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Preface

Corruption has always been present throughout history. For example, it existed in the judiciary systems of the First Dynasty of Ancient Egypt (3100–2700 BC), Ancient China, and Ancient Greece (1400 BC). Many have defined corruption, and its definition is always related to those who are in power, that is explained by the fact that power and the abuse of it gives access to being corrupted and practicing corrupt acts. According to James Chen, corruption is “dishonest behavior by those in positions of power, such as managers or government officials”.

There are various types of corruption, including bribery, lobbying, extortion, cronyism, nepotism, parochialism, patronage, influence peddling, graft, and embezzlement. Other forms include double-dealing, under-the-table transactions, manipulating elections, diverting funds, laundering money, and defrauding investors.

No government is immune to corruption, but some are more likely to be corrupted than others. According to the World Bank studies, “the causes of corruption are always contextual, rooted in a country’s policies, bureaucratic traditions, political development, and social history.” The World Bank studies show that the more a government institution is weak, the more susceptible it is to corruption.

This indeed has consequences. According to a study published on Econstor.com by Dominik Enste and Christina Heldman on the causes and consequences of corruption, its major effects negatively impact general investments, foreign direct investments, and capital inflows, as well as foreign trade and aid and official growth. It also increases inequality, impacts government expenditure and services, shadow economy and crime.

Based on statistics from the World Population Review, the top five least corrupt countries in 2022 were New Zealand, Denmark, Finland, Norway, Sweden, and Singapore. Alternatively, the top five most corrupt countries were Somalia, Syria, South Sudan, Venezuela, and Yemen. Corruption usually flourishes in countries where there is political instability and systems of dictatorship.

In a country with weak governance systems, weak institutions, and centralization which makes auditing very difficult and sometimes impossible, lack of transparency. Non existence of accountability especially for those in power and namely politicians where the auditing doesn’t apply to them. The abuse of this power is constantly witnessed and unfortunately even normalized. It is usually the case in countries where the poor get poorer and the rich get richer, and the people in power get richer at the expense of the poor. From diverting funds to manipulating elections and accepting bribes, people become used to the chaos and under-the-table deals. It is also important to mention the incompetence of some of the people in power, mismanagement, and the wasting of public funds. Of course, corruption has huge negative effects on a country economically and politically, especially when there is no political will for transparency and accountability.

This book is a collection of chapters on corruption, with new insights on how to deal with it in its many forms. It is an interesting read for students who want to know more about corruption, academics who wish to enhance their knowledge of the field, and businesspeople who want to avoid corruption in their dealings.

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Chapter 1

Bribery Practices of Three MNCs in the Host Countries: An Examination of the Issue from HRM Perspective

Hussain Syed Gowhor

Abstract

This chapter examines three bribery cases of three different Multinational Corporations in three different countries from human resource management (HRM) perspective. The first case is about the bribery of Halliburton Energy Services of the USA in Nigeria, the second one is about the bribery of Scancem International ANS of Norway in Ghana and the third one is about the bribery of Niko Resources Ltd. of Canada in Bangladesh. The MNCs were involved in the bribery through their subsidiaries in the host countries. The top management of the MNCs and subsidiaries were involved in the bribery case. The cases show that the bribes were paid for protecting the interests of the subsidiaries in the host countries. The bribes were paid through some intermediaries and disguised in some ways. In examining the cases from HRM perspective, I looked at the relevant facts about the country and its government, the relevant facts about the MNCs and involved personnel(s), the relevant information about the case, the enablers of unethical behaviour and the HR lacunae in the case.

Keywords: bribery practices, MNCs, host countries, HRM, ethics, HR lacunae, HR actions

1. Introduction

Is ethics a matter of conscience or a matter of management? The answer to this question may be found in the old adage that teaches us that prevention is better than cure. You will hardly find an organisation saying that they do not bother about ethics or corporate social responsibility. Still, you will see that the repetitions of unethical practices have not stopped. Rather, we frequently come to know about the unethical practices of organisations involving a fairly large amount of money. When these unethical practices are committed by the employees or management of Multinational Corporations (MNCs), it is definitely an issue of concern because MNCs are believed to shape global values and culture in the business world as they are the 'primary agents of justice' (Wettstein, cited in [1], p. 193). It is very interesting to note that most of the unethical practices of the MNCs so far unearthed occurred in

either emerging or developing economies and were committed by the MNCs of the rich countries [2]. In this chapter, I try to examine one facet of unethical practices, that is, bribery practices of three MNCs from the viewpoint of Human Resource Management (HRM). It is necessary to think about the issue from an HRM perspective because it is not the organisations themselves that commit unethical practices but the people of the organisation who are the perpetrators.

2. Linking HRM with the concept of ethics

Before proceeding further, let us try to clarify the role of HRM in this field by defining the boundary of bribery as an unethical practice. In defining the boundary of bribery as an issue of ethics, we should consider another related concept and its counterpart—law. The basic difference between law and ethics is that if you violate the law, you will definitely be prosecuted. However, if you commit an unethical practice, you may not be prosecuted. So far, the initiatives taken by the organisations and the governments to curb the unethical practices of the people in the organisations have been proved absolutely futile. The reason is that people are not learning from the exemplary and condign punishments of the people convicted and sentenced for committing unethical activities. Law and other similar mechanisms that are in practice are like negative reinforcements and act as *preventive checks* by punishing people for committing unethical or unlawful activities. These mechanisms could not stop the repetitions of unethical activities. So, we need to find a more effective way that would curb unethical practices and would stop repetitions of unethical practices. I propose that HRM can play the first fiddle in this regard by the means of positive checks. By the term *positive check*, I propose to mean the proactive designing of HR activities, such as recruitment, job design, position description, performance management systems, and training which would change the mindset of the people in the organisation with the help of the mediating forces, such as camaraderie, collective conscience, collective voice, collective resistance, fear of ostracism, fear of obloquy, fear of public disgrace, and fear of succumbing to Dilbert principle (Adams, cited in [3], p. 8) in such a way that they would not dare to involve in the unethical practices anymore.

In this chapter, the role of HRM is examined in devising the instruments for positive checks for curbing unethical practices like bribery. This is done by examining three different cases. With the help of available secondary data, we show how appropriate HR actions could prevent the occurrence of unethical practices. In each of the cases, the following points are addressed to facilitate the understanding of the role of HRM in curbing the unethical practices:

- Relevant facts about the country and its government;
- Relevant facts about the MNCs and involved personnel(s);
- Relevant information about the case;
- Enablers of unethical behaviour;
- HR lacunae in the case.

We conclude the chapter by identifying the particular and appropriate HR actions that could prevent the people involved from committing unethical activities. We also recommend how these HR activities can be implemented in the MNCs.

3. Case 1: bribery of Halliburton Energy Services of the USA in Nigeria

3.1 Relevant facts about the country and its government

- The official name of the country is the Federal Republic of Nigeria [4].
- It has a population of 170,123,740 [5].
- The total literacy rate of the population is 68% [5].
- The country spends 0.9% of its GDP on education [6].
- Seventy percent of the population of the country lives below the poverty line [5].
- The most important natural resources of the country include natural gas, petroleum, tin, iron ore, coal, limestone, niobium, lead, zinc, and arable land [5].
- The country was ranked 156th on Human Development Index in 2011 [7].
- The country was ranked 143rd in the Corruption Perceptions Index in 2011 (Transparency International, cited in [8]).
- The country has a federal republic type of government [5].
- Major political parties in the country include Peoples Democratic Party (PDP), the All Nigeria Peoples Party (ANPP), and Action Congress (AC) [5].
- The president is both the chief of state and head of government. The president is elected by popular vote for a 4-year term. The cabinet is called the Federal Executive Council [5].
- The country has a bicameral National Assembly. The members are elected by popular vote to serve 4-year terms [5].
- The judicial system comprises the Supreme Court (judges recommended by the National Judicial Council and appointed by the president) and the Federal Court of Appeal (judges are appointed by the federal government from a pool of judges recommended by the National Judicial Council) [5].
- In the country, the executive branch and the office of the president retained strong federal powers. The legislature and judiciary have suffered years of neglect and they needed to be rebuilt as institutions for exercising their constitutional roles in the balance of power. For many reasons, Nigeria's security services have been unable to respond effectively to the security threat, which is both political and criminal. As Nigeria has been trying to work out representational democracy,

there have been conflicts between the executive and legislative branches over major appropriations and other proposed legislation. There is a restraint on allowing the legislative and judicial branches to operate relatively freely [4].

- The bribery took place from the period 1995 to 2004 during the regimes of General Sani Abacha, Abdulsalami Abubakar, and Olusegun Obasanjo.
- The legal system is mixed and composed of English common law, Islamic law (in 12 northern states), and traditional law [5]. The legal system is highly corrupted [4].

3.2 Relevant facts about the MNCs and involved personnel(s)

Four MNCs were involved in the bribery case in the form of a consortium named TSKJ. The MNCs are Technip of France, Snamprogetti of Italy, Kellogg Brown and Roots (KBR), a subsidiary of Halliburton Energy Services, and Japan Gas Corporation ([9], p. 20).

Halliburton Energy Services is a multinational corporation with operations in over 120 countries. This company started as Halliburton Oil Well Cementing Company in 1920, became incorporated in 1924, and became listed on the New York Stock Exchange in 1948 [10].

The following two paragraphs have been excerpted from the complaint lodged by the Securities and Exchange Commission to the US District Court Southern District of Texas Houston Division. They describe the basic information about the company:

“In September 1998, Halliburton Company (“Halliburton”) acquired Dresser Industries, Inc. (“Dresser”), including Dresser’s subsidiary, The M.W. Kellogg Company (“Kellogg”). After the acquisition, Kellogg was combined with Halliburton’s subsidiary, Brown & Root, Inc., to form Kellogg, Brown & Root, Inc., which later became Kellogg, Brown & Root, LLC, now a wholly-owned subsidiary of KBR, Inc.” ([11] at 1).

“KBR, Inc. is a Delaware engineering, construction and government services corporation headquartered in Houston, Texas. KBR, Inc. was formed in March 2006 and was a wholly-owned subsidiary of Halliburton until November 2006, when it became a separate publicly-traded company. KBR, Inc.’s common stock is registered under Section 12(b) of the Exchange Act and trades on the New York Stock Exchange.” ([11] at 3).

KBR owned 25% share in the TSKJ ([12], p. 20). Analysis of the following excerpts from the complaint lodged by the Securities and Exchange Commission to the US District Court Southern District of Texas Houston Division leads to the conclusion that executives of KBR played the first fiddle in devising and implementing the bribery scheme. In other words, they were the mastermind.

“Officers and employees at the highest level of KBR, including its former CEO, Albert Jackson Stanley (“Stanley”), were closely involved in the joint venture and its business in Nigeria from the joint venture’s inception. Each member of the joint venture had one or more representatives on a steering committee that ran the joint venture. Stanley was a member of that steering committee at all relevant times. Other high-ranking personnel of KBR were also closely involved in the joint venture; these included sales, legal and operational personnel.” ([11] at 4).

The company's 'Code of Business Conduct' states that the company policy requires directors, employees and agents to observe high standards of business ([12], p. 19).

Halliburton Energy Services knew about the schemes of bribery and had indulgence in the matter because the CEO of KBR, Inc. used to report directly to the Chief Operating Officer of Halliburton Energy Services [13].

Four people from Halliburton's subsidiary and one person from Technip were mainly involved in the bribery practices. Their profiles are described below:

- Mr. Dick Cheney was Halliburton's CEO for 5 years before becoming vice-president to Mr. George W. Bush in 2001 [14]. While Mr. Dick Cheney was the CEO of Halliburton, the company thrived. As a politician, he is highly spoken of in regards to his political endeavours [10].
- Mr. Albert Jack Stanley was the former CEO of KBR. He was said to have met with three former holders of a top-level office in the executive branch of the Nigerian government on different occasions, luring them into designating representatives with whom they could embark on the joint venture, under the shadow of which transactions relating to the bribes to be paid to government officials could safely be conducted [15]. He was with KBR for years. He served there as chairman and then a consultant. He acted as the representative of the TSKJ consortium ([16], p. 506). One Halliburton spokesperson said that during the years Mr. Albert Jack Stanley ran KBR, Mr. Albert Jack Stanley reported to Mr. David Lesar, Halliburton's chief operating officer at the time and later CEO. Mr. David Lesar reported to Mr. Dick Cheney when Mr. Dick Cheney was the CEO [13].
- Mr. Jeffrey Tesler, a U.K lawyer, was the person who acted as the go-between in the payment of bribes [17]. He was the main facilitator and monitor of all the bribe disbursements [15]. This was done through his firm. Mr. Jeffrey Tesler set up a firm called Tri Star Investment to facilitate the fund transfer [15].
- Mr. Wojciech Chodan, a citizen of the UK with Polish roots and a former executive at M.W. Kellogg Company and later a consultant for KBR kept detailed diaries of the bribery transaction and worked for TSKJ in the capacity of a bribe conduit [15]. M.W. Kellogg Company employed him as Sales Vice-President from 1988 until December 1998, after which he became a Consultant to M.W. Kellogg Company until June 2004. Both as sales Vice-President and as Consultant, he reported to Mr. Albert Jack Stanley and other KBR employees [18]. He was also the former manager of the London office of M. W. Kellogg Company ([16], p. 506).
- Mr. Georges Krammer, former Director of Technip—a member of the TSKJ Consortium [15]. He was the person who leaked the involvement of Mr. Jeffrey Tesler and others in the bribery scheme [13].

