

CAUSES OF CORRUPTION IN PUBLIC SECTOR INSTITUTIONS AND ITS IMPACT ON DEVELOPMENT:

TURNING WHAT WE KNOW INTO WHAT WE DO

1. BACKGROUND TO THIS PAPER

It is a common convention for papers about corruption to start with a historical reference that emphasizes the longevity and resilience of corruption. Rather than refer to the wisdom of the ancient world or the words of a great statesman I will observe that convention by noting the historical context of this Expert Group Meeting on preventing corruption in the public administration.

The purpose of the meeting is to facilitate progress in corruption prevention, particularly in relation to institutional methods and practice, and to recommend the continuation or consideration of specific strategies for doing so. It is part of a process that is often said to have begun with the so-called “cancer of corruption” speech by World Bank President James Wolfensohn in 1996. By acknowledging the ubiquity of corruption, the lasting damage it can cause and the responsibility of powerful institutions to take action, that speech represented a turning point in the attitude of key international actors and licensed a systematic international effort against corruption that this meeting is part of. Since then corruption has been studied, classified, measured, defined and proscribed by policy makers and practitioners, theorists and researchers mostly in the disciplines of political science, economics, philosophy, public administration and law enforcement.

In an effort to come to grips with the nature of corruption much of the early anti-corruption activity produced research data, multilateral agreements, model laws, frameworks and strategies for prevention ultimately producing the OECD Anti-Bribery Convention and the United Nations Convention Against Corruption.

The Anti-Bribery Convention represented a change in approach by introducing the potential for very wide application, engaging locally enforceable policy levers and international obligations, and enabling monitoring of enforcement. The United Nations Convention Against Corruption (UNCAC) has applied the same attributes to a wider focus. Explicitly incorporating the implementation of prevention policy and mechanisms has encouraged a wave of activity focused on the challenge of reducing or preventing the incidence of corruption particularly in the public sector environment. With that activity have come insights from a wider range of disciplines to contribute to our understanding of corruption. Social psychology, organizational theory, social theory, business ethics, criminology and behavioural economics, among others, all have something to offer the corruption prevention endeavour.

This paper was prepared to assist the meeting in achieving its objectives with this history in mind and against this background. The first section is a brief overview of the consensus that has been reached on many concepts used in the international anti-corruption discourse and the programs, mechanisms and resources that have been developed to give effect to international effort.

The next section discusses some practical challenges that present themselves in the current era of implementing these mechanisms. It points to the respective roles of legal frameworks, public sector institutions, human resources practices, information and communications technology (ICT) and the engagement of non-government actors.

Finally the paper presents for discussion some suggestions for ways to build on the consensus and achievements obtained so far in order to meet those challenges in the future.

This paper uses some examples from Australia, not only because of my familiarity with that context, but because it has a comparatively long and diverse experience of implementing anti-corruption policy across levels of government.

2. PREVENTING CORRUPTION IN PUBLIC ADMINISTRATION

Prevention

The common rhetoric of “combating” or “fighting” corruption conjures images of an enemy that can be defeated. Similarly the idea of corruption as a cancerous tumour encourages a belief that once found it can be surgically removed with no ill effects. Both of these images suggest that corruption can be eradicated if only we can find the answer. In fact the total elimination of corruption has never been the aim of corruption prevention. Such an absolute objective has been regarded as unrealistic; likely to be disproportionately costly, rigid and risk compromising human rights. The preferred goal is the instrumental one of increasing the integrity of government so it can perform its “intrinsic roles” efficiently and fairly (Thompson 1992: 255; Rose-Ackerman 1996; Pope 1999; Anechiarico and Jacobs 1996).

The first step to preventing something is to understand what it is and how it happens. The word “corruption” has social, moral, political, economic meanings that can all be expressed in definitions. In that sense all definitions of corruption can be regarded as working definitions since they vary according to the purpose for which they are used. For example, in order to enforce an anti-corruption law, a precise definition is needed to ensure that procedural fairness is observed in operational activities of detecting and prosecuting corruption. Consequently legal instruments for prosecution have typically defined specific conducts such as bribery or nepotism with the term corruption retaining a more general meaning or an ‘umbrella’ definition.

For general anti-corruption policy purposes a definition of corruption needs to be broader. In current international use, “the misuse of entrusted power for private gain”¹, deliberately omits reference to the public sector. It is not restricted to a single context and can apply to conduct

¹UNDP 2008; www.unpan.org/DPADM/ProductsServices/Glossary/tabid/1395/language/en-US/Default.aspx

on either side of a corrupt transaction or one involving a non-government perpetrator acting alone.

This definition acknowledges that “corruption” cannot be prevented as a single behaviour or offence. Instead it is more a convenient term for many types (Gorta 1998) or even syndromes (Johnston 2005) of behaviour that have in common a breach of a relationship of trust that undermines a specific historical or social institution (Miller et al 2005). Conventionally, the relevant institution for this purpose is understood to be the government – or more specifically public administration.

Public administration

The term “public administration” is generally used to refer to executive government either as an entity or as an activity (UNPAN Glossary). Structurally, these can be agencies, authorities, departments, public offices, commissions that deliver government policies and programs all with greater and lesser proximity to the budgetary and authoritative centres of government.

Corruption is regarded as antithetical to the purpose of public administration. It is often referred to as a failure of the institution of the public service and as a betrayal of the essential professional ethic of the public administrator to serve the public “honestly and disinterestedly as trustees of the public interest” (Whitton 1994: 39). Historically the institutional culture of public administration has been a form of protection against corruption (Theobald 1997) and prevention efforts within the control of the public administration are often directed at supporting the professional integrity of public officials (UNODC 2009).

Current challenges

States parties to the OECD Anti-Bribery Conventions and the UNCAC now find themselves in an era of implementation. Both instruments have been accompanied by instruction manuals, handbooks, databases and training tools to guide technical and policy implementation and monitoring programmes to measure and maintain effectiveness. Notable examples are the substantial resources provided by the UNCAC Legal Library and the Stolen Asset Recovery Initiative (StAR) that support states parties to respond to bribery and corrupt embezzlement by recovering, or cooperating in the recovery of, lost state assets.

The prevention provisions in Chapter II of the UNCAC (Articles 5 -14) also include more preventative and proactive measures such as enhancing transparency and public engagement, establishing standards, and reducing opportunities for corruption in high risk activities such as the judiciary and public procurement. These more proactive and preventative measures are left to states to implement according to local conditions but technical support is provided in the UNODC *Technical Guide*. Useful information continues to be produced by other sources. Data and technical support for local initiatives is available from international NGOs and academic research centres that study both corruption itself and prevention techniques that can be used to develop skills and share best practice. Local efforts are also supported by regional capacity building programmes, such as those facilitated by the multilateral development banks, and initiatives that might be led by domestic integrity agencies such as public service commissions, anti-corruption agencies and aid donors.

With these instruments now firmly in place and their implementation being systematically monitored it is tempting to think that the remaining challenges for those of us engaged in anti-corruption efforts around the world are all about implementation. But, there continue to be gaps in our knowledge about how and why corruption happens and consequently how best to prevent it. This might be regarded as a diagnostic challenge and the research of the last decade suggests that there is much more to be learned about the causes and dynamics of corruption that will help us to improve the effectiveness of prevention interventions.

The international commitment to achieve the Millennium Development Goals (MDGs) by 2015 adds a note of urgency to the anti-corruption task since the major beneficiaries of those goals also suffer disproportionately the costs of corruption. A major threat to the achievement of the MDGs has emerged in the global financial crises of the past few years which have reduced public spending on programmes to achieve the MDGs in both low income countries and in donor countries. The financial position of most donor countries has been affected by the crisis with the result that their aid budgets have been or may still be reduced (Kyrili and Martin 2010). Low income countries have not been able to sustain spending in the areas targeted by the MDGs and crises in food prices have been particularly damaging (World Bank / IMF 2012). A survey examining the impact of the global financial crisis on the budgets of low-income countries, especially in relation to their spending on Millennium Development Goals (MDG), has reported that most Low income Countries (LICs) are cutting MDG spending, especially on education and social protection (Kyrili and Martin 2010).

