of its ambitions of joining the European Union. This commitment is evidenced by Bulgaria's consistent improvement in the CPI from 65 in 1998, to 53 in 2000, to 47 in 2001, and 46 in 2002.

Bulgaria's apparent success in reducing corruption may not be enjoyed by every country. A duplication of function poses is a significant problem in countries where budgetary constraints limit parliamentary operations and the executive has unchecked power. What may therein evolve is a parliamentary anti-corruption commission that operates as a poorly funded second in parallel to the executive commission. Such a duplication of responsibilities has occurred increasingly in Eastern Europe as national assemblies have undertaken oversight functions usually performed by accounting courts, audit agencies, and financial inspectorates that organizationally fall under the executive.

Several countries have implemented the multi-agency approach. Some have constitutions that establish a federal political system. Examples of these countries include Argentina, India, and Nigeria. In these states, an anti-corruption commission is linked to federal authorities and prosecution is conducted by the judiciary. The commissions have had uneven success, as is the

case in any large polity. Nigeria's efforts have been problematic due to powerful interests in federal, state, and local governments that oppose any anti-corruption reforms. Often these interests are members of the legislature, government, or are otherwise powerful people, which shields them from investigations and prosecution.

Among parliamentary countries that have established a multi-agency approach, Uganda is a notable case. The country has had such a strong donor presence as to raise questions of the government's autonomy. In response to pressures from international donors, the Museveni government established a triad of organizations to fight corruption through its Inspector General of Government (IGG), Auditor General, and Human Rights Commission.⁵⁰ Although the IGG is supposed to eliminate bribery in the public sector, Uganda's falling ranks in the CPI suggest that systemic corruption is persistent and getting worse.⁵¹ The continuity of systemic corruption in Uganda attests to an embedded malfeasance among powerful members of society who profited from privatization policies and access to rents in state marketing boards.⁵²

In francophone Africa, Benin has adopted a multi-agency model led by an anti-corruption commission. Its strategy has been for the *Cellule pour la Moralisation de la vie Publique* (Office for the Improvement of Morality in Public Life—CMVP) to work in conjunction with control agencies in public finance, audit agencies in the judiciary, and parliamentary offices.⁵³ Beninese officials tried to build on international experiences that have demonstrated the need to reduce incentives as well as opportunities for corruption in the public sector. However, sanctions and oversight committees are only effective when officials are adequately paid and their careers hold real promise, which has not been the case in Benin and chronic budgetary shortfalls pose an impediment to reform. Benin's experiences demonstrate that curbing corruption cannot follow any magic formula; while the use of a watchdog agency may be viable strategy elsewhere, persistent financial crisis made it unlikely that the CMVP could succeed. The question is why would an impoverished, aid-dependent government establish an anti-corruption agency in the first place?

A partial response to the question is the precipitating crisis that the pillage of Benin's banks and treasury between 1985 and 1988 left the government destitute and it had the acquiescence of its population to implement meaningful reform. The consequences of this crisis drew attention to the damages of clientelism, patrimonialism, and rent-seeking that had long been practices in Benin's public sector.⁵⁴ A lack of accountability is evident in the plight Benin's overwhelmingly rural population (approximately 80% of total population) and the stagnation of plutocratic that fails to circulate or recruit new members.⁵⁵ Although the crisis precipitated fundamental regime change, all the impetus for an anti-corruption agency came from the President's office to which the CMVP directly reports.⁵⁶ What remains to be demonstrated is whether Benin's government has the political commitment to investigate, prosecute, and punish high ranking individuals accused of corruption.

Unraveling the Puzzle

The cases explored in this paper suggest some reasons why policymakers create anti-corruption commissions. A significant reason stems from a precipitating crisis that compels political leaders to undertake reforms that their citizens recognize as legitimate. In Hong Kong, New South Wales, and Singapore, narcotics traffickers bribed police authorities and contributed to a deterioration of the rule of law. These scandals caused the precipitating crises that pushed policymakers to

establish commissions with broad powers that were independent of the police. A more piecemeal approach is what occurred in the United States as anti-corruption reforms responded to particular scandals involving patronage (Tammany Hall), executive discretion (Teapot Dome), and conflicts of interest (Lockheed and Abscam). In each of these circumstances, successful reforms required a credibly committed leadership willing to enact policies that citizens recognized as desirable. Since the late 1990s, these four types of commission have been replicated in numerous countries with questionable success.