3.3 Relevant information about the case

- The bribery case came into the limelight when a French magistrate initiated the investigation of suspicious payments made by TSKJ after Mr. Georges Krammer said Mr. Jeffrey Tesler is 'directly linked to corruption in Nigeria' [13].

- Later on, the case was investigated by the Economic and Financial Crimes Commission of Nigeria [18] and the Securities and Exchange Commission of the USA ([12], p. 20).
- The bribe was paid to the top government officials of Nigeria, including two former presidents, one minister of petroleum, and one inspector general of police [18].
- The amount of the bribe was US\$180 million ([16], p. 504 and [19]).
- Between 1995 and 2004, senior executives at KBR and others, devised and implemented a scheme to bribe Nigerian government officials to assist in obtaining multiple contracts worth over \$6 billion to build Liquefied Natural Gas ('LNG') production facilities on Bony Island, Nigeria ([11] at 2).
- The bribe money was paid into the accounts in UPB Geneva, HSBC Monaco, and Swiss bank ([11, 18] at 6).
- The bribe was transferred over a 10-year period from 1995 to 2004 ([11] at 2).
- Halliburton also investigated the matter internally [20].
- The bribe was channelled through an external consultant to the company ([11] at 2).
- The bribe was transferred in the form of a consultation fee ([11] at 2).
- KBR, Inc. acted as the lead partner in the TSKJ consortium [13].
- Mr. Tesler was reappointed by the consortium in 1999 at Halliburton's insistence [13, 21].

3.4 Enablers of unethical behaviour

From the above information of the case, we can easily deduce that the unethical behaviours were facilitated by the following forces:

- **Unethical leadership:** It is proven that Mr. Dick Cheney had indulgence and consent in the corrupt practices of Mr. Albert Jack Stanley because the latter reported directly to the former regarding major business decisions. The unethical leadership of Mr. Dick Cheney allowed Mr. Albert Jack Stanley to make unethical decisions in this case.
- **Political clout of leaders:** Mr. Dick Cheney's political clout acted as a support for Mr. Albert Jack Stanley to embark upon unethical practices in Nigeria.
- **Inaction of top management of other consortium partners from Japan, France, and Italy:** The leaders or the top management of the other partners in the TSKJ consortium remained silent on the adoption of unethical practices of the lead partner Halliburton. The lack of active involvement and voice of the partners from Japan and Italy paved the way for committing the unethical practices by Halliburton.

- **Organisational structure:** The organisational structure acted as a camouflage to hide unethical practices. The multi-layered complicated relationship between Tri Star Investment and TSKJ, between TSKJ and KBR, and between KBR and Halliburton was nebulous enough to facilitate the commitment of any unethical practice by the TSKJ Consortium.
- **Corporate governance failure:** After its acquisition of Dresser, Halliburton, KBR's parent corporation, failed to devise adequate internal controls relating to foreign sales agents and the Foreign Corrupt Practices Act, and failed to maintain and enforce those internal controls it had. Halliburton, therefore, failed to detect, deter or prevent KBR's violations ([11] at 2).

3.5 HR lacunae in the case

- **Improper way of reappointment of Mr. Tesler as a consultant:** The HR Department of the organisation or the HR manager of the TSKJ consortium should have a voice in the reappointment of Mr. Tesler. The reappointment should have been based on a careful review of the previous performance, ability, etc. of Mr. Tesler.
- **Appointment of Mr. Albert Jack Stanley and Mr. Wojciech Chodan:** Like Mr. Tesler, the appointment of Mr. Albert Jack Stanley and Mr. Wojciech Chodan should have been done with the help of input from the HR department.
- **Terms of reference and performance appraisal etc. of Mr. Stanley, Mr. Tesler, and Mr. Chodan:** Their accountability and performance could be ensured through a rigorous and thorough appraisal and appropriate terms of reference. HRM could have helped assess their eligibility for the assignments from an ethical point of view.
- **Lack of human due diligence in appointing Mr. Stanley, Mr. Tesler, and Mr. Chodan:** A thorough assessment of past track record, attitude, aptitude, qualification, and capability could be done by completing a human diligence process.
- **Training of Mr. Stanley, Mr. Tesler, and Mr. Chodan:** These people have served the company for a long time. However, it is very apparent that they could not develop an attitude of employee engagement and commitment to the firm. They could not develop an ethical mindset throughout their career. The HR department of the company in which they served could provide them training on ethics and other matters that could improve their morality.

4. Case 2: bribery of Scancem International ANS of Norway in Ghana

4.1 Relevant facts about the country and its government

- The official name is the Republic of Ghana [22].
- It has a population of 25,241,998 [23].

- The total literacy rate of the population is 57.9% [23].
- The country spends 5.4% of its GDP on education [23].
- 28.5% of the population of the country lives below the poverty line [23].
- The most important natural resources of the country include gold, timber, industrial diamonds, bauxite, manganese, fish, rubber, hydropower, petroleum, silver, salt, and limestone [23].
- The country was ranked 135th on Human Development Index in 2011 [24].
- The country was ranked 69th in the Corruption Perceptions Index in 2011 (Transparency International, cited in [25]).
- The country has a democratic type of government [23].
- Major political parties of the country include the New Patriotic Party, National Democratic Congress, Convention People's Party, and People's National Convention [22].
- The president is popularly elected for a maximum of two 4-year terms [22].
- There is a Council of State, a consultative body of 25 members appointed by the president. It is required by the constitution [22].
- There is a unicameral Parliament and the members are popularly elected for 4-year terms [22].
- There are independent Supreme Court justices nominated by the president with the approval of Parliament [22].
- The country has been politically stable since 1993. The present political party in power enjoys broad support among the Ghanaian population as it pursues the domestic political agenda entitled 'Better Ghana.' [22]
- The bribery took place in 2000 during the regime of Flt. Lt. Jerry John Rawlings, who was the president of Ghana from 1979 to 2001.
- The legal system is mixed and composed of English common law and customary law [23].

4.2 Relevant facts about the MNC and involved personnel(s)

Basic information on the company may be found in the following translated version of the full judgement given by Judge Trine Standal of the Asker and Baerum District Court:

“Scancem International ANS was incorporated on September 1st, 1986, with international cementation as its aim. The owners were Euroe and Noroem with 50% each. The Heidelberg group took over as owner in 1998. Scancem International ANS was

involved in extensive bribery and corruption in a number of countries in Africa, including Ghana. In Ghana, it owns a subsidiary named Ghana Cement Works Ltd. (GHACEM). Scancem International ANS appointed Tor Egil Kjelsaas as head of the African division. He was one of Scancem International ANS's most trusted managers. He was also the one with the local contacts. Tor Egil Kjelsaas was educated in Germany. He has worked in the Noroem system and subsequently for Scancem International ANS when it was incorporated, since the late 1960s. He was head of Scancem International ANS's African division. He worked for Scancem International ANS until 1999, and then acted as a consultant to the company over a two-year period" [26].

According to the records, as of 1991, the Government of Ghana's (GoG's) share in Ghacem, was 75%. The rest 25% was held by Scancem of Oslo, Norway (24.5%) together with Dr. J.A. Addison (0.5%) [27]. Sounding critical of Scancem's activities in Ghana since 1992, when the Government of Ghana began selling its 75% stake in it to the Norwegians, the journalists who could not see any ethical examples worth emulating from that Norwegian company, demanded from the country's minister of international development what his government intends doing about the social impact of the imbalances that Ghacem's unfair industrial practices have had on Ghana [28].

4.3 Relevant information about the case

- The news of the bribery was published simultaneously in several newspapers, namely, Dagens Naeringsliv Magasinet, Det Norske Magazine, and Crusading Guide. However, it was first reported by two Norwegian journalists who jointly authorized the story entitled 'Grey Cement, Black Money' in the April 21, 2007 edition of their newspaper, 'Dagens Naeringsliv Magasinet' [29].
- The bribe was intended to be paid to former President of Ghana Flt. Lt. Jerry John Rawlings, his wife Mrs. Nana Konadu Agyeman-Rawlings, and his special advisor Mr. PV Obeng [30].
- The amount of bribe was at least US\$4.1 million and maybe double as part of the money was actually paid to the government officials [30].
- The bribe money was paid into two foreign accounts in Switzerland and Luxembourg [31].
- The bribe was transferred 2 months before the general election in Ghana in 2000 [32].
- The bribe was paid to the three political leaders to secure Scancem's monopoly in the cement industries in Ghana [31].
- The alleged multi-million-dollar bribery came to light when ownership of Scancem changed hands in 2000, from Aker RGI of Norway to German Heidelberger Cement through the process of an internal audit [33].
- The whole bribe was not paid to the politicians. A part of the money was embezzled by Mr. Tor Egil Kjelsaas amounting to US\$4.1 million [30].
- The Asker And Baerum District Court maintains in its judgment: "It is part of the nature of the culture of bribes that it will not be possible to trace this, either by

the tax authorities or by those for whom those receiving the money are acting or working. As such, it is impossible to provide proof by the party handing over the money in cash that the money actually has been handed over” [26].

- The bribe was transferred in the form of a consultation fee [33].

4.4 Enablers of unethical behaviour

- **Dysfunctional code of ethics:** This is evident from the following observation of Judge Trine Standal of the Asker and Baerum District Court:

“Scancem itself established a system of bribery and corruption. The system required payments to be untraceable. The system can only be based on trust, and producing evidence in retrospect can be difficult. Kjelsaas finds it hard to prove he is innocent, and Scancem has a problem proving him guilty. Any doubt as to the evidence must go against Scancem” [26].

- **Dysfunctional Control System:** This is evident from the following observation of Judge Trine Standal of the Asker and Baerum District Court:

“The company failed to establish any kind of control system, accepting on the contrary, a system which meant that cashflows were hard to trace, partly because the money was handed over in cash and partly because it was transferred to bank accounts which could neither be traced nor controlled. Seen in this light, there was no way of documenting who handed the money over in cash or that money was actually handed over” [26].

- **Dysfunctional Culture:** It became a culture of Scancem International ANS to pay bribery in the countries it operated [26].
- **Ambiguity in Law:** The judge, Trine Standal, held that ‘the two parties’ in the case ‘agree that the bribery had not been contrary to Norwegian, Ghana or Nigerian law’ [26]. However, The Statesman newspaper stated that the criminal laws in both Ghana and Nigeria have since the 1960s been clear against corruption [34]. This clearly smacks of the ambiguity of law that made different interpretations and lacunae and paved the way for committing unethical practices.

4.5 HR lacunae in the case

- **Failure of expatriate management including selection and performance management:** Basing the selection of Mr. Tor Egil Kjelsaas simply on trust is never an HR approach. Every selection of expatriates must base on a thorough selection procedure and due diligence. The performance management of senior people with greater autonomy should have been done more carefully and rigorously.
- **Lack of adequate measures to appraise the performance of senior managers:** The performance appraisal system was replaced with trust. This is true that the performance appraisal of senior expatriates is a challenging task. However, HR could devise some tactful mechanism in doing so.

- Lack of control of expatriates through position description: The position description or the terms of reference could have curbed the unethical behaviour of Mr. Tor Egil Kjelsaas.
- Training of Mr. Tor Egil Kjelsaas: If the company had provided training to Mr. Tor Egil Kjelsaas on ethics and other matters like culture, he would have applied his judgement, conscience, and cultural intelligence in performing his job.

5. Case 3: bribery of Niko Resources Ltd. of Canada in Bangladesh

5.1 Relevant facts about the country and its government

- The official name is the People's Republic of Bangladesh [35].
- It has a population of 161,083,804 [36].
- The total literacy rate of the population is 47.9% [36].
- The country spends 2.4% of its GDP on education [36].
- 31.5% of the population of the country lives below the poverty line [36].
- The most important natural resources of the country include natural gas, arable land, timber, and coal [36].
- The country was ranked 146th on Human Development Index in 2011 [37].
- The country was ranked 120th in the Corruption Perceptions Index in 2011 (Transparency International, cited in [38]).
- The country has a democratic type of government (parliamentary democracy) [36].
- Major political parties in the country include the Bangladesh Nationalist Party (BNP), the Awami League (AL), the Jatiya Party, and the Jamaat-e-Islami Party [35].
- The president is the chief of state. The president is elected by National Parliament for a 5-year term [35].
- The Prime minister is the head of government [35].
- The cabinet is selected by the prime minister and appointed by the president [35].
- There is a unicameral Parliament (345 members) [35].
- Each Member of Parliament is elected by popular vote for 5-year terms from single territorial constituencies [35].
- The civil court system is based on the British model [35].