2 CONSENSUS ON CORRUPTION AND PREVENTION

2.1 Corruption is dangerous and ubiquitous

The costs of corruption are readily apparent in the economy and the polity and early systematic analysis of corruption produced economic and political studies of the nature and quality of corruption (Rose-Ackerman 1998; Klitgaard 1988; Mauro 1998; Tanzi 1998). The costs of corruption identified in this period included lost resources wasted on unproductive expenditure (such as bribes) and misallocated to those with power or money, public official effort diverted from the public interest to self-dealing and, at the political level, unstable government and alienated citizens (Klitgaard 1988: 46). Over time other unfavourable consequences of corruption have been documented including increased costs of doing business, unfair allocation of public entitlements, poor quality consumer products and reduced public safety (Rose-Ackerman 1996: 3-4).

The resulting damage to a nation's economic development by impairing trade, deterring investment, diverting government spending away from public goods such as education and health, (Mauro 1998: 12) and entrenching poverty are now well accepted. The circular relationship of these phenomena to corruption has been noted. Many, such as deficits in economic development, institutional capacity or the rule of law, can be said to "run in both directions" (Gray and Kaufmann 1998); they could be a cause or a consequence of corruption, or both (Lambsdorff 2005). Their relationship to the Millennium Development Goals which are directed to these same issues (health, education, human rights and economic

development) is equally symbiotic with corruption prevention and reinforces the importance of achieving them (UNDP Development Primer OECD /DAC 2006).

BOX 1: Millennium Development Goals
<ol style="list-style-type: none"> 1. Eradicate extreme poverty and hunger 2. Achieve universal primary education 3. Promote gender equality and empower women 4. Reduce child mortality 5. Improve maternal health 6. Combat HIV / AIDS, malaria and other diseases 7. Ensure environmental sustainability 8. Develop a global partnership for development
<p><i>Source: UNDP http://www.undp.org/content/undp/en/home/ourwork/povertyreduction/focus_areas/focus_mdg_strategies/</i></p>

The effects of corruption on the agencies of public administration can be particularly pernicious. When corruption is believed to be the way the public sector, or one of its agencies, routinely operates the damage goes beyond the loss of misdirected resources, public administration risks losing both its capacity to be effective and the trust of citizens in the fair and impartial application of public resources and authority (Thompson 1992). In the public domain it becomes difficult to guarantee compliance with public standards or respect for the rule of law (Caiden and Dwivedi 2001:245ff). A particularly damaging institutional consequence for the public administration is that competent and honest employees can be lost or deterred from working for government at all further reducing its capacity for integrity and effectiveness (Quah 2007).

The results of nearly 20 years of systematic collection and analysis of data relevant to the incidence and prevalence of corruption tells us that corruption is not exclusively a problem for any particular part of the world or administrative system. However, we also know that it exists in many forms and patterns and that some types of corruption occur more in some locations than others.

2.2 Corruption takes many forms

Corrupt conduct in public administration

Corruption in public administration is typically said to take the form of “petty” or administrative corruption. An analysis of the allegations made to the four Australian anti-corruption agencies (ACAs) during the 2010-11 year showed that the conduct most reported to Australian ACAs involved misuse of official information, abuse of office (including nepotism, favouritism and bullying), exploiting conflicts of interest/personal interests and the misuse of public resources (including fraud and misappropriation). Bribery was not statistically significant.

The sectors or agencies of public administration most often reported to the Australian ACAs were (ICAC 2011; CMC 1011; ICT 2011; CCC 2011):

- police,
- health and human services,
- local government (which has a significant regulatory role in these jurisdictions)
- custodial or corrective services and
- infrastructure agencies (including utilities).

One ACA also classifies allegations according to the type of government activity involved. The activities attracting the most allegations of corrupt conduct were (ICAC 2011):

- regulation, enforcement & licensing,
- human resources administration,
- procurement, and
- the allocation of public funds, materials and services.

The international picture of the location of corrupt activity is not that different. The *Global Corruption Barometer 2010* reported the incidence of (only) petty bribery in the previous 12 months. Respondents reported paying bribes to (TI 2010):

- police
- registry and permit services
- judiciary
- utilities
- medical services
- education systems and
- tax authorities.

Typologies

Early typologies of corrupt behaviour proposed two types of corruption: grand and petty (UNDP / Global Integrity 2008:6). These are essentially illicit transactions distinguished from each other by the amount of benefit conferred, the position of the public official involved (high or low, political or administrative) and the degree of damage incurred by the corrupt act (Stapenhurst and Langseth 1997). As corruption has become better understood the typologies have increased. Both grand and petty corruption, for example, might also be classified as administrative or political (UNDP 2008), incidental, systemic or systematic (Kpundeh 1998), passive or active (UNODC 2009), a way of life or a fact of life (Quah 2007), well-organised or chaotic (Mauro 1998:13), administrative corruption or state capture (Hellman and Kaufmann 2001).

Clearer insights are gained by combining or overlaying typologies. Some combinations of these classifications are more likely than others so that, for example, state capture is almost always a form of political corruption while the “way of life” metaphor, while more about prevalence than type, usually applies to acts that are petty, administrative and systemic.

An analysis of perpetrators can be added to the mix increases the depth of understanding further for example by using taxonomies such as one from the regulation literature that

classifies perpetrators as amoral calculators, political citizens, organisationally incompetent or irrational non-compliers (Black 2001: 9). Perpetrators labelled “grass eating” and “meat eating” (Knapp 1972) for example might be aligned with the organised and chaotic analysis providing more insights into potential prevention initiatives. An analysis that combined the typology of incidental, systemic and systematic corruption with a classification of stakeholders or possible perpetrators explained how a lack of political will for reducing corruption can be better understood and targeted (Kpundeh 1998).

Most typologies have been based on the concept of corruption as a transaction, usually a bribe. But as the data from the anti-corruption agencies shows bribery is not the only form of corruption to be prevented. Conceiving of corruption in ways other than a direct exchange between two individuals can allow even more scope to unravel particular manifestations of corruption, and more accurately diagnose their possible causes.

Johnson’s conception of syndromes of corruption that operate through influence markets, elite cartels, oligarchs and clans, and official moguls (Johnston 2005) is one example. It is also useful to consider that, in prevention terms, corruption has much in common with other societal “harms” experienced around the world such as pollution, fraud, workplace hazards, road deaths, product safety, epidemic diseases or poverty (Sparrow 2008).

Many more characterisations can be developed by applying a wider range of theoretical frameworks to the analysis of the corrupt act. Theories that explain social relationships, structural and cultural contexts have all been suggested as relevant analytical frameworks to develop our knowledge of the way corruption happens and might be reduced (Warburton 2007).

Approaching typologies with a narrower focus might also provide better targeting by, for example, examining corruption in specific sectors or locations such as the OECD anti-bribery typologies (OECD 2007; 2009; 2012) and the UNDP sector governance analysis of water, health and education services (UNDP 2011a; UNDP 2011b; UNDP 2011c).

2.3 Corrupt acts have multiple causes

Causes, enablers or risk factors?

Discussions about the causes of corruption have tended to explain how and why corruption occurs rather than identify deterministic causes. Studies generally produce a mixture of situations, attitudes and processes that might be better understood as enabling factors, indicators or conditions that allow or facilitate corruption (Gorta 1998; see Box 2). Few of these factors can, in isolation, be said to cause a corrupt act to occur. Neither are they strictly causal in the sense that corruption will occur if they are present in a given location. Instead they are observed – or perceived – phenomena which may make it more possible for corruption to occur. They are similar to risk factors for diseases, or accidents, that combine – or align - in a given time and place to create an environment that is conducive to an individual perpetrating a corrupt act. For prevention purposes they “present areas or opportunities to intervene to prevent” something that might happen in future (PIC 2011: 6).