The cases presented in this paper highlight the difficulty of transferring institutional arrangements that operate efficiently in one country to another. One reason governments have established anti-corruption commissions in spite of evidence of their failure in most countries is that they are responding simultaneously to multiple constituencies. Since the late 1990s, an internationalization of anti-corruption movements has been evident in the proliferation of Transparency International chapters. These non-governmental organizations are influential and have the attention of an international donor community tired of “leakage” of its development assistance. However, the performance of countries like Argentina, Bangladesh, Brazil, Thailand, Tanzania, Uganda, and India that have enacted anti-corruption reforms bespeaks the difficulty of enacting meaningful policies. It is evident that policymakers’ incentives in these countries do not include offending entrenched constituents who may oppose sustainable anti-corruption reforms.

Perceived vulnerability to electoral defeat has a major influence on whether any politician will enact controversial reforms, especially anti-corruption legislation. If political leaders believe rightly or wrongly that taking meaningful measures against corruption may result in their loss of office, they have an incentive to block reforms. One method to slow reforms is an anti-corruption commission that communicates a willingness to fight venality while postponing difficult acts. Hence, some governments approach corruption as an educational problem; their activities take a normative approach that stresses the immorality of corruption. Unfortunately, condemnations of the morality or immorality of bribery are far removed from the difficult choices inherent in prosecuting corrupt politicians who may be linked to the political center or enforcing laws that enhance transparency and impose accountability.

Finally, the fundamental difficulty in establishing an anti-corruption commission is the expense of such agencies. Although many governments are reluctant to disclose their specific allocations for anti-corruption commissions, the more functions that the agency seeks to undertake, the higher it costs. Hence, the universal model entails high costs that for many governments, is simply prohibitive for already limited budgets. Perhaps it is the cost of such commissions that is the greatest constraint on their organization and capacity to reduce public sector corruption. However, the arrogation of functions to anti-corruption commissions that are supposedly performed by general auditors, police bureaus, national investigative agencies, procurement boards, or any of the other offices that provide controls on dishonest bureaucrats may dilute government effectiveness and contribute to a deepening of malfeasance.

Conclusion

Anti-corruption agencies are part of a number of strategies that together can reduce venality in a government. Some of these strategies are absolutely crucial, including first the independence of a commission. Second, commissions need a clear reporting hierarchy that comprises executive officials, parliamentary authorities, and oversight committees. Third, governments must have a

commitment to enact reforms that may be politically difficult. How a government is able to enact these strategies requires negotiations among key actors in the government, civil society, and the media. It is apparent from the cases above that the capacity to enact controversial reforms is problematic and many governments fail in their efforts to do so.

The first key variable that might explain a failure to reduce corruption through the establishment of an anti-corruption agency is the absence of laws necessary for its success. Without the legal tools to go after venal officials, a commission cannot succeed. Many governments either fail to enforce existing laws or the commissions have no mandate to enforce laws. Second, a commission must be independent from interference by the political leadership.⁵⁷ In some circumstances, a commission linked to the executive branch is used to settle old scores with political rivals. When the agency is linked only to the Parliament, then the security agencies have a disincentive to include parliamentary committees in their investigations. A competitive relationship may evolve among parliamentarians and national crime investigators. The anti-corruption commission thereby loses credibility as nothing more than a tool of the parliament.

Third, a clear reporting hierarchy may seem elementary, but it is not a straightforward arrangement. An optimal hierarchy might be reports delivered to the director of the organization, oversight committees, and then simultaneously shared with the Parliament and the executive. However, some executives prefer to receive reports without the bother of any hierarchy. This arrangement means that the executive branch monopolizes the information and eliminates any accountability from independent agencies. In Ghana, for instance, the constitution stipulates that the Auditor General reports directly to the president in a confidential report that the executive may release at his discretion. As a consequence, the audits lack transparency and the president withholds information that may potentially be damaging to the administration. With the insertion of an unambiguous hierarchy whereby reports are transparent and accountability agencies operate on the basis of information contained therein, an anti-corruption agency is both independent and more importantly, legitimate.

Fourth, the presence of oversight committees is absolutely crucial to the effective organization of an anti-corruption commission. In Hong Kong, oversight committees provide a control over the ICAC and prevent it from any persecution of political opponents. The two committees found in New South Wales attest to the potential of parliaments in controlling potential excesses of anti-corruption agencies. By contrast, the absence of oversight committees in Singapore is evidence of the political nature of the CPIB and its centrality to the semi-authoritarian regime. It is through the activities of oversight committees that an anti-corruption commission links to parliament and civil society groups that fight venality in the public sector.

Finally, some evidence suggests that the size of a country, either geographically or in terms of its population may explain the effectiveness of anti-corruption efforts. Hong Kong and Singapore each have substantial populations living in a small geographic area. An argument that the geographic size of the country determines capacity to control venality has some credence. Despite the facility of that argument, the ability to shift norms from acceptance of corruption, to draft new laws that create rules prohibiting, and implementing credible enforcement bodies is a daunting task that requires a high degree of political commitment on the part of the leadership and its constituents.

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