- The chief justices and other judges of the Supreme Court are appointed by the president [35].
- The country has been politically stable since 1990. The present political party in power enjoys broad support among the Bangladeshi population as it pursues ‘Vision-2021: Digital Bangladesh’.
- The bribery took place in 2005 during the regime of Prime Minister Khaleda Zia.
- The legal system is mixed and composed of mostly English common law and Islamic law [36].

5.2 Relevant facts about the MNC and involved personnel(s)

The agreed statement of facts regarding the case *Her Majesty the Queen v. Niko Resources Ltd.* gives the following information on the company [39]:

- Niko Resources Ltd. (hereinafter referred to as Niko Canada) is a Canadian company and is headquartered in Calgary, Alberta.
- It is a publicly-traded oil and natural gas exploration and production company with international operations and is listed on Toronto Stock Exchange.
- The company was incorporated in 1987.
- Mr. Bob Ohlson was the CEO of the company till his death. After his death, Mr. Edward Sampson assumed the leadership role of the company.
- The company had no previous record of bribery practices in any other country.
- The company first became involved in Bangladesh in 1997.
- The Bangladesh operation was named Niko Bangladesh.
- Niko Bangladesh was actually owned by Niko Resources Caymans, which was a wholly-owned subsidiary of Niko Canada.
- Although Niko Bangladesh operated only in Bangladesh, it was not incorporated there. Rather, it was incorporated in Barbados. However, it maintained an office in Dhaka, the capital city of Bangladesh.
- Niko Bangladesh was funded solely by Niko Canada. However, the funds used to be transferred through a long chain. Niko Canada used to transfer funds from its Calgary bank account to the account of Niko Resources Caymans, which then transferred funds to Niko Bangladesh’s account in Barbados, and finally, Niko Bangladesh’s office in Barbados used to transfer funds to Niko Bangladesh’s office in Dhaka.
- As a matter of corporate governance, Niko Canada closely monitored the activities of Niko Bangladesh and it is proved by the presence of the CEO of Niko

Canada on the board of Niko Bangladesh. Most transactions and even smaller ones were monitored from Canada. The subsidiary could not ask for any money from Canada without properly stating the reasons.

- Niko Bangladesh involved itself in a joint venture with Bangladesh Petroleum Exploration and Production Company Limited (BAPEX), a local company wholly owned by the government of Bangladesh.

The main person involved in the bribery case was Mr. Qasim Sharif. The agreed statement of facts regarding the case *Her Majesty the Queen v. Niko Resources Ltd.* gives the following information on him [39]:

- He was the in-country agent of the company till 2003 and later was employed as the president of the company by Niko Canada immediately after signing the joint venture with BAPEX.
- Mr. Sharif was an American citizen but was ethnically a Bengali person.
- He was employed by Niko Canada to look after the Bangladesh operation based on the expectation that his background would be such that he would have the expertise to navigate the often complex relationship between business and government officials that existed in Bangladesh at the time (Bangladesh was the most corrupt country in the world in which to do business, as per Transparency International).
- Mr. Sharif used to report directly to both Mr. Bob Ohlson and Mr. Edward Sampson till the death of Mr. Ohlson. After the death of Mr. Ohlson, Mr. Sharif used to report to Mr. Edward Sampson through Bangladesh Country Manager Brian Adolph, who in turn, reported to William Bill Hornaday.

5.3 Relevant information about the case

The agreed statement of facts regarding the case *Her Majesty the Queen v. Niko Resources Ltd.* gives the following information on the case [39]:

- The news of the bribery first came to the limelight on June 15, 2005, through an article published in *The Daily Star* (the leading English National Daily in Bangladesh) titled 'Niko gifts minister luxurious car'.
- The bribe was paid to obtain or retain an advantage in the course of Niko Bangladesh's business in Bangladesh. More particularly, the bribe was paid in order to influence the minister in dealings with Niko Bangladesh within the context of ongoing business dealings.
- The bribe was paid to the former state minister for energy and mineral resources Mr. AKM Mosharraf Hossain.
- The bribe was made in kind in the form of an expensive vehicle and defraying the expenditure of foreign tours to two countries.
- The approximate total monetary value of the bribe was 195,984 Canadian Dollars.

- The bribe was paid on or between the 1st of February, 2005 and the 30th of June, 2005.
- The company tried to disguise the bribe by giving it to the minister via BAPEX.
- The bribe was initially denied and dismissed by Niko Bangladesh as a gift and a commonplace part of doing business in Bangladesh.

5.4 Enablers of unethical behaviour

- Failure of corporate governance mechanism: The corporate governance mechanisms employed by the parent firm, particularly the board of directors and its ethics committee and internal control system failed because these mechanisms could not see through the actual purpose of buying the vehicle by its Bangladesh office and could not inform the parent firm in advance about the possible violations of code of ethics.
- Violation of corporate governance principles: The fact that the CEO of Niko Canada was a member of the board of Niko Bangladesh and that the company was not registered in Bangladesh was a clear violation of certain globally established corporate governance principles like transparency and board effectiveness ([40], p. 77 and 151).
- Misunderstanding of culture: The parent company misunderstood the culture of Bangladesh as akin to those prevailing in some of the African countries.
- Failure to distinguish between acceptable and unethical practices: The parent company could not distinguish between gift and bribe.
- Organisational structure: The complicated structure and indirect ownership led towards dysfunctional monitoring and control system. Dual reporting of Mr. Sharif to both Mr. Bob Ohlson and Mr. Edward Sampson and then indirect reporting relationship through multiple tiers caused difficulty in communication ([41], p. 331) between the top management and Mr. Sharif.

5.5 HR lacunae in the case

- Faulty selection of expatriate: Selection of Mr. Sharif simply on the basis of his nationality was a clear mistake from the HR point of view. This type of assignment should have reviewed the capability and experience of the expatriates to deal with similar situations in a similar type of cultural and political environment.
- Lack of adequate measures to appraise the performance of senior managers: The performance appraisal system should have followed some disciplines. The direct reporting of Mr. Sharif to Mr. Bob Ohlson and Mr. Edward Sampson and then indirect reporting through a chain of command and also multiple subordination of Mr. Sharif rendered the performance appraisal ineffective.
- Lack of control of expatriate through position description: The position description or the terms of reference could have made Mr. Sharif more careful and tactful in discharging his duties.

- Training of Mr. Qasim Sharif: If the company had provided training to Mr. Qasim Sharif on ethics and other matters like culture, he would have applied his judgement, conscience, and cultural intelligence in performing his job.

6. Appropriate HR actions to combat corruption

All the above cases involve the big people who either paid or received bribes. The HR lacunae identified in each of the cases may seemingly appear as funny and impracticable. Apparently, it seems that it is beyond the capability of HRM to streamline or direct the attitude and behaviour of those people towards an ethical orientation. The reason is that HRM is traditionally supposed to be applicable to the general employees who work in the organisations. It is not for those who make strategic decisions like the Chairman, CEO or Directors, or other senior executives.

However, I believe that HRM can play an all-encompassing role that pervades throughout the organisation from top to bottom to combat corruption. HRM can promote mediating forces that will create a culture of bottom-up pressure in the organisation and will compel the top executives to behave in an ethical way. Following is the model for understanding the role of HR in curbing corruption (**Figure 1**):

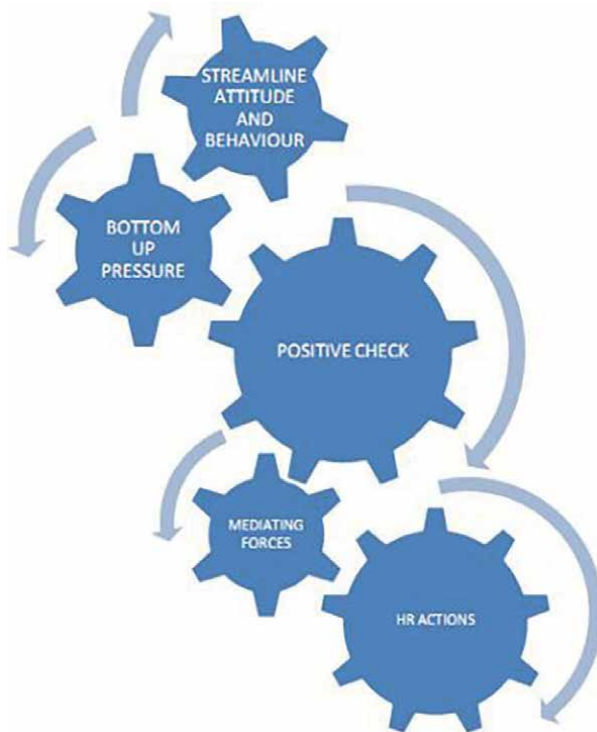


Figure 1.
Role of HR in curbing unethical behaviours.

Following are some of the HR actions that help to create the positive-mediating forces:

- Sustainable leadership ([42], p. 30): HRM can help develop sustainable leadership like the Rhineland model in companies. All the above cases were caused by Anglo/US model of leadership that is far from sustainability. Such leadership can jeopardise the very survival of the company in the long run.
- Ethical leadership ([43], p. 34, Grojean et al., cited in [44], p. 111 and [45], p. 12): HRM can help develop ethical leadership among the top management in the companies. Buller and McEvoy [46] have shown how HRM works together with transformational leadership practice and ongoing organisational learning in creating and sustaining ethical capability in the MNCs.
- Values-based leadership ([47], p. 1): The values-based leadership among the top executives will act as a moral compass for the other members of the organisation. HRM can promote values-based leadership through selection, induction, and training.
- Leadership development ([48], p. 311): HRM can help develop leaders who can become examples for the rest of the members of the organisations. PricewaterhouseCoopers have adopted this leadership development through Genesis Park Leadership Program and Project Ulysses ([49], p. 3–4, [50], p. 10 and [51], p. 61).
- Employee engagement ([52], p. 3): Employee engagement can enhance the emotional connection of people to the organisation, work, and workplace by going above and beyond the call for duty. It makes them conscientious towards their organisation through a culture of information sharing, innovation, the reputation of integrity, flexibility, and self-efficacy. HRM can promote employee engagement among the people.
- Knowledge management and learning ([53], p. 208): It helps people to think and behave ethically and to learn from mistakes. HRM can play a vital role in creating, transferring, and sharing knowledge throughout the organisation.
- Cultural intelligence ([54], p. 76): HRM can act as a source of cultural intelligence with the help of the social capital ([48], p. 220), which can be used for assessing the political, socio-cultural, and economic environment before entering into a country.
- Selection ([55], p. 39 and [56], p. 125): The selection of the right employee with relevant experience is a *sine qua non* for the success of MNCs abroad. Putting a round peg in a square hole or *vice versa* would lead towards consequences similar to that of Niko Resources Ltd.
- Expatriate agreement ([57], p. 4): Lack of expatriate agreement would lead towards consequences similar to that of Scancem and Halliburton.
- Compensation and rewards ([55], p. 36 and [58], p. 635): All the cases of bribery are about money and people. Designing the compensation and reward system

for the expatriates could minimise the frequent repetition of such unethical practices.

- Preparation and orientation ([56], p. 128): Lack of preparation and orientation would lead to similar consequences as was faced by Niko Resources Ltd. in Bangladesh.
- Pre-departure training on culture, ethics, and diversity issues ([55], p. 40 and [59], p. 657): If expatriates are not given adequate training on culture, ethics, and diversity, this would lead towards consequences similar to that of Niko Resources Ltd.
- Following the expatriates until repatriation ([60], p. 39): If expatriates are not closely monitored during their assignment period, this would lead towards a situation called 'out of sight, out of mind' attitude ([61], p. 38). This type of attitude would lead to consequences similar to that of Scancem.
- Development of a suitable and sustainable expatriation model based on the most appropriate taxonomy as suggested by Baruch and Altman [62]: As it is clear from the cases, different countries were characterised by the different political, legal, economic, and socio-cultural environment. This diversity of the host countries entails the development of different expatriation models for making the assignment successful.
- Mentoring ([63], p. 275): Mentoring would have refrained Mr. Tesler, Mr. Sharif, and Mr. Tor in the above cases to engage in unethical practices.
- Job description ([64], p. 669): It is very clear how important a job description or terms of reference is in controlling the expatriates.
- Alternative to long-term placement/assignment/Shorter Assignments ([60], p. 36): All the people in the above cases were posted in their workplace for a long time. This has enabled them to develop linkage with government officials and to find out ways to commit unethical activities because they became familiar with the environment, practices, and people to commit unethical activities.
- Psychological contract ([65], p. 15 and 21): This refers to trust, fairness, and commitment to the organisation. It also promotes employee engagement. The ethical orientation of Mr. Tesler, Mr. Albert, or Mr. Sharif in the above cases would have been different had they developed a psychological contract with their organisations.
- Employment security ([66], p. 58): Employment security would refrain the managers from committing unethical activities and from abetting the top management. If top management puts pressure on expatriates to engage in unethical business practices, then the expatriates can simply decline the request because they do not have the fear to lose their job. Rather, it may backfire upon the top management. Another way of using employment security is that if an employee protests the unethical activities of the senior management and is engaged in whistle-blowing, then the senior management will not be able to commit unethical practices. The employees will garner the courage to protest because he or she does not have the fear to lose their job.