BOX 2: Corruption risk factors	
Factors which enable/optimize occurrence of corruption:	Factors which aid in the perpetuation of corruption:
<p><i>Nature of the work performed:</i></p> <ul style="list-style-type: none"> • Discretion exercised by position • Position in organisation • Service associated with delays <p><i>Working conditions</i></p> <ul style="list-style-type: none"> • The role of salary and its relationship to need • Lack of benefits for remaining with employer • Employee dissatisfaction • Work pressures <p><i>Individual histories and dependencies</i></p> <ul style="list-style-type: none"> • Ethical decision making history • Dependence on employer • Dependence on alcohol, drugs and gambling 	<p><i>Failure to identify the behaviour as wrong</i></p> <p><i>Other factors which affect taking action about corruption</i></p> <ul style="list-style-type: none"> • Individual beliefs • Features of the wrongdoing
<p><i>Organisational culture:</i></p> <p>Unclear messages about what is acceptable; Attitudes of colleagues; Example set by management; Lack of reinforcement of ethical behaviour; Other workplace practices.</p>	
<p><i>Summarised from: Gorta A 1998 Minimising Corruption Some Lessons from the Literature ICAC</i></p>	

Views about where to look for causes of corruption and how to label them are very much in the eye of the beholder. Explanations vary with the analytical framework applied so that the act of bribing a public official will look to an economist like rent seeking, to a prosecutor like a crime and to a public administrator like a failure of accountability. Each perspective employs a different diagnostic toolkit and is likely to recommend a different kind of response (Larmour 2006). One study nominated six kinds of causes in the theoretical anti-corruption literature together with the causal chains that they indicate (Graaf 2007:45-6):

- public choice theory – official makes a rational choice to act corruptly
- bad apple theories – official with “bad” character necessarily acts corruptly
- organisational culture theories – group culture and aspects of the workplace encourage the official to act corruptly
- clashing moral values – the official’s societal or personal values and norms permit corruption
- the ethos of public administration theories – pressure on the official to perform override integrity considerations and allow corruption
- correlation theories – no casual theory only correlations.

The famous formula for corruption is an economic analysis of corruption that identifies three “ingredients” of corruption “monopoly + discretion – accountability” (Klitgaard 1988) needed for a corrupt act to occur. Monopoly here refers to the “availability of rents” such as trade restrictions, industrial policies and the presence of scarce natural resources which allow public officials to exercise discretion and demand personal benefits (Mauro 1998). Together these ingredients describe a situation that provides an opportunity for corruption. The

ingredient missing from the formula is why an individual would exploit this opportunity relying instead on a behavioural assumption that the public official is a rational actor weighing up the benefits to be gained from a corrupt act against the likelihood and consequences of getting caught. The possible motivation for doing so is not apparent.

The idea that a corrupt act can occur when a perpetrator has a motivation and an opportunity to act corruptly and considers the likelihood of detection or punishment is low was the basis for the national anti-corruption strategy in Singapore to “minimize or remove the conditions of both incentives and opportunities that make individual corrupt conduct irresistible”. In that context, the elements were identified as: an incentive of low public service salaries combined with opportunities created by inefficient public sector systems and a low risk of detection and punishment (Quah 2007: 42-45).

Incentives for corruption

Low salaries are not the only incentive for a public official to act corruptly and the people factors go well beyond the chance of financial reward (OECD 2007). A well-paid public sector manager will have different personal pressures than a counter clerk or a politician and may still be susceptible to corruption. Incentives also exist on the non-government or “supply” side of a corrupt transaction. These have been described as a perceived need to, either, pay for benefits, such as licences or public housing, or to pay to avoid costs such as tax or a regulatory penalty (Rose-Ackerman 1998) or to level a perceived unfair procurement process (OECD 2007). But, given that not everyone who is obliged to pay tax or a fine resorts to bribery, should these examples be better thought of as opportunities for corruption? The point at which they also provide an incentive might indicate where a prevention intervention might be effective, such as where the impost is disproportionate, unfair or unpredictable.

An OECD study of bribery in procurement reported the range of motivations for bribers and bribees to engage in corrupt conduct. Apart from greed, the list for public officials included personal relationships with suppliers, workplace pressures or dissatisfaction and general personal ambitions (OECD 2007: 50-51). These are consistent with organisational factors documented in the organisational management literature that also appear in corruption inquiries include the influence of managers and supervisors on perpetrators (Trevino and Brown 2005), perceived workplace unfairness (Tomlinson and Greenberg 2005) and cultural tolerance of corruption demonstrated by infrequent or unlikely detection and enforcement of rules (Box 5).

Organisational factors generally provide opportunities for employees to engage in corruption and relate to the adequacy and effectiveness of an organisation’s structure and systems. We know that most corruption occurs at the boundaries of public sector organisations where the government agency meets the private actor. Delay or inefficiency in these interactions is a factor that can affect both incentives and opportunity for corrupt conduct on both sides of a potential corrupt transaction (Rose-Ackerman 1996; ICAC 2003; CIPE 2011).

A study of ICAC corruption inquiries reports that there are factors that originate in the external environment (eg, political, economic, societal) that can affect the organisational context and in turn the decisions of an individual perpetrator (Mills & Cooper 2007). Notable

in the ICAC inquiries were some that were a direct consequence of broader policy changes in the public sector environment. Increased competition and commercialisation of an agency could lead to more opportunities to obtain personal benefits, the pressure of competition and the administrative uncertainty brought about by organisational restructure and the introduction of new functions.

BOX 3: Factors that encouraged, caused or allowed corrupt conduct	
<i>Individual</i>	
• Public officials developed inappropriate relationships with clients	Public officials
• failed to declare conflicts of interest (pre-existing relationships)	Inadequate
• supervision or work review	Public official
• had feelings of dissatisfaction or perceptions of unfairness	
<i>Organisational</i>	
• culture of the agency or part of the agency	Organisational
• Inadequate knowledge, skills or experience of corrupt public official or related supervisor or manager	Inadequate
• policies, procedures or systems	Chronic failure
• to follow existing policies, procedures or systems	Poorly
• managed contracting or commercial relationships	
• Significant change imposed on the agency (eg internal restructure, introduction of new functions, commercialisation)	Inadequate
• agency resources	Inadequate
• legislative framework for the agency	Nature of the
• work or the agency context	Corrupt public
• officials had high levels of personal discretion, autonomy, power or influence	
<i>External environment</i>	
• understanding of proper agency functioning by certain sectors of the community	Poor
• senior or corporate management	Failures of
• significant gain – financial or otherwise	Potential for
• competitive operating environment	Highly
<i>From: Mills A & Cooper D 2007 "Learning from Experience: a project to maintain evidence-based prevention policy" CIES e-WORKING PAPER N° 29/2007 CIES/ ISCTE Lisbon 2007</i>	

This study classified relevant factors into three groups: those

that originate with the individual (people factors), those present in the institution where the

corruption occurs (organisational factors) and those that originate in the external context (environmental factors). They are consistent with a broader capacity development analysis that acknowledges that “drivers” of corruption occur at three levels: the individual, the organisation and the enabling environment (OECD/DAC 2006). They can be thought of as providing incentives or opportunities for corruption or creating a belief in the mind of the perpetrator that corruption will not be detected or punished. A similar analysis was used in a New Zealand Customs Service project in 2000 to identify integrity indicators by attempting to measure “systems” indicators and “people” indicators in a particular location (OECD 2004: 27).

The wider context in which institutions and individuals operate has been the principal level of corruption analysis for many years. The Transparency International Corruption Perceptions Index has been available since 1995 and has been used extensively as the basis for indicators of the extent and likelihood of corruption in a given location. Perceptions data for example tell us that countries are believed to be more corrupt if they “depend on fuel exports, have intrusive business regulation and suffer from unpredictable inflation” (Treisman 2007).

Since 1996 the World Bank Institute Worldwide Governance Indicators Research Project has added to the body of information about the enabling environment that might inform corruption prevention policy. Aggregated data in relation to more than 200 countries, based on more than 350 variables, from sources worldwide have produced six dimensions of “institutional quality or governance” that can be used to measure the political, economic, and institutional aspects of governance, one of which is corruption control (Kaufmann 2005: 82-3).

Studying the external environment of the public institution also allows scope to apply social theories that might help explain corruption. A plethora of other indices and sources of relevant perceptions data now exist² and data from surveys of actual experience of corruption are also available to complement knowledge from surveys of perceptions of corruption and may be more reliable (Treisman 2007; Olken 2006). Studies of the impact of broader societal factors such as human rights, gender equality, press freedom and the effectiveness of institutions outside the public administration on the incidence of corrupt conduct are also possible.

The level of social trust in a particular context is an external factor that has not received as much attention but has been observed to have economic and political impact. Its causal relationship to corruption has been expressed by linking economic inequality with low social trust (Uslaner 2005):

²Other indices include Transparency International *Bribe Payers Index*; Bertelsmann Transformation Index (BTI); European Bank & World Bank *Business Environment And Enterprise Performance Survey* (BEEPS); World Bank *Country Policy And Institutional Assessment* (CPIA), World Economic Forum *Global Competitiveness Index*; Transparency International *Global Corruption Barometer*, Global Integrity *Global Integrity Index*, Heritage Foundation & Wall Street Journal *Index Of Economic Freedom*; Political Risk Services Group *International Country Risk Guide*; Mo Ibrahim Foundation *Ibrahim Index Of African Governance* / Center On Budget And Policy Priorities *Open Budget Index*.

inequality > low trust > corruption > more inequality

Rather than being caused by “bad leaders and weak institutions” corruption is said to be caused by a “society’s culture and the distribution of resources”(Uslaner 2005:7). The model has been used to help understand why corruption is lower in contexts with high generalised or social trust and higher in contexts with low social trust (Rothstein 2011: 146).

Trust has also been identified as necessary to maintain corrupt networks. Particularised (or “in-group”) trust of the network members is necessary for maintaining corrupt networks such as organised crime groups (Uslaner 2005). In a study of a corrupt police network in the Australian state of Queensland using social network theory, the network was demonstrated to be most vulnerable when the particularised trust between members broke down and members shifted their focus from protecting the network to protecting themselves (Warburton 2007).

The process of corruption

Explanations of how corruption happens as distinct from where, when and why it happens vary as theoretical analyses assume different causal sequences, levels of analysis (eg, individual, organisational, social) and relevant contextual factors. A recent criminological analysis has endeavoured to explain how these groups of factors might work together by “exploring possible causal factors on the macro-level of globalisation and nation states, the meso-level of organizations and the micro-level of interactions of individuals” (Huisman and Vande Walle 2010). A study of the criminology literature distinguishes between those that enable or optimize corruption to happen in the first place while others help it to continue (Gorta 1998 Box 2).

Another study based on perpetrator interviews produced nine propositions about the process of “becoming corrupt” (Graaf and Huberts 2008).

1. Next to material gain the most important motives for officials to become corrupt are friendship or love, status and making an impression on colleagues and friends.
2. Officials “slide down” toward corruption; most processes of becoming corrupt can be considered a slippery slope.
3. Often corrupt officials have dominant and strong personalities, know how to “get things done”, take or get the freedom to do things independently, and overstep formal boundaries of authority.
4. More “business type” public officials bring the risk of more corruption.
5. In most corruption cases, supervision of the corrupt official is not strong.
6. In most corruption cases, management has not promoted a clear integrity policy.
7. Because of loyalty and solidarity, colleagues are hesitant to report suspicions of another’s corrupt activities.
8. The relationship between briber and the official is most often enduring.
9. Corrupt officials including those who operate outside so-called corrupt networks, do not limit their corruption to one incident.

In summary, the causal factors to be taken into account in devising prevention policy and interventions can originate with the individuals involved (bearing in mind that there is usually more than one and maybe a network) or the context in which they live and work – whether organisational, political, economic or social. Once identified in a particular context, those

factors can be assessed to determine whether they provide incentives or opportunities for corrupt behaviour and whether they allow the conduct to commence or to continue.

3. PREVENTION CHALLENGES

3.1 Dealing with complexity

In operational terms, the task of prevention is “all about intervening before the corrupt conduct occurs” (Gorta 2008). Decisions about what precise action can and should be taken in a particular context are ideally based on evidence of corruption, knowledge of the context and the prevention goal to be achieved. In Singapore, for example, a diagnosis that the relevant causes of corruption were low salaries, inefficient administrative systems and was the basis for the development of an anti-corruption strategy comprising (Quah 2007: 17):

- an independent, well-resourced anti-corruption agency
- a dynamic, monitored strategy
- civil service salaries competitive with private sector
- reduced red tape.

Understanding that corruption is a complex phenomenon with many forms and “faces” (Campos and Pradhan 2007) has led to prevention strategies and plans that combine multiple dimensions and mechanisms with the intention of affecting incentives and opportunities for corruption and creating behavioural controls. Huberts (1998) identifies six strategies that represent the range of policy levers available to policy makers at the national level:

- economic – emphasises the need for the economic stimuli for corruption to be reduced and suggests that such might be achieved by, inter alia, paying higher civil service salaries
- educational – aims at altering the attitudes and values of the populace and civil servants alike via training and education campaigns and engagement of the media
- cultural – ensuring that the behaviour and attitudes of those in power are subject to stringent codes of conduct and their behaviour filters down to civil servants
- organisational or bureaucratic – strengthening internal control systems such as auditing to detect corrupt activity, and staff rotation to reduce the propensity for individuals to establish themselves in entrenched corruption
- political – increasing in transparency in terms, for example, of the monitoring of party finances and more broadly, a clearer and more definite separation of powers in terms of the judiciary and the state
- judicial or repressive measures – advocates harsher penalties for corrupt practices but also the creation of independent anti-corruption agencies.

If the purpose of prevention is to promote the integrity of government then prevention efforts have to be positive as well as negative, capable of encouraging good behaviour as well as detecting and punishing the bad. The integrity system concept model operates this way. In the 1990s Transparency International developed a model National Integrity System (NIS) comprising a set of institutions and multiple stakeholders that together support the integrity of

a nation using both enforcement and enabling methods (TI 2011). The principle is reflected in the design of the classic tripartite model for anti-corruption agencies comprising three main functions: investigation, prevention and education with the overriding twin goal of exposing corruption or misconduct and promoting integrity.

The OECD's "ethics infrastructure" similarly proposed that standard public sector levers can be coordinated to promote and maintain integrity at the public sector level by setting standards, encouraging compliance and enforcing sanctions for breach (OECD/PUMA 1996). Organisational integrity systems (OIS) operate on the same principle but using components that exist – or should exist – in all public sector organisations (ICAC 2001; CMC 2005) and are very similar to models of organisational fraud prevention systems. More recently the concept of a local integrity system (LIS) was used to compare integrity systems around the world (Huberts, Anechiarico and Six 2008).

Ideally integrity systems integrate a set of mechanisms that both reinforce desired behaviour (eg, education, leadership, culture, decision processes) and deter or detect impropriety (eg, law enforcement, auditing, sanctions) referred to respectively as "values-based" and "rules-based" (ref) or "integrity-based" and "compliance-based" methods (Paine 1994; Menzel 2005). In the regulatory compliance literature this classification is called "deterrence and compliance" or "punish and persuade" (Braithwaite 1985). The language used is not as important as the recognition that many types of mechanisms are needed to address the many types and causes of corruption.

Because the components of a prevention system or strategy work in different ways they can be selected and applied to different parts of the causal chain. Some operate reactively such as ex poste investigations and penalties. Others are described as preventative, such as education, organisational design and work processes, or even proactive such as research and intelligence gathering. In "an integrated strategy (problem-solving approach) the tools are organised around the work to be done rather than vice versa" (Sparrow 2000: 201).

An obvious danger of an integrity system approach (or indeed any kind of model) is that they can easily become a checklist of measures that policymakers will apply uniformly and without discrimination. A study of cases in 35 countries that concluded that a combined package of strategies was most effective in dealing with corruption also argued against the "tool kit" approach to reform in which "... good ideas are pulled 'out of the box' and expected to work. Whether they will work at all and how they might interact with each other are very complicated questions" (Spector *et al.* 2005:228). Sparrow also advises against applying the regulator's toolkit recommending instead that the tools used to control a particular harm be dictated by an understanding of its "dynamics and dependencies" (Sparrow 2008: 27).³ Kaufmann goes further proposing that "fighting corruption" may not be the best way to "fight corruption" criticising strategies that layer "yet another anti-corruption campaign, the creation of more anti-corruption commissions and ethics agencies, and the incessant drafting of new laws, decrees, and codes of conduct" that emphasise prosecutions

³ An example is the attempt by Maeschalck (2005?) to combine a tool for diagnosing types of workplaces with the integrity/ compliance analysis of integrity systems.

over “more fundamental and systemic governance reforms” that focus on prevention and incentives for integrity (Kaufmann 2005:88).