- Selective hiring ([66], p. 58): The more the employees will know that they have been selected as the best of the best, they will have a self-dignity, which will prevent them from committing unethical activities.
- Investment in training ([67], p. 43 and [58], p. 635): A study conducted by MacKewn and VanVuren [68] confirmed that training on ethics is correlated with ethical behaviour in a statistically significant way. Training is not a cost but an investment, which will save the organisation in the future. Ethical training of the involved people in the above cases would have curbed their unethical behaviour. Training among the new employees will foster an ethical culture throughout the organisation in the long run ([69], p. 26) and will enable the creation of a bottom-up pressure for the top management to behave ethically.
- Participation in decision making ([66], p. 60): This will result in employee empowerment. Thus, their engagement would be increased. This would
- Sharing of information ([66], p. 60): Sharing of information would result in transparency and would put pressure on senior management to behave ethically.
- Reduction in status symbol ([66], p. 63): This would result in low power distance and would result in the production of moral courage to raise voice against unethical leadership and corrupt management practices.
- Comprehensive recruitment and selection procedure ([58], p. 635): Emphasising the ethical orientation of the candidates during the selection process would have resulted in the selection of honest employees. Psychological assessments including the personality type are very helpful in this regard.
- Managing performance ([70], p. 509 and [58], p. 635): Lack of managing performance would result in a situation faced by Scancem, Halliburton and Niko Resources Ltd.
- Conscience for the organisation ([71], p. 88): The HR department works as an ethics auditor for an organisation. It holds and conveys the ethical orientation that shapes the culture of the organisation.
- Formulation and implementation of organisation-wide ethics program ([72], p. 424): The HR department can formulate and implement the ethics program involving everyone in the organisation under the auspices of the leaders, board of directors, and top management.
- Ethical steward for the organisation ([73], p. 173): The HR department can act as an ethical steward for the organisation and can help direct the resources towards an ethical use. It can guide the organisation members towards ethical attitude and behaviour.
- Moral compass for the organisation [74]: The HR department can act as moral intelligence and can provide information for the organisation members as to the right or wrong practice. The example of Niko Resources Ltd. is an example of a lack of moral intelligence as the expatriate manager could not differentiate between acceptable and unethical practices.

7. Conclusions

It takes two to make a quarrel but it takes many to either commit or combat corruption. This is evident from the above cases where the involvement of different parties from different organisations bought about the unethical practices.

The HR actions are almost the same for any bribery practices. However, these HR actions need to be applied in a concerted way across different organisations to combat corruption successfully. In this chapter, the issue has been discussed mainly from the HRM perspective of MNCs. However, it should be borne in mind that MNCs represent only one party in the game. Thus, the HRM of MNCs is not self-sufficient to combat corruption.

In the above case of bribery practices, we have seen that the boundary of law begins where the boundary of ethics ends. Thus, it is the Hamletian dilemma or decision to behave ethically or not is where HRM can exert its influence in the form of a positive check.

8. Recommended strategies

- It is not only about the HRM of the MNCs but also the HRM of the public sector of the host countries as well as the HRM of the intermediaries that must be actively involved in designing the positive check mechanisms to combat unethical practices like bribery. It is not the democracy or dictatorship that indulges or checks bribery in the government machinery. Rather, it is the HRM in the public sector that can positively check these unethical practices. Thus, the HR actions identified above should be carried out by public sector HRM for combating corruption successfully ([75], p. 123 and [76], p. 172).
- Governments and regulatory authorities of both countries should actively and jointly monitor the activities of MNCs. They should proactively forecast the possible areas of bribery and the venal people in the MNCs and the government. Obviously, HRM has a role to play in terms of performance appraisal and employee record maintenance.
- Ice-breaking cum training sessions after every major change in the management of MNCs or government administration can be jointly organised by the governments of both countries and the MNCs. This would lead towards fostering and promoting an ethical environment and would really make it difficult to engage in bribery practices by the government or MNCs. The training session could be on ethics, culture of countries, idea exchange, and culture of the MNC, etc.
- Research has indicated that the founders and/or the heads of the organisations have a profound impact on the ethical orientation and culture of the companies. For example, the founders of IBM, Sony, Disney, Microsoft, and Hewlett-Packard ([77], p. 340) had a profound impact on shaping the ethical culture of the organisations. Similarly, the exemplary simple lifestyles of Ingmar Kamprad (founder of IKEA) and Nagawara Ramarao Narayana Murthy (founder of Infosys) have become an inspiration for the employees of the organisations and have shaped their values and culture ([48], p. 241). As such, regulatory bodies of the home and host country governments must

take into account and must assess the personal integrity, morality, etc. of the founder and/or the heads of the organisations in granting license to set up a business, to raise funds from the market or to operate overseas. This can be done through a due diligence process.

- Spirituality in the workplace, the practice of religion, and the dominance of religious mindset and orientation in day-to-day activities will help create compunction of conscience among the employees. Rendering religious rituals in everyday business activities. For example, the everyday congregation at the beginning of the day and discussion about activities to be righteous, consequences of not being righteous, etc. As is pointed out by Barrett [78], this is becoming an increasingly important issue on the board.
- Comprehensive human due diligence at every stage of an organisation's life cycle and transitional stages ([79], p. 124).

9. Implementation mechanism

The implementation of the strategy to combat corruption requires the concerted effort of different organisations.

In most of the cases of bribery practices of MNCs in the host countries, three parties are mainly involved, viz., the MNC, the host country government, and an intermediary. In the Halliburton case, UPB Geneva, HSBC Monaco, and Swiss bank acted as financial intermediaries to transfer funds from the donor to the recipient ([11, 18] at 6). In the case of Scancem, Unibank SA Luxembourg and Barclays Bank SA in Geneva, Switzerland acted as the intermediary [31].

A model may be used in combating corruption that involves the three parties working together for deploying a positive check mechanism by which HRM of those organisations can promote positive mediating forces that will create a culture of bottom-up pressure in the organisation and will compel the top executives to behave in an ethical way. Usually, banks are not actively involved in the transactions, rather they are facilitators of transactions.

Let us know about the mechanism with the help of an analogy. It is like a soccer game. The ball may be thought of as the ethics. Organisations are like teams playing with ethics with several members. The CEO of MNC or the Prime Minister of the host country acts as the captain and the Chairman or President acts as the coach. The activities of the organisations are constantly monitored by several referees, such as Banks, Transparency International (TI). Any player playing foul with ethics will be warned by the referee through institutional whistleblowing. Thus, a system of check and balance will be established through the mechanism. The model becomes effective only when the referees are granted authority and power to rule over the MNCs and governments.

The three parties can be brought together with the help of a tripartite HR alliance. The HR departments of the three organisations may develop necessary mechanisms to make the alliance effective. They will jointly carry out various HR initiatives identified above in the three organisations to promote positive mediating factors to combat corruption.

The implementation model is explained below with the help of a diagram (**Figure 2**).

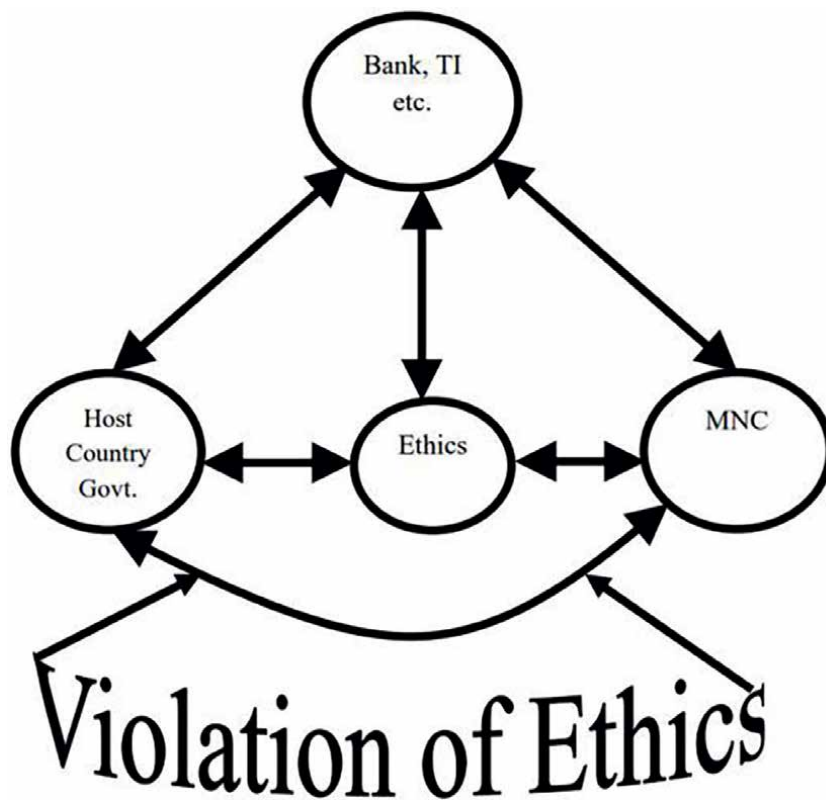


Figure 2.
Model for implementing recommended strategies.

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Perspective Chapter: Corruption and Government's Response to Emergencies during COVID 19 Pandemic – The Nigerian State Experience

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Abstract

Through the years, the COVID-19 epidemic has exacerbated existing socioeconomic and political inequities, causing profound changes in communities all over the world. Africa has seen a significant loss of lives and economic damages across the continent. The study takes a qualitative approach in terms of methodology, with documentary sources being used to obtain and analyze data. The urgency of the COVID-19 epidemic, according to the study, necessitated swift flow of public monies, rapid decision-making, and extraordinary public health actions. As a result of making hasty decisions about disbursing funds to respond to emergencies, corruption opportunities arose. The COVID-19's destructive effects, which have resulted in increased poverty among Nigeria's most vulnerable people, call into doubt the government's use of public resources. According to the study, the epidemic has resulted in a significant, quick increase in aid, spending, and procurement, which frequently compromises transparency and accountability. The study exposed that government procurement divisions are rife with corruption, and that fraudulent activities in the purchase of vaccines and medical devices were pervasive throughout the pandemic emergency. The study concludes that strategies for better early identification and handling of fraud and procurement misconduct should be included in future pandemic and economic crisis plans.

Keywords: accountability, COVID-19, corruption, government response, pandemic

1. Introduction

The COVID-19 pandemic has shrunk the entire globe, wreaking havoc on both local and international economies, instilling distrust among states, halting international travel and hampering socio-cultural connections and human relationships. Every government is currently faced with difficult decisions about what limits to apply and when to lift them, where money will be spent and how it will be raised and what national concerns can be constrained to promote international collaboration [1].

As a result, governments around the world have made collective promises to address public health concerns and governance flaws. The majority of countries throughout the world have taken appropriate steps to counteract the COVID -19 pandemic. On the fiscal front, exceptional tax and spending measures were enacted to save lives, assist individuals and businesses, and pave the way for economic recovery. As a result of the resurgence of the COVID-19 pandemic, there is a total worldwide emergency, and governments all over the world, including the Nigerian government, are working to control their citizens and economies in order to minimize the virus's impact.

Following the discovery and confirmation of the virus's spike in Nigeria, the federal government of Nigeria introduced and implemented a number of measures to slow the virus's spread, including the use of face masks, social distancing, restitution of interstate travel, border closures, lockdowns and the distribution of palliatives to the most affected or vulnerable people. The federal government adopted numerous palliatives to treat the economic, health and psychological repercussions of the pandemic and the lockdown once again in an effort to mitigate the negative effects of the epidemic and the lockdown. Such as a three-month repayment moratorium for all government-funded loans, which includes the Government Enterprise and Empowerment Program (GEEP) initiatives and other schemes such as COVID-19 loans for market women, farmers loans and survival funds, among others, all of which are supervised by the central bank and the bank of industry [2]. The GEEP loans were to enable individual to access a loan of N100,000 to N500,000 with just 5% loan charges.