This warning has several implications. The obvious one is over-regulation which we know can create more corruption opportunities and create economic burdens (Anechiarico 1996; Lambsdorff 2008). It also concerns the wise selection of prevention interventions. In some locations, for example, rather than establishing a specialised enforcement agency, a better anti-corruption outcome might be achieved by less direct policy action that has no immediate or apparent connection to the corrupt conduct being observed. More and better schools (Rothstein 2011:163) or a fairer legal system (Uslaner 2005) or uniform public finance standards (UNCAC Article 9) could be more effective.

In the same way, establishing the investigation agency at a national level might be wasteful and counter-productive if the corruption problem is only serious in one region or sector such as police or infrastructure and prevention initiatives can be directed at specific administrative functions, such as procurement (OECD 2007; ICAC 2010) or sectors such as water management (UNDP 2011a; 2011b; 2011c).

If we accept that the “best prevention strategies are not the ones which propose the most interventions; rather they are the ones that are best tailored to solve the problem at hand” (Gorta 2008: 5), a sound understanding of their operating context or “enabling environment” (OECD /DAC 2006; Langseth 2001; Shah 2007; Sparrow 2000) is indispensable.

3.2 Understanding context

The UNCAC *Technical Guide*(p 3-4) advises addressing the implementation challenge by recommending a preparatory assessment of the level of corruption vulnerability or risk in the relevant context (UNODC 2009:3-4):

that identifies the trends, causes, types, pervasiveness and seriousness or impact of corruption. This will help develop a better knowledge of the activities and sectors exposed to corruption, and the basis for the development of a preventive strategy, buttressed with relevant policies and practices for better prevention and detection of corruption.

Many techniques for understanding the relevant organisational, sectoral or national context can be incorporated into a risk analysis regardless of the particular process used. Standard research methods such as surveys, literature reviews, case studies and analysis of allegations and comparative methodology (UNODC 2009: 16-17; Gorta 2008) can be used to expose the potential for corruption in a context, while ex post methods such as financial and performance audits can enable learning from specific corrupt events. Kaufmann, Kraay and Mastruzzi advocate using (2007:5):

a wide variety of different indicators, both subjective and objective, individual as well as aggregate, cross-country as well as country-specific, in order to monitor results on the ground, assess the concrete reality of corruption, and develop anticorruption programs.

In addition to information sources, diagnostic instruments are also needed to assess corruption exposure and to know what interventions will work. Shah notes that “For programs to work, they must identify the type of corruption they are targeting and tackle the underlying, country-specific causes, or “drivers,” of dysfunctional governance.” (2007: 230).

Information about local conditions can also help us understand what mechanism may work best. Analysis of corruption reforms in Singapore and Hong Kong, for example, concluded that they benefited from political will, “small populations; stable government; high standards of living; efficient civil service systems; and well-developed infrastructure” (Quah 2004: 4).

A recently produced OECD tool for analysing “international drivers of corruption” (OECD 2012) is a technique with the potential to refine prevention interventions by delivering a better understanding of the context. It is designed for use at a national rather than organisational or sector level, its audience or users are external to the unit of analysis (ie advisers, funders etc) and the range of factors or drivers are limited, expressly, to those that can be identified by using political economy analysis – specifically “elite strategies” (OECD 2012: 83-84). It assesses the risk of corruption in a particular location using a four step framework:

- Step 1: Understand the domestic political economy
- Step 2: Identify the international drivers
- Step 3: Tracking the effects of the international drivers
- Step 4: Drawing conclusions and assessing scope for action

At the organisational level the Australian Standard on Fraud and Corruption Control advises applying risk management principles and processes to preventing corruption using the generic five-step risk management process found in the international risk management standard (AS 8001-2008: 31):

- establish the context;
- identify risks (what can happen, when, where, how and why);
- analyse risks (to determine the level of risk);
- evaluate risks; and
- treat risks.

The international risk management standard, ISO 31000:2009, “sets out principles, a framework and a process for the management of risk that are applicable to any type of organization in the public or private sector. It does not mandate a “one size fits all” approach, but rather emphasises the fact that the management of risk must be tailored to the specific needs and structure of the particular organisation”.⁴ Enterprise risk assessment and management is mandatory in many public and private sector organisations and, as a prevention technique, imposes a small administrative burden.

⁴www.iso.org/iso/iso_catalogue/management_and_leadership_standards/risk_management.htm accessed 25 May 2012.

A risk based approach is sufficiently simple to apply at most sites of corrupt activity (national, regional, sectoral or organisational). It has the advantage of being open-textured so that all sources of information about relevant risks and all methods of treating risks can be incorporated. Lessons can also be learned from techniques used to manage the risks of other harms. A useful parallel between preventing corruption and preventing workplace injuries has been noted and is an example of the lessons that can be learned from other communities of practice engaged in preventative work (PIC NSW 2011).

3.3 Continuous adjustment

Reforms can introduce corruption prevention strategies and systems but they do not operate without maintenance. It is tempting to think that it is possible to “set and forget” an integrity system once all the components have been established.

Because contexts are dynamic corruption will mutate in response to the incentives and opportunities that encourage or allow it to occur. Piecemeal and discontinuous corruption prevention reforms and interventions have been noted as particularly problematic in the development context (ADB 2004: 29, 48).

Instead of a once-and-for-all policy initiative often seen in response to a major corruption scandal it is more realistic to treat corruption prevention as another good governance fundamental so that “fighting corruption will become a permanent item of public expenditure” (Langseth 2001:40).

Continuous effort is needed to both evaluate the effectiveness of prevention measures and to gather intelligence about the drivers or enablers of corruption in the context. With this information efforts can be monitored and adjusted to perform better, demonstrate their effectiveness and build public trust (OECD 2004: 14). Understanding “what works best under what conditions” will help us to know “what the right mix of corruption control is under specific circumstances” and may “lead to additional theories on the causes of corruption. Alternative explanations and understanding of corruption in particular countries can help us reconsider the effectiveness of existing policy instruments to combat corruption” (Graaf 2007:76).

Implementing and sustaining corruption prevention measures is an ongoing challenge that can be undermined or enhanced by the institutional effectiveness of public administration, the relevant legal frameworks for anti-corruption, human resources practices, the use of information and communications technologies and the engagement of citizens.

3.4 Effectiveness of legal frameworks

Corruption has been the subject of legal prohibitions for centuries. In anti-corruption terms a state’s legal systems play a unique role in raising awareness by authoritatively articulating undesirable conduct, and in their potential to deter corrupt conduct by prosecuting and imposing penalties. The behaviours traditionally targeted by corruption offences were bribery and actions that equated to improper public official behaviour misconduct in public office or breach of public trust.

The range of specific types of corrupt behaviours now includes those required to be criminalized by the United Nations Convention Against Corruption (UNCAC): bribery, embezzlement, influence peddling, abuse of office, illicit enrichment, and money laundering (UNODC 2004). Breaches of electoral law, lobbying regulation, post-separation employment and mandatory disclosure rules can also constitute criminal or administrative offences. Less serious impropriety might also be dealt with in administrative legal instruments such as civil service laws or codes that govern the employment of public officials.

In 2001 the World Bank reported that because “enacting an anti-corruption law is a speedy, inexpensive way to start addressing” corruption proscriptive anti-corruption laws had “proliferated throughout the developed world”(World Bank 2001: 1). The problems associated with using legal prohibitions as a quick fix can lead to non-compliance and the diversion of effort away from “more fundamental and systemic governance reforms” (Kaufman 2005:88).

A more nuanced use of legislation was suggested by an analysis of the failure of anti-corruption laws in central and eastern Europe. It recommended a more “target centred” approach that would “raise awareness among target groups, take existing social norms into account, and rely on positive incentives as well as, or rather than, increasing penalties” and repealing or amending failed laws so as not to undermine the credibility of the legal system by chronic non-compliance or non-enforcement (Batory 2012).

Anti-corruption agencies (ACAs), where they exist, are usually part of the law enforcement framework. Since the 1990s, more than 30 countries have established some form of ACA (Meagher and Voland 2006) and many have used the ACA model to comply with UNCAC Article 6 (and others) despite the possibility of spreading the roles required by Article 6 among several – possibly existing – entities (Hussman et al 2009).