In addition, due to the lockdown, federal government under the ministry of humanitarian and disaster management and social development on 1st April, 2020, announced the provision of food items to vulnerable Nigerians across the 36 states of the federation, and it was officially reported that over 50 billion naira was spent to share food items to most affected people [3]. Also, the CBN gave stimulus packages to different sectors of economy affected by the pandemic. The package was 50 billion Naira credit facilities to support households as well as Small and Medium Enterprises (SMEs). The focus of the paper is the aspect of palliatives and economic stimulus in Nigeria.

However, corruption drains resources away from priorities like public health, social protection and other essential services [1]. It was argued that COVID-19 pandemic has led to big government and fiscal splurges globally, and where there is big government and dramatic expansion of public spending, corruption or misuse of public funds is not further away [4]. In Nigeria for example, there is absolutely no credible evidence of where this money is going; no evidence that the vast majority of poor Nigerians who were locked down at home benefited from the money.

Surprisingly, the government claimed that it had distributed N100 billion to conditional cash transfer recipients in just 1 week. But how many of the ostensibly N20,000 social palliatives were actually given out? COVID-19 was funded largely by corporate donations from businesspeople and philanthropists around the world. In Nigeria, prominent private-sector donors, under the auspices of the Coalition against COVID-19, CA-COVID, have donated N31.5 billion (see Appendix A for more details). These conflicting issues have been exacerbated by the country's subsequent economic and political weight in responding to the pandemic. The ramifications of corruption on COVID-19 global governments' responses are examined in this article, with a focus on Nigeria.

2. Conceptual clarifications

2.1 COVID-19

Coronavirus is a disease 2019 is popularly known as COVID-19 is an illness caused by a novel coronavirus now called Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2), which was formerly described as 2019-nCov on 11th February, 2020. The World Health Organization (WHO) in its 22 situation report officially named the novel virus as COVID-19 [5]. The disease was declared a pandemic by WHO on 11th March, 2020, having met the epidemiological criteria of infecting more than 100,000 people in 100 countries [5]. Yemisi [6] described COVID-19 as a pandemic that has created a global widespread panic posing health, socio-economic and political challenges such as drifting nations' economies into recession, reducing democratic and participatory governance, reduction in social relations as a result of social distancing and other lockdown policies.

2.2 Corruption

Corruption is described as the use of a public office for personal benefit. Bribery, nepotism and theft of public funds for private benefit are examples of this type of behavior. It is the act of offering or getting advantage through measures that are inconsistent with one's obligation or others' rights. The term 'corruption' has been defined in a variety of ways by various academics. This is due to the lack of a clear definition of corruption.

2.3 Government response

It specifically refers to national governments around the world implementing a variety of steps in response to COVID-19 outbreaks in this study. These included measures aimed at controlling the virus's spread (such as mobility restrictions and border closures), as well as measures aimed at mitigating the economic repercussions (such as income support) and health-care-related measures (such as testing policies and contact tracing).

3. Methodology

This chapter is both explorative and contextual, that is qualitative in nature. The qualitative approach was chosen because it allows the researchers to gain insight into the organizational structures and settings, social processes and poignantly underscores the importance of the personal narratives on the lived experiences in Nigeria. The inductive properties of flexibility and amenability available in qualitative methodology allow the researchers to discuss the issue through their personal and lived experiences as Nigerians through acquired knowledge about public policy and governance in Nigeria. In essence, the chapter, which is theoretical in nature, extracts its arguments from documentary sources of data such as legal frameworks and other related policies, journals, textbooks, articles, magazines, dissertations, research reports and relevant materials and publications from the internet related to the study. In its presentation, it attempts to demystify the discourse with relevant results/findings, discussion and conclusions that are largely derived from extant literature on the subject matter.

4. Review of related literature

4.1 Global response to COVID-19 pandemic

As governments throughout the world struggle to offset the economic effects of the coronavirus and protect employment and livelihoods, they have engaged in unprecedented fiscal maneuvering, spending vast sums of money to help businesses, workers and families. For instance, it was indicated that the United States introduced a \$2 trillion stimulus package; Germany put aside €656 billion; France budgeted €350 billion and the UK allocated £450 billion, to contain the spike and economic consequences of the pandemic [4]. In the regional context, African states also spend huge resources to alleviate the challenges of COVID-19. By the end of 2020, governments had already mobilized \$14 trillion in fiscal policy responses of different types. These included additional spending measures, tax relief programs and loans and loan guarantees—all aimed at funding necessary health services, addressing income losses and keeping economies afloat [7]. It is obvious that since the beginning of the COVID-19 pandemic, African government have gained commendation for its rapid action to limit the spread of COVID-19, which may have helped the country avoid, so far, the massive death tolls experienced elsewhere [8–10]. Many also provided some assistance to help businesses and vulnerable families weather the pandemic [11]. But corruption, lockdowns and other restrictions, often implemented within days of the first recorded COVID-19 cases [12], and sometimes harshly enforced by the police and army, have also drawn criticism and, in some countries, large-scale protests [13, 14].

4.2 Corruption and COVID 19 pandemic: the Nexus

Around the world, the COVID-19 pandemic has sparked crisis management. In several nations, the state of public administration has deteriorated since the outbreak of the coronavirus. Governments have reacted by abusing power, silencing opponents and weakening or shuttering critical institutions, often undermining the very accountability systems essential to protect public health [15].

Consequently, the COVID-19 pandemic gives rise to very significant risks of corruption. Massive resources mobilized to respond to the health and economic crises create opportunities for corruption, while many corruption prevention and enforcement mechanisms are suspended due to the emergency [16]. Indeed, corruption during this time impairs the pandemic response, eroding much-needed public trust, squandering supplies and resources and obstructing their passage to those in need.

COVID-19 hit the world when there is rising inequality and eroding democracy, prompting citizens all across the world to question their governments' management of public resources. The pandemic's highly unequal impact, with low-wage informal workers, women and other disadvantaged groups suffering the brunt of the health and economic consequences, risks exacerbating the problem [7]. Unfortunately, many governments have ignored these warnings, putting the effectiveness and impact of their response to the crisis in jeopardy.

It was stressed that corruption is extremely flexible and easily adaptable to new scenarios, such as the COVID-19 pandemic. It is generally a major impediment to prosperity and security because it hinders sustainable economic growth, distorts market competition, undermines the rule of law and erodes trust between citizens and governments [17]. In times of emergency and crisis, however, the risk increases that corruption can exacerbate these negative effects, thwarting efforts geared

towards a sustainable and resilient recovery. Corruption, therefore, has an even more debilitating effect during a *global* pandemic, which enormously challenges societies and economies—it becomes a ‘thief of the future’ [18].

UNODC (2020) noted that while corruption is widespread in government procurement departments, fraudulent practices in the procurement of pharmaceuticals and medical devices are particularly prevalent during an emergency. Inevitably, in a crisis situation where medical supplies and equipment are urgently needed and where hospitals to treat and care are being commissioned within tight deadlines, there is an increased risk that abuses will happen, and quality will be sacrificed in exchange for quick action [19].

According to Transparency International [20] the COVID-19 pandemic has required an unprecedented public health response, with governments dedicating massive amounts of resources to their health systems at extraordinary speed. Governments have had to respond quickly to fast-changing contexts, with many competing interests and little in the way of historical precedent to guide them. Transparency here is paramount; publicly available information is critical to reducing the inherent risks of such a situation by ensuring governmental decisions are accountable and by enabling non-governmental expert input into the global vaccination process. In addition, emergency measures precipitated by COVID-19 have led many governments to relax safeguards “by trading compliance, oversight and accountability for speed of response and achievement of rapid impact, thus leading to the creation of significant opportunities for corruption.

In a study conducted by Afrobarometer cited in Seydou [9] Round 8 surveys during the period of October 2020–January 2021 in five West African countries: Benin, Liberia, Niger, Senegal and Togo. The study found out that all the five countries held critical views of their government’s role in managing the pandemic. The study indicated that saying the distribution of government assistance was unfair (71% on average). Resources intended for the COVID-19 response were lost to government corruption (67%). The citizens do not trust official numbers on COVID-19 cases and deaths (62%). They do not also trust the government to make sure that COVID-19 vaccines are safe (68%). They are worried that politicians are using or will use the pandemic to increase their power (58%).

Since the start of the pandemic, several countries have experienced governments breaching procurement laws and regulations. In the UK, for example, the government was accused of awarding secret contracts for PPEs to a single firm without going through a competitive bidding process. Other irregularities included the purchase of unusable face masks from a company that specialized in currency trading and offshore property [19]. Even the World Health Organization has not escaped criticism for mismanaging funds intended for COVID-19. An external audit of WHO released in May found that there were transgressions in the selection of a firm contracted to assist WHO in the procurement of PPEs, and that there was a lack of objectivity in bid evaluation and selection of suppliers of COVID-19 testing kits [19]. Van der Merwe cites a United Nations estimate that 10–25% of all money spent on government procurement globally is lost to corruption even in normal times. But compliance has been spotty. Several countries, including Nigeria—the largest recipient of relief funds, totaling \$3.4 billion have set up websites to make spending and contracting data publicly available, but key information is missing, and there are technical issues that frequently limit access to documents (Sheridan, 2021). Among countries that did commit to undertake independent audits, Nigeria included, few have released results. In several African countries, COVID-19 funds have been lost

Country	Corruption	Report/sources
Myanmar	The IMF transferred \$372 million to officials in Naypyidaw just days before the military coup on February 1 to aid in the fight against the virus. However, eight months later, during a news conference, IMF spokesman Gerry Rice stated that the financing was not used to combat COVID-19 and protect the most vulnerable people.	Anrike, Visser (2021). Myanmar's Missing Millions—The Diplomat https://thediplomat.com/2021/11/myanmars-missing-millions/
Afghanistan	It was reported that 2.6 million Afghan currency was misappropriated in Ghazni COVID-19 fund meant to tackle effect of the virus.	Device Discourse report (2021). https://www.devdiscourse.com/article/international/1791072-26-million
Malawi	A labor minister in connection to the mismanagement COVID-19 funds was a sack. It is reported that the former minister borrowed about US\$760 from the COVID-19 funds to use as his allowance when he accompanied Chakwera on his first official visit to South Africa in November last year.	Michael, O. (2021). Africanews https://www.africanews.com/2021/05/25/africa-s-covid-19-corruption-tha
Kenya	There were suspicions that \$400 million in public funds allocated for medical equipment was stolen by government officials and companies. Kenyans were shocked to find in July that a cash transfer program intended to help low-income individuals cope with the economic impact of COVID-19 had failed to do so due to corruption and other irregularities. According to a Human Rights Watch investigation, officials in charge of disbursing the funds regularly disregarded eligibility rules for beneficiaries, and in some cases, steered the monies to relatives or associates who were needed in the coronavirus fight.	Michael, O. (2021). Africanews https://www.africanews.com/2021/05/25/africa-s-covid-19-corruption-tha Rasna, W. (29 September 2021). Corruption is undermining Kenya's COVID-19 response. https://www.one.org/africa/blog/corruption-undermining-kenya-covid19-
Nigeria	Nigeria received US\$3.4 billion in emergency financial assistance from the IMF in April 2020 to help it respond to COVID-19. Nigeria's federal government announced a \$6 billion stimulus package two months later. According to a poll conducted by Nigeria's National Bureau of Statistics (NBS), only 12.5 percent of the poorest quintile of respondents have received food aid since the outbreak began on July 16.	Michael, O. (2021). Africanews. https://www.africanews.com/2021/05/25/africa-s-covid-19-corruption-tha
Uganda	Four top Ugandan government officials were arrested in 2020 after being accused of inflating COVID-19 relief food prices. It is alleged they were arrested for causing the Ugandan government to run at a loss of \$528,000.	Michael, O. (2021). Africanews. https://www.africanews.com/2021/05/25/africa-s-covid-19-corruption-tha
South Africa	In South Africa, the Special Investigating Unit (SIU) reported on investigations — related to irregularities in COVID-19 procurement — with a total value of 14.2 billion rands (around US\$1 billion).	U4 Anti-Corruption Resource Centre (2021). COVID 19 Corruption in 2021: April – MayDevelopment. (https://medium.com/u4-anti-corruption-resource-centre/covid-19-corrupt).
Zimbabwe	Zimbabwe's anti-graft police recently recovered around 40 boxes of COVID-19 test kits valued at thousands of dollars, which were stolen from a hospital in Bulawayo.	U4 Anti-Corruption Resource Centre (2021). COVID 19 Corruption in 2021: April – MayDevelopment. (https://medium.com/u4-anti-corruption-resource-centre/covid-19-corrupt).

Country	Corruption	Report/sources
Malawi	Malawi faces mismanagement of over 6.2 billion kwacha (about US\$8 million) meant for the COVID-19 response.	U4 Anti-Corruption Resource Centre (2021). COVID 19 Corruption in 2021: April – May Development. (https://medium.com/u4-anti-corruption-resource-centre/covid-19-corrupt).
Ghana	The World Bank, the IMF, the Ghana Stabilization Fund, the Contingency Fund of the Stabilization Fund, the Ghana Heritage Fund, Ghana Exim Bank, and the COVID-19 Trust Fund — all of which contributed 12.4 billion cedis (over US\$2 billion) to Ghana — were found to be at risk due to irregular procurement practices, according to a report published in Ghana.	U4 Anti-Corruption Resource Centre (2021). COVID 19 Corruption in 2021: April – May Development. (https://medium.com/u4-anti-corruption-resource-centre/covid-19-corrupt).
Bangladeshi	Large disparities in what the government paid for the Sinopharm vaccination were discovered. A government commission approved the purchase of 15 million doses for US\$10 each, while a separate order for 3.15 million doses cost the government US\$100 each, prompting suspicions of corruption.	https://www.u4.no/blog/covid-19-corruption-in-2021-may-july-develop
Somalia	According to the Somali auditor general, \$17 million in foreign aid was not channeled through the country's single treasury account. He claims that the government set aside \$51 million for the COVID-19 reaction, but only \$15 million was used. He cited a lack of a coherent plan to coordinate the government's reaction, as well as a failure to prepare enough isolation and treatment facilities, as well as a failure to account for \$3.9 million in COVID-19 money distributed to areas.	GAROWE ONLINE (2021). A new report reveals millions missing due to corruption in Somalia. https://www.garoweonline.com/en/news/somalia/new-report-reveals-mill
Brazil	There was fraud in public tenders in Brazil, as well as misuse of monies intended to combat COVID-19. Between April and November 2020, the Federal Police allegedly arrested 133 people for acts of corruption or misapplication of public resources, as well as contractual fraud, totaling BRL 1.9 billion (approx. USD 400 million). The operations were diverse in terms of size and scope. For example, on May 25, Operation "Placebo" in the Brazilian states of Sao Paulo and Rio de Janeiro involved governmental contracts worth BRL 835 million (approx. USD 170 million). Meanwhile, on September 29, Operation "S.O.S." was launched in the state of Pará, involving governmental contracts valued at BRL 500 million (about USD 100 million).	<i>Source: Cooperação Jurídica Internacional em Matéria Penal, Brazil (2020)</i> FATF [21], <i>Update: COVID-19-related Money Laundering and Terrorist Financing – Risks and Policy Responses</i> , FATF, Paris, France, www.fatf-gafi.org/publications/methodandrends/documents/update-covid-19-ML-TF.html .
Germany, Spain, Netherlands, Ireland, United Kingdom and Nigéria	In March, German health authorities fraudulently contracted two companies in Zurich and Hamburg to procure EUR 15 million worth of face masks. The buyers sought new vendors and found an email address and website which appeared to be linked to a company in Spain. Unbeknownst to them, the site was fake and the email addresses on it were compromised. When the buyers realized they had been duped, they notified their German bank, which contacted INTERPOL's Financial Crimes unit. Banks, financial intelligence units and legal authorities joined INTERPOL in the inquiry, as did partner organizations Europol and EUROJUST. They were able to freeze EUR 1.5 million and identify the Irish business implicated due to a quick response. The EUR 880 000 that was moved from a German bank was tracked down by Dutch officials. Almost EUR 500 000 had already been wired to the UK, all of it destined for a Nigerian account. The authorities have now returned those monies to the Netherlands and frozen them. Two offenders were apprehended and sentenced in the Netherlands as a result of this operation. The two criminals were acting on behalf of the main suspect, who was arrested in Nigeria in August, according to the current findings of the investigations.	<i>Source: Interpol (2020)</i> FATF [21], <i>Update: COVID-19-related Money Laundering and Terrorist Financing – Risks and Policy Responses</i> , FATF, Paris, France, www.fatf-gafi.org/publications/methodandrends/documents/updatecovid-19-ML-TF.html .

Country	Corruption	Report/sources
Hong Kong, China, Republic of Korea	<p>During the early phases of the pandemic, when many people were fearful about medical equipment shortages due to COVID- 19, the victim was attempting to obtain surgical masks via an online advertisement on Instagram. The scammer approached the victim and demanded an upfront payment to secure the order. According to the fraudster’s instructions, the victim wired EUR 54 250 to a Korean bank account. The seller then cut off all contact with the victim.</p> <p>Law enforcement was notified, and the INTERPOL National Central Bureau (NCB) in Hong Kong was notified. In February, INTERPOL Hong Kong requested assistance from INTERPOL Seoul in their investigation. The Financial Intelligence Units (FIUs) in each country were also approached for assistance, and they in turn contacted the relevant financial institution. Due to the quick involvement of all parties involved, two perpetrators were apprehended four days after the victim filed the initial report, and the victim’s account was credited in full.</p>	<p>Source: <i>Interpol (2020)</i> FATF [21], <i>Update: COVID-19-related Money Laundering and Terrorist Financing – Risks and Policy Responses</i>, FATF, Paris, France, www.fatf-gafi.org/publications/methodandtrends/documents/update-covid-19-ML-TF.html.</p>
Italy, Indonesia	<p>An Italian corporation was in talks with a Chinese company in May 2020 about buying a big number of medical supplies, including ventilators and COVID-19 monitoring equipment. Individuals with criminal intent hacked into the two companies’ email correspondence and persuaded the Italian buyers to make three bank transactions totaling EUR 3.67 million to an account they controlled in Indonesia. The transfers were made by the Italian company on the premise that this was a reputable supplier. When the Chinese supplier told the Italian victim company that it had not received payment for the medical equipment purchased, the scam was revealed.</p> <p>Interpol’s Financial Crime Unit was requested via the NCB Rome. Interpol facilitated the connection with Indonesian authorities through its global network. Law enforcement contacted the FIU’s in each jurisdiction and the financial institutions. The interception and freezing of EUR 3.1 million of the fraudulent payments in early June.</p> <p>Interpol held a virtual case coordination meeting with the key stakeholders in Italy and Indonesia. They worked together to secure the frozen assets and locate the suspects. Indonesian authorities identified the three suspects, who were part of a wider criminal network. Police also seized cash and assets allegedly purchased using the stolen money.</p>	<p>Source: <i>Interpol (2020)</i> FATF [21], <i>Update: COVID-19-related Money Laundering and Terrorist Financing – Risks and Policy Responses</i>, FATF, Paris, France, www.fatf-gafi.org/publications/methodandtrends/documents/update-covid-19-ML-TF.html.</p>
Hong Kong, China	<p>In January 2020, a man claimed to have a big quantity of surgical masks and alcohol sanitizers for sale on several e-commerce sites. More than 200 victims acquired these items locally between January and March 2020, paying for them with cash or electronic funds transfers. The individual’s spouse and associates deposited a total of HKD 1.4 million (USD 180 630) into three Hong Kong bank accounts and four e-wallets.</p> <p>Victims reported not receiving their items and being unable to contact either of the individuals involved in early March 2020. The money was swiftly removed once victims deposited it in the authorized bank accounts and e-wallets, according to investigations. In April of 2020, four people were detained by law enforcement. Individuals have not been charged as of the time of publishing this story, and the investigation is still ongoing.</p>	<p>Source: <i>Financial Services and the Treasury Bureau, Hong Kong, China (2020)</i>.</p>

Country	Corruption	Report/sources
Germany	A German corporation ordered a big quantity of protective masks from a non-EU supplier at the end of February 2020. A large six-digit euro down payment was sent to the vendor in the non-EU country where the property was located (approximately 50 percent of the purchase price). However, there was no delivery. Any attempts to contact the German corporation were met with silence. A law enforcement agency in Germany then made an urgent request to the FIU in Germany. Following the request, the German FIU quickly issued an information request to the FIU of the non-EU country, along with a request to freeze the funds or block the beneficiary's account. On the same day, the non-EU country's FIU froze the cash. The frozen money was reported to the German FIU, and direct communication was established with the German law enforcement agency and the FIU liaison officer stationed there. The public prosecutor's office then obtained an asset seizure, which was then funneled through the ordinary court procedures through judicial administrative and legal assistance petitions. In addition, the FIU in the non-EU country was notified of the asset seizure.	<i>Source: Federal Ministry of Finance, Germany (2020)</i>
Finland	A private Finnish company sold 3.1 million masks to a Finnish government actor for around EUR 5 million. This corporation, in turn, bought the goods from a Chinese seller. However, shortly after the acquisition, it was discovered that the private Finnish company's entrepreneur had a shady business past and that the quality of a large portion of the medical equipment delivered was subpar. During standard checks, the FIU identified the suspicious business background. There being a lack of tax reporting, the corporation had outstanding tax bills from previous fiscal years, and it was removed from certain official databases. As an aggravated fraud case, the case is currently being investigated. Authorities have, however, confiscated assets totaling EUR 2.6 million throughout the inquiry.	<i>Source: Financial Intelligence Unit, Finland (2020)</i>
Denmark	With the COVID-19 relief packages, the Danish High Court handed down its first sentence in relation to economic fraud in October 2020. In this case, a 29-year-old man was sentenced to 2 years and 3 months at jail, as well as a claim of almost DKK 1.3 million (EUR 170,000) for attempting to gain unreasonable compensation for fictitious employment in his company. The total amount of compensation sought was DKK 427,500. (EUR 57,500). The application was thoroughly investigated by the Danish Business Authority. As a result, the funds were never approved, and the business was reported to the Danish authorities.	<i>Source: The Danish Business Authority (2020)</i>
Malaysia	During the COVID-19 pandemic, FIU Malaysia received a request for information from a European country (Country A) regarding a possible facemask scam. A government agency in Country A remitted approximately EUR 5 million to Company ABC, a company in Country A, for the purchase of facemasks from Country B. Only a portion of the facemasks was delivered, and all of them were deemed to be inappropriate for hospital use. Company ABC may have moved a considerable amount of money meant for facemask purchase to another entity, notably Company XYZ in Malaysia, according to financial information acquired by Country A. Further investigation of the company account revealed an inward remittance received by Company XYZ from an entity in Country C, along with transaction notes that could imply facemask transactions. On the same day, another substantial chunk of money in the amount of USD 150,000 was received from Company DEF, a company in Country A that is suspected of selling healthcare equipment such as gloves, goggles and hearing protection. It was discovered that the cash received by firm XYZ were dispersed to numerous organizations in Country C and Country D.	<i>Source: Financial Intelligence Unit, Malaysia (2020)</i>

Country	Corruption	Report/sources
Spain	<p>The Spanish National Police disrupted a criminal organization in April 2020 that attempted to get state subsidies for businesses and employees affected by the COVID-19 pandemic's economic crisis by fabricating and utilizing fraudulent documentation. Members of the criminal organization had formed roughly 50 companies with no employees, no activity and no turnover in the previous years. Under the guise of bogus employees of those enterprises, the group created and utilized phony documents in order to collect tax benefits, as well as subsidies from the social security system and other public stimulus initiatives. Prior to the COVID-19 economic stimulus measures, some members of the criminal group were focused on generating and selling phony employment contracts for foreign people in order to obtain subsidies for them.</p> <p>During the operation, the members of the organization were arrested, a large number of documents were seized as well as approximately EUR 15,000 in cash, and no stimulus measures were provided to them by the administration.</p>	<p>Source: <i>Financial Intelligence Unit, Spain (2020)</i></p>
Switzerland	<p>A financial institution in mid-June 2020 gave a building company a COVID-19 loan worth roughly CHF 90 000 (EUR 98 500). The financial institution was notified a few days later that the same company had applied for a second loan from a different financial institution. Meanwhile, the majority of the original loan was withdrawn in cash or used for everyday living expenditures. As a result, the financial institution submitted a suspicious activity report to the Swiss Financial Intelligence Unit. The case has been referred to the Swiss authorities, who are currently conducting criminal investigations.</p>	<p>Source: <i>Federal Department of Finance, Switzerland (2020)</i></p>

Source: *Authors' Compilation, 2021.*

Table 1.

List of countries involved in corruption during COVID-19 pandemic.

to corruption or mismanagement. **Table 1** shows the magnitude of corruption during the COVID-19 pandemic at the global level down to Africa.

5. Nigerian government response to COVID-19 pandemic: the bad and good experience

Following confirmation of the pandemic's spread in Nigeria on February 27, 2020, the government adopted a variety of tactics and strategies to protect civilians from the outbreak. Preventive measures included the following:

5.1 Public enlightenment on surveillance and temperature screening

It was reported that the NCDC released guidance to the public on the causes, symptoms and preventive measures of the novel COVID-19 after noting the arrival of the index case by an Italian male in Lagos state. Surveillance and screening of persons were deployed quickly at all hotspots, such as large gathering sites and airports [22].

5.2 Tracing the contact of victims

The federal government mandated that all those having a history of foreign travels should be traced and subsequently quarantined for 14 days in order to curtail the spread of COVID-19. The containment during the lockdown was enabled with the identification, tracing and isolation of individuals who contracted the virus.