ACA models vary between a “one-stop” ACA that both investigates and prosecutes corrupt conduct and one that investigates but relies on the independent criminal prosecution service to achieve convictions of corrupt perpetrators. The intention behind the latter is to reduce the layers of bureaucracy, to impose an accountability mechanism on the ACA and to encourage prosecuting bodies to take responsibility for their own integrity. The risk in this model is that an effective ACA could be undermined by corruption or incompetence in the prosecution service which could damage public support for the ACA especially if its performance is measured by successful prosecutions.

The prosecution of corruption offences can present challenges that are highly context-dependent. Where ACAs have a prosecutorial as well as an investigative and preventative role, dependence on a functioning legal system is not as critical but the risk arises that an ACA could become unaccountable or disputes over jurisdiction could arise.

Prosecutions can also be impeded by jurisdictional disputes if corruption and misconduct can be subject to more than one legal framework. Managing the potential for criminal, administrative and employment laws to conflict, overlap or delay the imposition of non-legal

penalties and enforcement frameworks is essential for maintaining the effectiveness and credibility of an anti-corruption strategy.

3.5 Institutional effectiveness

Corruption has often been described as evidence of institutional failure which, for the purposes of this discussion, means the failure of public administration in one or more of its many agencies. Corruption risk factors have been identified in relation to the structures and processes, administrative capacity and the culture of public administration.

The structural effect of the public sector reforms of the 1980s that introduced competition, focus on results over process, prioritise responsiveness to elected officials and govern with “market-type mechanisms” (OECD 1995) has been to disaggregate public administration from the traditional public service corps into smaller offices, agencies, authorities and business units. The external boundaries of the institutions of public administration have reduced or shifted with privatisation, outsourcing and the introduction of competitive business practices and the need for public-private interaction has increased and consequently the opportunities for corruption.

Ensuring accountability of public services delivered by semi-privatised entities, outsourced providers services and contracted staff can be more difficult or expensive. Contracts have been increasingly used as accountability mechanisms introducing a new set of risks from contractor opportunism, poor legal drafting, reduced public accountability, high enforcement costs, captured officials, and dissonant values in the performance of the contracted service (Mills 2002).

BOX 4: How the organisational boundary affects corruption in procurement

A risk that can make public sector agencies more vulnerable to corruption in procurement involves their organisational ‘boundary’. This can include what an organisation has to make or buy: the goods or services an organisation makes are inside the boundary; the things an agency procures are outside the boundary. Organisational boundaries are not visible, but they are an important concept when analysing what risks an agency faces.

Agencies need to clearly understand the risks in the transactions they undertake and put in place strategies to manage those risks. Appropriate location of organisational boundaries – the ‘make it or buy it’ decision – is a key element in managing these risks. To determine the appropriate location of its boundaries, an agency needs to ask itself the following questions:

Can the goods or services required be clearly specified? Can market prices be accurately determined? Is the volume of orders predictable? Can delivery be measured accurately? Do suppliers have alternative clients? If the answer is ‘no’ to any of these questions, it may be easy to cheat the agency through overcharging, oversupplying or not supplying the good or service at all.

This is what was exposed by the ICAC’s investigation into bribery and fraud at the state railway operator, RailCorp. For example, RailCorp paid over \$500,000 to hire plant and equipment that was never delivered. False orders were hidden in a large volume of orders that fluctuated between \$67 and \$84 million during the period investigated. Because of the high volume and unpredictability of plant hire orders, non-delivery was easy to hide. RailCorp also paid \$149,000 for a shed that cost the

supplier \$68,000 to buy and install. A 118% profit margin! The manager who approved the purchase had no idea of market prices for sheds, and was therefore easily misled by a corrupt employee.

The ICAC recommended that RailCorp identify those goods and services for which it is not possible to effectively monitor delivery and measure quality, and for which there is no functioning market with genuine competition between suppliers. Then, RailCorp should assess the risks of bringing in-house, compared to procuring external services, such as maintenance services, that are difficult to accurately measure and monitor and have no competitive market.

From: Waldersee R 2009 Presentation to APSAC Conference in July 2009 reproduced in ICAC Corruption Matters November 2009 Number 34.

Opportunities for corruption can emerge in this environment if an organisation's processes have not kept up with its structural changes. Public officials who are expected to be responsive, innovative in service delivery and achieve productivity gains to reduce government spending may no longer have available to them the processes that accompanied the traditional structures and acted as controls on improper conduct. Hierarchical supervision, document-based management and control by standardised rules have been replaced by increased managerial discretion, local decision making and the concentration of authority in fewer individuals.

In the new environment it is not feasible to remove individual discretion. Instead people factors have become more critical in controlling corruption risks. Managers in particular need a different and wider range of skills than in the past. Rather than rely on the rigidity of structures to control behaviour managers are expected to manage informal communication channels and to model appropriate behaviour (Waldersee 2012).

Competence in contract management and procurement is increasingly needed as public officials work more often with suppliers, contractors and other private sector partners (OECD 2007; ICAC 2011b). An analysis of ICAC inquiries over the past 20 years revealed some corruption risks in commercial relationships, particularly in managing contractor relationships.

The largest category of organisational risk factors for public sector corruption found in that study involved failures of management at all levels – supervisors, middle managers and senior management. At lower levels inadequate supervision and work review practices appeared frequently in the ICAC investigation reports as well as inadequate knowledge, skills or experience of corrupt public officials or their supervisors and managers. Typically managers did not sufficiently understand the work to recognise that corrupt activity was happening while others facilitated the corruption by tolerating low level non-compliance with all kinds of organisational rules.

The investigation reports also revealed many instances of senior or corporate management that mostly failing to manage risk factors in organisational change that provided opportunities for corrupt conduct in a context of uncertainty and reduced oversight (Mills and Cooper 2007).

The management literature identifies two particular forms of poor management that shed further light on these findings. One, described elsewhere as “organisational incompetence”

(Ott and Shafritz 1994) was evident in a variety of forms including the failure to monitor performance or implementation, supervise and plan strategically. The second is the way that senior managers respond to specifically ethical issues which can include behaviour - on the part of managers - such as (ICAC 1999):

- tolerating or rewarding unethical behaviour
- “individual ethics, personal ambition and poor supervision”
- not taking action about corruption and behaving inconsistently
- emphasising the “bottom line” of the organisation over other values.

These conditions have been said to contribute to the particular “work climate” of an organisation that is sometimes also understood as organisational culture. Cultures exert a powerful influence on behaviour and exist in communities of all kinds. Large public institutions commonly display subcultures and countercultures in their various subdivisions and outposts. For this reason reforms such as the introduction of anti-corruption initiatives are said to work best if approached from the “bottom up” as well as the “top down” (Theobald 1997; Lambsdorff 2008). By failing to acknowledge the existence of informal as well as formal rules and norms (Ocampo 2000), reforms imposed without reference to local conditions, whether organisational, sectoral or national, can easily fail or, worse, be counter-productive (Batory 2012). A common organisational example is when codes of conduct are introduced without adequate preparation or support (Gilman 2005; Brien 2001).

At a national level, an overview of governance in pacific island nations reported local challenges in implementing governance initiatives such as a lack of local ownership and stakeholder commitment, there was a disconnect between modern government and local traditions especially in communities outside the capital cities with governance reforms seen as complex and foreign to local culture and values (ADB 2004). Similar challenges are experienced inside organisations where parallel cultures inside organisations have their own norms and rules that can be actively hostile to anti-corruption efforts (ICAC 2008b).

This challenge is acknowledged in the OECD tool for analysing international drivers of corruption which is expressly intended to focus “Not just on the formal, rule-based institutions of governance but also on the informal rules of the game, the complex interactions between economic and political change, and the context specific incentives that shape political behaviour.” (OECD 2012: 83). For corruption prevention purposes it is useful to consider also that the public sector is not only an institution of the political economy. More research and analysis that acknowledges the public sector as a social and organisational entity with the capacity to influence the behaviour of those it employs and interacts with.

BOX 5: Culture of “job and knock”

An ICAC investigation of corruption in procurement at the state railway operator (RailCorp) in 2008 found employees had improperly allocated contracts worth almost \$19 million to companies owned by themselves, their friends or their family in return for corrupt payments totalling over \$2.5 million. Timesheet manipulation was also widespread in parts of Railcorp and had been for decades. Nicknamed “job and knock” it was most common in services to maintain and repair railtrack such as welding. One employee was calculated to have obtained more than \$30,000 in a 15 month period

with 89% of his timesheets fraudulently recording one third more hours than he was actually at work. The practice was so pervasive that it was impossible for RailCorp to accurately estimate actual labour requirements for infrastructure maintenance and infrastructure projects. Despite being clearly unlawful workers justified it as an “incentive” to get the work done as quickly as possible; “that’s how we were rewarded”; or a “pat on the back” simply for having completed the job.