5.3 Closure of national borders

To combat the virus's spread, Nigeria's federal government shut down international and domestic airports, as well as other entrance sites such as frontiers and seaports. There were also restrictions on movement, with the government issuing a nationwide prohibition on interstate travel and a curfew from 8 p.m. to 6 a.m. With the exception of transits of critical products and services, all inter-state movements [23].

5.4 Banned from social gathering

To further reduce the virus's spread, the federal authorities made the bold decision to prohibit all forms of social gathering. Churches, mosques, bars, theaters and sporting events with large crowds were all prohibited. Physical gatherings in cemeteries, weddings and restaurants were also restricted. Again, public employees in grades twelve and lower were prohibited from entering offices [24].

5.5 Mandatory use of facemasks

Another measure taken by the Nigerian government was the compulsory use of facemask by everyone in public places. Starting from 4th May, 2020, it was mandated that people should wear facemasks in all outings and it was very serious in states like Lagos, FCT and Ogun where the spike was very high.

5.6 Economic stimulus packages

According to the federal government of Nigeria, it will require \$330 million to procure medical equipment, personal protective equipment and medicines for COVID-19 control. The government has committed to investing some of this amount, and financial commitments were also made by private, bilateral and multilateral institutions to raise the remaining funds. The Nigerian state oil company has pledged \$30 million for the government's COVID-19 efforts. The European Union has contributed 50 million euros to the basket fund to strengthen the Nigerian COVID-19 response. In addition, the private sector in Nigeria, after being called upon by the governor of the Central Bank of Nigeria, established the coalition against COVID-19 (CACOVID). It was launched on March 26, 2020, to help the government to control COVID-19 in Nigeria. CACOVID has raised over \$72 million, which will be used for the purchase of food relief materials and to provide medical facilities and equipment in different regions of the country [3]. On topmost of all this, corruption's impact continues to appear over Nigeria's pandemic responses, threatening progress to counter its spread.

5.7 Conditional cash transfers

According to Dixit et al. [25] on April 1, 2020, the Nigerian government announced the transfer of 20,000 Naira (\$52) to poor and vulnerable households registered in the National Social Register (NSR). Initially, the NSR has only 2.6 million households (about 11 million people) registered on its platform. The government increased this to 3.6 million households during the COVID-19 crisis. However, it was argued that the cash payments by the federal government only reached only a fraction of poor. Besides, Nigeria does not have a robust national information management system, making electronic payments difficult. This has resulted in many people in the NSR not receiving the money promised by the government. But people need a Bank Verification Number (BVN) to open a bank account, and obtaining a BVN requires a valid national ID or international passport, which many Nigerians do not have. Currently, only about 40 percent of the Nigerian population has bank accounts.

5.8 International Donor Agencies and Central Bank of Nigeria stimulus packages

The IMF approved US\$3.4 billion in emergency financial assistance under the rapid financing instrument on the eve of the epidemic in Nigeria to support the authorities' efforts to confront the severe economic impact of the COVID-19 shock and the rapid drop in oil prices [18]. The IMF's emergency fund was to assist the Nigerian government deal with the economic effects of the pandemic. In addition, the Nigerian government borrowed \$4.34 billion from the domestic stock market to finance its budget in order to ameliorate the macroeconomic situation caused by the abrupt drop in oil prices.

In addition, the European Union has pledged a payment of 50 million euros (N21 billion) to help Nigeria conduct a coordinated response to the COVID-19 epidemic. The funds were intended to be used to achieve the following objectives; Procurement of equipment and supplies needed to respond to the outbreak quickly, including those needed for surveillance, prevention and control, as well as clinical management (portable ventilators, surgical masks, examination gloves, protective goggles, gowns, and PCR test kits, among other things) [26].

Similarly, as the pandemic began to hit Nigeria in mid-March, 2020, the Central Bank of Nigeria (CBN) announced a N1 trillion stimulus package, and then the Federal Government asked the National Assembly to approve a N500 billion intervention fund; it also withdrew \$150 million from the Sovereign Wealth Fund and indicated it would borrow \$6.9 billion—all to cushion the economic effect of COVID-19 [27]. The CBN's stimulus package offers a credit of 3 million Naira to poor families impacted by COVID-19.

The loan, however, demands security and does not come with no interest. Poor households might be given loans without having to put up any security, or they could be given loans with only signed pledges from community leaders. Low-interest loans with a long moratorium and payback time should be accessible. Furthermore, few disadvantaged people and enterprises in the informal sector are aware of the government's offered economic packages and policies. The government, through the CBN, once again urged the private sector and local benefactors to fund the government's COVID-19 interventions, as well as to launch their own.

As a result, in March 2020, the commercial sector joined forces with the CBN to form The Coalition Against COVID-19 (CACOVID) [28]. The CBN is holding funds from this effort in a private-sector-led COVID-19 Relief Fund [27]. CACOVID has raised about \$30.1 billion (\$72 million) as of the end of June 2020 (Coalition Against COVID-19,

2020), although it is still short of the aim of 120 billion dollars (\$310 million). This demonstrates the limitations of local (private sector-led) government intervention funds.

5.9 Food security

Following President Buhari's declaration of a state of emergency in Lagos, the Federal Capital Territory and Ogun on April 1, 2020, the Federal Ministry of Humanitarian Affairs, Disaster Management and Social Development announced that food rations would be provided to vulnerable households in these states. People in many parts of the country are going hungry as a result of the prolonged shutdown. The government has been unable to offer food assistance to everyone who requires it due to corruption and a lack of transparency in the distribution system [25]. Food aid (palliatives) to disadvantaged households around the country to counteract the impacts of the lockdown, which had resulted in increasing hunger in many parts of the country. While these social interventions had some success, they were hampered by corruption and a lack of transparency and accountability [25].

To this effect, one may argue that the Nigerian government has received a large sum of money in loans and grants from the commencement of the epidemic to address the health and economic effects of COVID-19. However, the public continues to have concerns about the government's lack of openness and accountability in raising and spending cash. Indeed, it is worth noting that information on how money from the Nigeria COVID-19 Emergency Response Fund was allocated and utilized, as well as disaggregated data on COVID-19 budget allocations, is lacking. This is not unique to Nigeria; several governments have taken advantage of the pandemic to raise significant sums of money fast, often to close tax gaps.

The Nigerian government has been unable to defend how this money was used, making it impossible for oversight authorities such as the National Assembly, anti-corruption agencies and civil society organizations to hold it accountable. Indeed, the palliatives were allocated unequally, and a significant portion of the COVID-19 response budget was lost to corruption. The majority of Nigerians clearly do not trust their governments to provide accurate COVID-19 case and mortality statistics or to assure that COVID-19 vaccines are safe.

Furthermore, covid-19 vaccinations are currently being thrown away by governments around the world. In Nigeria, vaccine deployment has been delayed, owing in part to government mismanagement. Nearly one million doses had expired in the country as of December 22, implying that barely 2% of the country's population of over 200 million had been completely vaccinated [3]. These failures, combined with suspected corruption scandals since the pandemic began, are fueling public outrage.

6. Conclusion

First and foremost, efforts to hold governments responsible for the success of their crisis response are hampered by a chronic absence of public information on policy execution. Only a handful of governments secured access to appropriate levels of reporting, while over half of the governments questioned disclosed little or no information on actual plans, spending, finance and performance. When it comes to reporting on the impact of policies on different groups of beneficiaries, transparency is especially lacking. Indeed, the value of making such data public, claiming that it would allow ordinary citizens, civic society and the media to bring an extra layer

of scrutiny to the use of public resources, further entrenching transparency and accountability in government financial management. The lack of proper information on the execution of COVID-19 response plans further undermines accountability—not just on the amount of money spent but also on the actual impact on more disadvantaged and vulnerable groups, such as women and people living in poverty. Governments already had much of the essential data at their disposal and had plenty of time to ensure it was published in a timely manner, so the lack of public implementation information is particularly concerning.

7. Recommendations

- i. The government must strengthen the food rationing system’s transparency and accountability. It should also ensure that middlemen do not have an undue amount of power. During food distribution, the government might adopt the house marking technique used in the polio campaign (in which houses visited by vaccinators are marked), i.e., placing a mark on those houses where food has been delivered.
- ii. Nigerian governments, through institutions such as the National Assembly and other anti-corruption authorities, including civil society organizations, should establish the transparency and accountability mechanisms required to ensure that the huge resources being mobilized are not wasted.

A. List of contributors to the CACOVID Relief Fund as at 30 June 2020

S/N	Name	Company	Amount (Naira)
1	CENTRAL BANK OF NIGERIA	CENTRAL BANK OF NIGERIA	2,000,000,000.00
2	ALIKO DANGOTE	DANGOTE INDUSTRIES LIMITED	2,000,000,000.00
3	FLOOD RELIEF FUND	PRESIDENTIAL COMMITTEE ON FLOOD RELIEF AND REHABILITATION	1,500,000,000.00
4	ABDULSAMAD RABIU	BUA SUGAR REFINERY LIMITED	1,000,000,000.00
5	FEMI OTEDEOLA	AMPERION POWER DISTRIBUTION LTD	1,000,000,000.00
6	HERBERT WIGWE	ACCESS BANK PLC	1,000,000,000.00
7	JIM OVIA	ZENITH BANK PLC	1,000,000,000.00
8	JOHN COUMANTATOUS	FLOUR MILLS OF NIGERIA PLC	1,000,000,000.00
9	MIKE ADENUGA	MIKE ADENUGA FOUNDATION	1,000,000,000.00
10	MODUPE & FOLORUNSHO ALAKIJA	FAMFA OIL LIMITED	1,000,000,000.00
11	MTN NIGERIA PLC	MTN NIGERA PLC	1,000,000,000.00
12	NDIC	NIGERIA DEPOSIT INSURANCE CORPORATION	1,000,000,000.00
13	OBA OTEDEKO	FIRST BANK OF NIGERIA	1,000,000,000.00
14	RAJ GUPTA	AFRICAN STEEL MILLS NIG. LTD	1,000,000,000.00

S/N	Name	Company	Amount (Naira)
15	SEGUN AGBAJE	GUARANTY TRUST BANK PLC	1,000,000,000.00
16	TONY ELUMELU	UNITED BANK OF AFRICA	1,000,000,000.00
17	OLAM NIGERIA LIMITED	OLAM NIGERIA LIMITED	600,000,000.00
18	INDORAMA ELEME FERTILIZER CHEMICAL	INDORAMA ELEME FERTILIZER CHEMICAL	550,000,000.00
19	UNITED BANK FOR AFRICA PLC	UNITED BANK FOR AFRICA PLC	500,000,338.75
20	BANK OF INDUSTRY	BANK OF INDUSTRY	500,000,000.00
21	DEJI ADELEKE	PACIFIC HOLDING LIMITED	500,000,000.00
22	FRIESLAND CAMPINA WAMCO	FRIESLAND CAMPINA WAMCO	500,000,000.00
23	RAHUL SAVARA	WACOT RICE LIMITED	500,000,000.00
24	TOLARAM AFRICA ENTERPRISE LTD	TOLARAM AFRICA ENTERPRISE LTD	500,000,000.00
25	DE UNITED	DE UNITED	500,000,000.00
26	RAMESH KASANGRA	NIPCO PLC	300,000,000.00
27	AFRICA FINANCE CORPORATION	AFRICA FINANCE CORPORATION	250,000,000.00
28	CITIBANK NIGERIA LTD	CITIBANK NIGERIA LTD	250,000,000.00
29	ECOBANK PLC	ECOBANK PLC	250,000,000.00
30	FCMB	FCMB	250,000,000.00
31	FIDELITY BANK PLC	FIDELITY BANK PLC	250,000,000.00
32	STANBIC IBTC	STANBIC IBTC	250,000,000.00
33	STANDARD CHARTERED BANK	STANDARD CHARTERED BANK	250,000,000.00
34	STERLING BANK PLC	STERLING BANK PLC	250,000,000.00
35	UNION BANK PLC	UNION BANK PLC	250,000,000.00
36	GILBERT CHAGOURY	GILBERT CHAGOURY	250,000,000.00
37	RONALD RAMEZ CHAGOURY	RONALD RAMEZ CHAGOURY	250,000,000.00
38	MULTICHOICE NIGERIA LIMITED	MULTICHOICE NIGERIA LIMITED	200,000,000.00
39	PROMASIDOR NIGERIA LTD	PROMASIDOR NIGERIA LTD	200,000,000.00
40	APM TERMINALS APAPA LIMITED	APM TERMINALS APAPA LIMITED	150,000,000.00
41	CORONATION MERCHANT BANK	CORONATION MERCHANT BANK	100,000,000.00
42	FBN MERCHANT BANK	FBN MERCHANT BANK	100,000,000.00
43	FSDH	FSDH	100,000,000.00
44	HERITAGE BANK	HERITAGE BANK	100,000,000.00
45	KC GAMING NETWORKS LTD	KC GAMING NETWORKS LTD	100,000,000.00
46	KEYSTONE BANK	KEYSTONE BANK	100,000,000.00
47	NOVA MERCHANT BANK	NOVA MERCHANT BANK	100,000,000.00