There was evidence that supervisors’ tolerance of “job and knock” allowed it to continue and encouraged new staff to adopt it. A focus on outcomes was said to be used to justify bending rules to get things done so that as long as rail track was being repaired or maintained, management and staff were willing to ignore proper tender procedures and record-keeping requirements.

Non-reporting of misconduct was well-known to management and was a behavioural norm making effective management almost impossible, because without accurate knowledge of staff activities managers were unable to exercise control. The workplace environment imbued staff who were inclined to report misconduct with a sense that if they did so they would be disloyal. The effect of this behaviour is that corruption was not reported and was covered up. Employees inclined to engage in corruption were probably more confident that they would not be caught as a result of this behavioural norm.

Managerial inaction in response to fraud or non-compliance contributed to the corruption in the Division. Staff and contractors realised there were few consequences for misconduct or corrupt conduct. Witnesses agreed that it was generally believed that nothing happened to you if you were caught doing something wrong.

There were no references to fraud and corruption in position descriptions for managers in RailCorp despite their accountabilities including “identifying risks and developing and implementing reduction strategies to minimise the impact of those risks”. And there was no uniform performance review system for managers.

Extracted from ICAC 2008b Investigation into bribery and fraud at RailCorp – Eighth Report December 2008 ICAC Sydney pp 48-50.

3.6 Human resources practices

Many of the corruption risk factors that originate with individuals (the “people” factors) can be addressed to some extent by human resources policy and practice. The most longstanding in the anti-corruption literature is the question of remuneration. Early analysis maintained that increasing public sector salaries would only increase the size of bribes but the role of low salaries may be more complex. Salaries that are at least competitive with the private sector can act against corruption in several ways. First the impoverished public official may have less incentive to ask for a bribe. Second, a low paid but not impoverished public official who feels, nonetheless, aggrieved by the salary and entitled to pick up extra benefits where possible may be less inclined to do so. Finally, a good worker who is offered a higher salary to join a private firm might not do so thereby retaining important public sector skills which are also valuable weapons against corruption (Quah 1999).

A situation where aggrieved officials perceive that they are unfairly treated in the workplace in ways other than salary can also be a risk factor (Tomlinson and Greenberg 2005; ICAC 2008c) to be managed by human resources policy and practice that ensures fair remuneration and advancement and access to entitlements.

An obvious reaction to corruption in public administration is to re-emphasise the professional ethics of public administrators. Ethics training is recommended in the UNCAC *Technical Guide* and is a standard element of organisational integrity systems (Paine 1994). UNCAC Article 7 also refers to the need to raise the risk awareness of public officials.

A challenge to the professional model of public administration is the growth of contractualisation in public administration. Contract staff employed from the private sector on short term contract may not have the benefit of training or experience of the professional ethics of public administration. Contractors are increasingly needed for technical expertise that is not available inside the public agency increasing the risk of corruption but can constitute a corruption risk if not supervised adequately or recruited with due diligence (ICAC 2008a). Recruitment processes and background checking combined with managers effectively communicating standards of conduct are now essential corruption controls (OECD 2004; Waldersee 2012).

The role of general competence as a control on corruption is not well explored in the literature but a review of NSW ICAC inquiries exposed a relevant skill deficit among managers and supervisors who were unable to detect corrupt behaviour by subordinates with more knowledge of technical processes (Mills and Cooper 2007). Enhancing leadership by using appropriate measures in systematic performance management has been recommended and used in Australia (ICAC 2008c). ICAC inquiries also indicated that incompetence can be a risk factor in non-management but specialised roles that are highly exposed to corruption such as procurement or financial management.

BOX 6: The contract free contractors

In 2008 the NSW ICAC found that two project managers contracted to NSW Fire Brigades (NSWFB) engaged in dishonest schemes that resulted in them receiving corrupt payments totalling \$2.4 million. The scheme involved submitting false tenders and quotes to the NSWFB to manipulate the awarding of capital works contracts to companies owned by one of the men who was able to shop for approvals by going to one of three managers at various levels of the organisation instead of being required to put all his work through his direct supervisor. No single manager was motivated by a clearly assigned accountability to monitor the behaviour closely or maintain an overall picture of his activity. As a result the common accountability requirement of multiple signatures in an approval process had the effect of weakening accountability. The immediate supervisor is not ultimately accountable, and therefore not highly motivated, because there will be a higher-level signature. The higher-level signatory generally signs because they are too distant from the activity to be informed and must trust the first signatory. No-one will be held accountable if it goes wrong so a “tick and flick” approach to approval can develop. That no manager is motivated to check because there are not clearly defined accountabilities has been seen as an opportunity for corrupt behaviour in several investigations.

Project managers played a crucial role in the NSWFB’s capital works process and consequently were well-remunerated and allowed a high degree of discretion and autonomy in their day-to-day work. They were responsible for administering all aspects of the capital works process including tendering, contract management and quality control. They were also required to make recommendations about the expenditure of considerable amounts of public funds. Despite the responsible and pivotal nature of the role, the NSWFB did not take appropriate steps to ensure it was filled by suitably qualified

and experienced persons who understood their responsibilities. It had not given adequate consideration to the most appropriate way to meet its need for project management skills or to manage the corruption risks associated with contracted project managers.

The project managers were hired from a recruitment firm who the employer assumed had already screened and interviewed them. Consequently the NSWFB did not check their educational, employment and personal history checks or a merit selection process. No formal interviews and no written agreements with the contracted project managers. Neither did they inform the contractors about their responsibilities as public officials, the behaviour expected of them and the consequences of misconduct.

Extracted from ICAC 2008 Investigation into tendering and payments in relation to NSW Fire Brigades capital works projects; and ICAC Corruption Matters May 2010 Number 35 ICAC

3.7 Information and communications technology (ICT)

Information and communications technologies (ICT) have been hailed as the answer to practical problems of increasing transparency and public accountability in public administration. ICT can make it easier for citizens to scrutinise government activity and to voice concerns and opinions about its performance. The use of ICT in public administration also presents two types of corruption prevention challenges.

The first is that fraudulent activity in public administration, as elsewhere, can be made easier and more damaging by using ICT. Secondly corruption risks can arise from the increasing dependence of public sector agencies on ICT to run their operations. Both the purchase and maintenance of ICT systems requires technical expertise that may be lost as public administration prioritises core functions over administrative support. Buying in this expertise without due diligence exposes public authorities to the challenges of a contractor workforce mentioned earlier but with the potential for greater damage than in many other administrative support functions. The core challenge is in maintaining costly expertise.

ICT plays a role in preventing corruption not only in accountability and transparency but also by supporting the quality of an organisation's operational efficiency and robust internal governance. Inside public sector agencies, electronic records management systems can improve the quality, reliability – and even the existence - of public records and administrative performance generally. Electronic data can also facilitate more efficient auditing and ex post investigation of processes and analysis of corruption risks that can be used as strategic intelligence to improve systems.

Electronic systems can be designed to reduce opportunities for manipulation and cover-ups and to incorporate in-built access and approval controls to protect operational integrity. ICT has been proposed as particularly useful in the management of public procurement and in tax administration (Olken and Pande 2011; Campos and Pradhan 2008; OECD 2007). A study of the customs administration in Senegal found that computerisation had helped to reduce the level of fraud by 85% between 1990 and 1995 (Hors 2000).

3.8 Citizen engagement or stakeholder participation

Scrutiny

The role of citizens in preventing corruption is based on both the principal of accountability of the public administration and the practical power of external scrutiny to achieve it. The theory is that if public officials are less likely to act corruptly if they are being observed and may have to explain their actions.

The policy levers usually associated with citizen scrutiny can be legal, such as public access legislation (Article 10 UNCAC) and legal obligations to give reasons for administrative decisions, or administrative such as public consultation and information campaigns. Some of the challenges to their effectiveness are that they can be cumbersome and costly to implement and are often remote from members of the public or appear artificially imposed.

The media have traditionally been seen as leaders in facilitating public scrutiny of government so that an independent media is a critical element of a national integrity system. Less structured methods of public scrutiny that use existing community groups with no obvious connection to governance have emerged as mechanisms for public oversight of public official conduct.

Trust in government

Increased contact between public officials and members of the public goes beyond the threat of scrutiny and deterrence to enhance the level of trust between public administration and citizens with benefits for both for effectiveness of government and anti-corruption investigations (Langseth 2001). Better public engagement can improve the general quality of public administration and systems for receiving and managing complaints about the public administration have the potential to improve trust and reduce inaccurate perceptions of corruption. A level of public trust necessary to facilitate reporting corrupt activity, in cooperating with enforcement officials and in individual compliance with anti-corruption rules and norms.

Information and awareness

Citizens will not be inclined to scrutinise or report corrupt behaviour if they do not recognise it as wrong. In the conventional anti-corruption agency (ACA) model, the third core function is to educate the public about the harm of corruption. Programs such as those run by the Hong Kong ICAC Community Relations department produce resources for school-aged children, a *YouTube* channel and a television drama⁵ to help members of the public to identify and act on corrupt conduct when they encounter it (Tong 2007).

Standard social marketing methods can be applied to corruption prevention by ACAs and other government agencies that run their own public education campaigns (Kindra and Stapenhurst 1998). The budget for an education component in a corruption prevention strategy can be pushed out by urgent and costly investigations whose high profile attracts more attention and public support. But, easily accessible social media can facilitate inexpensive public awareness and information campaigns while community-based or grass

⁵http://www.icac.org.hk/en/community_relations_department/s/index.html accessed 8 June 2012.

roots organisations can successfully spread awareness of the proper, and therefore improper, role of public administration

Research and evaluation

For ACAs, citizen engagement has the potential for improving the evidence base for corruption prevention. Data from complaints received by public sector agencies can highlight corruption risks inside organisations in addition to actual corrupt conduct. Formal surveys of citizens' experience of corruption, and corruption risks, are a valuable supplement to perceptions data (Treisman 2007; Lambsdorff 2005; Langseth 2001) and surveys of perpetrators have been found to be useful (Warburton 2007; DeGraaf and Huberts 2008; Haigh and Tasker 2011).

Consultation

Consultation with communities who will be affected by new policy or legislative proposals is considered part of sound policy development just as the engagement of stakeholders by a government agency is regarded as good public management. Traditionally, consultation by government has taken the form of information campaigns, public meetings, public hearings or inquiries, surveys, circulation of exposure drafts and public invitations to make submissions.

These types of interactions are generally instigated by the government and if run impartially and transparently can be effective in encouraging trust in government particularly in locations where lobbying and other personal interactions might be a source of corruption.

By increasing official, transparent opportunities for members of the public and interest groups to engage with government a wider range of opinions and perspectives can be heard, obviating the need for individual lobbying approaches that may be more difficult for the government to manage and reducing the risk or perception of government being captured by a small or privileged set of interests.

Commercial relationships and partnerships

Citizens have many types of interactions with the public administration that go beyond monitoring the behaviour of public officials and one unsatisfactory interaction has the potential to damage an individual's confidence in government. One survey of suppliers of goods and services to government suggests that there is room for more trust in commercial relationships between government agencies and citizens. It found that "approximately one-third of suppliers stated that they had not bid on one or more public sector procurement contracts because of corruption concerns" (ICAC 2011c:7).

As business and private sector partners move to improve their own corruption controls there are opportunities for government to develop partnerships for prevention that involve implementing standards of conduct and practice that protect both parties against corruption.

4. RESPONSES AND NEXT STEPS

Successfully preventing corruption will require, targeting interventions more accurately and monitoring the impact and outcomes of those interventions whether at the national, sectoral or organisational level.

Substantial quantities of data are now available about the nature, quality, prevalence and incidence of corruption in developed or developing countries, specific sectors of government and the economy, and in various levels of government. Strategies for preventing corruption to date are currently being implemented on the basis of data that tells us “when and where” corruption happens and information about the types of corruption – or “what” it is. Collected data have been used to develop diagnostic and assessment tools that help states to measure corruption and target their efforts at the national level.

The advent of the OECD Anti-Bribery Convention and the UNCAC has meant that more data is being collected as monitoring and assessment of their implementation proceeds. Applying the constantly growing body of valuable theory and data in the most effective way to ensure the suitability of interventions to prevent corruption and monitoring their effectiveness is a current and ongoing challenge. At the same time there are now many mechanisms for research, data collection and analysis, networking, information sharing, partnerships, professional development and community activism now exist to help the anti-corruption effort understand what is working and where.

Against this background, the answers to the following questions can help to suggest issues for closer consideration and avenues for further work that will enhance the effectiveness of the overall anti-corruption effort in:

- What scope is there for supplementing the longstanding focus of research on the what, when and where of corruption with more attention to the conditions and incentives that allow or encourage corruption to happen- “why” - and the processes and enablers that allow it to continue - “how”.
- Can the human, organisational and external enabling factors that have been recognised as contributing to corruption be successfully incorporated into diagnostic tools about drivers and enablers of corruption? If so what level of analysis – national, local, organisational, sectoral can be used for this work? Is it necessary to undertake analysis at all levels in all contexts?
- What information should be gathered to supplement data derived from perceptions of corruption? What scope is there for incorporating information from perpetrators of corruption into prevention strategies? How can this information best be collected in developing countries?
- Is a greater emphasis on understanding the organisational dynamics of corruption the way to address the “petty” administrative corruption that has a disproportionate impact on the poor?
- How can the range of theoretical analytical frameworks be broadened in a systematic way to include all disciplines and bodies of knowledge and practice with a contribution to make about the corruption and how prevention efforts are working?

- What are the best sources of information for understanding how to prioritise and sequence the order of corruption prevention interventions? How important is sequencing? Can some anti-corruption activities proceed in parallel?
- What are the considerations in designing an anti-corruption legal framework to best meet the needs of the context?
- How damaging is the potential for conflict or overlap between criminal, administrative and employment laws and non-legal penalties and frameworks to the effectiveness of legal frameworks in preventing corruption?
- How important are prosecution rates to public support for anti-corruption efforts?
- What is the optimal division of anti-corruption responsibilities between specialist anti-corruption agencies and central government agencies (eg public service commissions, anti-corruption commissions) and public sector line agencies?
- What sources of information and knowledge are needed to better understand the role of organisational structure and systems in creating opportunities and incentives for corruption?
- How should public officials best be equipped to responsibly exercise discretion in their work?
- Is the concept of professionalism useful for preventing corruption? If so how can it be best achieved especially in contexts where professional skills are low?
- What are the best ways to deal with the corruption risks of using contract staff in public sector agencies? Can contract or temporary staff be used as a corruption prevention technique?
- Is it time to develop new professional ethics and standards for public officials that take into account the need for private funding of some public functions? How would these be developed? Would they be different in developed and developing contexts?
- Can standard public sector management techniques such as risk management and policy evaluation be applied to anti-corruption policy and programs or are there unique aspects of anti-corruption policy to consider?
- Should anti-corruption effort be concentrated more on generic policy issues such as education and infrastructure as indirect ways to prevent corruption rather than policies traditionally used to target corrupt acts?
- What are the barriers to engendering strategic leadership and commitment in public sector managers? Are they different in developing and developed contexts?
- What has been the impact of the GFC on ethical standards and practices in public administration?
- How much can the public sector learn from proposed and applied corporate governance reforms in the private sector?
- What are the similarities and differences of anti-corruption work in developed and developing countries?
- How can we best collect and share knowledge of what has worked on the ground to reduce corruption in similar contexts?
- What are the limits of policy transplanted in anti-corruption policy?

- How dependent are anti-corruption efforts on budgetary expenditure? Are there low-cost, grass roots activities that can be effective?
- What is the relationship between reduced resources for public administration and corruption risks?
- What are the priorities for educating and engaging citizens in preventing corruption? Who should be responsible for driving them?
- What can be done to improve social trust in a way that helps to prevent corruption?
- How can generic diagnostic tools that use knowledge of corruption risk factors be best applied at national, sub-national and organisational levels?

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