S/N	Name	Company	Amount (Naira)
48	POLARIS BANK	POLARIS BANK	100,000,000.00
49	PORTS AND TERMINAL MULTISERV LTD	PORTS AND TERMINAL MULTISERV LTD	100,000,000.00
50	PROVIDUS BANK	PROVIDUS BANK	100,000,000.00
51	RAND MERCHANT BANK	RAND MERCHANT BANK	100,000,000.00
52	SUNTRUST BANK	SUNTRUST BANK	100,000,000.00
53	UNITY BANK	UNITY BANK	100,000,000.00
54	WEMA BANK	WEMA BANK	100,000,000.00
55	DEVELOPMENT BANK OF NIGERIA	DEVELOPMENT BANK OF NIGERIA	100,000,000.00
56	TIN-CAN ISLAND TERM LTD	TIN-CAN ISLAND TERM LTD	100,000,000.00
57	FPCNL PENOP AFIS ESCROW ACCT	FPCNL PENOP AFIS ESCROW ACCT	100,000,000.00
58	UAC	UAC	99,999,838.75
59	FIVE STAR LOGISTICS LIMITED	FIVE STAR LOGISTICS LIMITED	75,000,000.00
60	PORTS AND CARGO HANDLING SERV	PORTS AND CARGO HANDLING SERV	75,000,000.00
61	ENL CONSORTIUM	ENL CONSORTIUM	70,000,000.00
62	JOSEPDAM PORTS SERVICES NIG	JOSEPDAM PORTS SERVICES NIG	60,000,000.00

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Chapter 3

Perspective Chapter: Corruption and Deterioration of Democracy – The Brazilian Lesson

Fabio Roberto D’Avila and Theodoro Balducci De Oliveira

Abstract

Although it has emerged, nationally and internationally, as one of the largest investigations against political corruption, Operation Car Wash—at its peak of popular prestige—cleared the path for the political rise of Jair Bolsonaro to the Presidency of the Republic of Brazil. And by doing so, to a certain extent, it paved the way for a set of arbitrary practices that today threaten and weaken the main Brazilian democratic institutions. Brazilian democracy today pays a high price for the Judiciary’s lethargic and condescending response to the unorthodox and illegal practices of Federal Judge Sérgio Moro during the golden years of Operation Car Wash (2014–2018). The lesson that the Brazilian episode brings to the international legal community is that the constant disrespect for the rules of due criminal procedure in large cases of corruption erodes the institutional bases that support the proper confrontation of this type of crime. The pertinent fight against corruption in a democracy can only take place in strict obedience to the law.

Keywords: corruption, rule of law, due process of law, lawfare, judicial impartiality

1. Introduction

In a 1996 paper written by Bernand Bertossa, who was Attorney General of the Republic and Canton of Geneva at the time, it was highlighted that representative democracy and respect for the decisions of an independent Judiciary prevent (through the dissemination of power and the meticulous control of its exercise) the emergence of a fertile ground for corruption [1]. In Brazil, on the other hand, the internationally known *Operação Lava Jato* (Operation Car Wash) against corruption in politics left democracy in the hands of Jair Bolsonaro, the President of the Republic who bets on the erosion of the Judiciary and the rule of law through attacks toward the Supreme Court and the electronic voting machines that, ironically, elevated him to the highest position of the nation. Consequently, Brazilian soil, which was certainly not infertile to such practices, has been fertilized for sowing the weeds of illegal acts beyond control in recent years.

In fact, President Jair Bolsonaro was elected as a consequence of Operation Car Wash and now—after 4 years of decrease in institutional standards and aware of the electoral polls which indicates his defeat to political rival Luis Inácio Lula da Silva [2]—is trying to delegitimize the very system that elected him in 2018 [3]. As has been increasingly reported, the democratic regime may be at risk in Brazil [4, 5] and the turning point in this direction took place with the instrumentalization of the criminal process to withdraw his main political opponent from the 2018 electoral dispute.

From that premise an important lesson can be extracted, one that most of the advanced democracies have already learned, whether from their own or through foreign experience: a nation's criminal procedure structure is the thermometer of the elements of its Constitution ([6], p. 67). When it comes to corruption—especially the one more directly related to the functioning of the democratic regime, which is corruption within the context of politics, the overlap between the criminal procedure model and the regime is even more intense and arises in an especially latent way. Indeed, the shallow and simplistic discourse of the mass media and punitive agencies in the sense that social ills all derive from the relation between “honest” and “corrupt” stifles the conflicts of interests and ideals that serve as the foundation of real power bases of society ([7], p. 419).

This agenda discourages the political participation of the citizen, who begins to understand (and to belittle) democracy itself as a political regime more susceptible to corrupt practices due to the greater opportunity for an interface between political agents, economic agents, and individuals—although what gains strength when compared to authoritarian regimes is not corruption itself, but its possibility of visibility and dissemination ([7], pp. 419–421). Therefore, it is not surprising, at least under a retrospective lens, that Brazilian democratic institutionality has so rapidly degraded. The analysis of the context, the development, and the surprising and melancholic end of Operation Car Wash, with the bias of its main judge recognized nationally [8] and internationally [9, 10], however, seems to be of extreme value, including and especially for the international community. In this case, Brazil has a lot to teach. By means of bad example.

2. The political context of the Brazilian criminal procedure code

The Brazilian criminal procedure suffers from serious historical problems. The Brazilian Criminal Procedure Code dates from 1941 and was reportedly inspired by the 1930s Fascist Italy's *Codice Rocco*. Its authoritarian and anti-democratic basis, therefore, is unquestionable, having served not only the *Estado Novo* (New State) dictatorship (1937–1945) but also the civil–military dictatorship (1964–1985). It does not, therefore, serve democracy—but in it, the Criminal Procedure Code continues to pulsate an unsepulcher authoritarianism. In Brazil, the Criminal Procedure Code is the most visible (and systematized) instrument of the “eternal fascism” mentioned by Umberto Eco [11].

Felipe Lazzari da Silveira ([12], p. 22) explains that although the Brazilian state has never been a fascist state, in the criminal procedural field, it fully incorporated the rationality created by Mussolini's jurists. Its *leitmotiv* can be summarized, still according to the author ([12], p. 173), as the technician-fascist criminal procedural rationality created in Italy that consisted of a kind of technique to weaken the limits of state punitive power in order to make the criminal process more pragmatic in fulfilling its new goals established by Mussolini's authoritarian State.

The Brazilian authoritarian and dictatorial culture was reinforced by political and military groups, in addition to expressive intellectuals, such as Oliveira Viana

(1883–1951) and Francisco Campos (1891–1968), the latter did not hesitate to join the forces that articulated the conditions for the 1937 coup, nor in actively participating in the formatting and legal consolidation of both the *Estado Novo* and the civil–military coup that took place less than 30 years later ([13], p. 26, 27). After all, he wrote both the Explanatory Memorandum of the Criminal Procedure Code of 1941 and the Institutional Act no 01, which gave legal form to the civil–military dictatorship of 1964. No wonder Rubem Braga (1913–1990) once said with slight irony that “every time Mr. Francisco Campos lights up, there is a short circuit in democracy” [14].

Although by various means, both Italian fascism and the Brazilian *Estado Novo* codified their criminal legislation outside the Legislative Branch to demonstrate their own political strength: while in Italy there was a punctual transfer of competence to the Executive Branch, in Brazil this displacement became a general rule ([15], p. 155, 156). As Minister of Justice, Francisco Campos understood that liberalism would have to be overcome due to the considerable increase in ideological tensions in Brazilian society and on account of the inability of members of legislative households to rationally examine complex and technical matters ([13], p. 37). The antagonism to parliamentary activity was strong; therefore, the Brazilian government, through the Ministry of Justice, began to use technicality to legislate in favor of social defense based on the argument that the ends justify the means, initiating a legacy that was later widely exploited during the civil–military dictatorship ([15], pp. 165–170).

Francisco Campos was the Brazilian counterpart of Alfredo Rocco, the Minister of Justice of Fascist Italy. Endowed with a strong personality, both jurists, with great diligence, took on this new way of legislating and were responsible for the constitutional reforms that shifted the political regimes of their countries to the authoritarian spectrum ([15], p. 171, 172). In turn, the collaborators of these legislative endeavors were not jurists consecrated by the professorship or by theoretical writings, but practical applicators of Law, which made coexistence with the authoritarian environment possible and without major constraints: not for nothing, the vast majority of Italian jurists and all the Brazilian jurists involved came from the Judiciary and the Public Prosecutor Office ([15], p. 172, 173).

This overlap between technicality and practicality certainly helped to legitimize the new criminal law and criminal procedure before the Brazilian judges and criminal courts. But not only. It helped to spread the new system also to the legal literature, which was uncritically fed back through the jurisprudence made by themselves—after all, many of the authors of legal works on the Criminal Procedure Code of 1941 were also its practical applicators.

As Francisco Campos later highlighted, he and his assistants (recognized jurists, such as Nelson Hungria, Antônio Vieira Braga, Narcélio de Queirós, and Cândido Mendes de Almeida) intended to develop a criminal process that did not make society’s right to defend itself a mere illusion and that offered the necessary means to ascertain the “real truth” so that to the judge was granted a wide margin of maneuver for the evidentiary initiative—which did not mean an authorization to decide contrary to the law, but only that the body of evidence could be freely evaluated, including through the search for new evidence when necessary and always in accordance with the interests of the State ([12], p. 189).

In that conception of criminal procedure, the simple fact of being tried by a judge was, in itself, the greatest guarantee against injustice that a defendant could obtain ([12], p. 192). The mere existence of a judge was enough for the criminal process to be understood as a fair and impartial procedure. Hence the difficulty in obtaining recognition of judicial partiality in Brazilian forensic practice, even in Operation Car

Wash—which gave abundant signs of Federal Judge Sérgio Moro’s bias to the detriment of Luís Inácio Lula da Silva from the first day and, even so, the Courts (the Regional Federal Court of the 4th Region and the Superior Court of Justice) did not recognize it.

The partiality of Federal Judge Sérgio Moro was not acknowledged until the publication of the series of articles by the Intercept Brazil containing the messages he exchanged, via Telegram app, with one of the Federal Prosecutors responsible for Operation Car Wash [16]. The content of the messages, however, was not formally considered by the Federal Supreme Court when it came to recognizing the judicial bias of Federal Judge Sérgio Moro [17], which demonstrates that the exterior signs were sufficient to conclude in those terms (although until then those outside marks had not yet been declared). Not even the authoritarian matrix of the Brazilian criminal process was able to deny the judicial partiality that came to the eyes of Brazil and the world with the series of reports known as *Vaza Jato* (Car Wash Leaks).

3. The Brazilian criminal procedure’s inquisitorialism

Both in Italy and Brazil, the criminal procedural models were orchestrated with the objective of legitimizing the neutralization of fundamental guarantees, and this structure continued to guide legal literature, jurisprudence, and legislative reforms even after the end of the authoritarian regimes that promoted them: Italians only forsook it in 1988, with a new Code of Criminal Procedure; Brazilians, however, continue with inquisitorialism to this day ([12], p. 191).

Despite the legislative reforms carried out with the alleged aim of democratizing the Brazilian criminal procedure to adapt it to the Federal Constitution of 1988, it is undoubted that they were all late and insufficient to produce any significant change to the spirit of the Criminal Procedure Code of 1941 and that, despite them, jurisprudence has developed in the sense of violating the accusatory system ([18], p. 526). According to Jacinto Nelson de Miranda Coutinho ([19], p. 11), this is because none of them reached the core of the 1941 Criminal Procedure Code system, which is completely out of step with the 1988 Federal Constitution.

Indeed, the center of the inquisitorial system consists in enabling the criminal judge to *manage the evidence* (by seeking it when he deems it necessary to clarify the truth of the facts) and, while procedural reforms do not manage to radically alter it, Brazilian criminal proceedings will never be accusatory because all the other elements are merely secondary to the definition of the procedural system ([19], p. 11). In fact, no procedural reform has ever approached the pivotal point of the problem: to this day, criminal judges in Brazil can seek evidence to decide at their convenience, evaluating it as they like.

The rationality that authorizes and legitimates this sort of procedure is the same that guides the premise that there is in fact a “real truth” and that it can be found through human knowledge, especially through criminal proceedings. Part of the doctrine distinguishes “real truth” from “formal truth,” which is a serious mistake because, according to Francesco Carnelutti ([20], p. 4, 5), the truth is obviously unique and can never be reached by human beings, regardless of the method chosen to do so.

Lenio Luiz Streck ([21], p. 290, 291) cuts across and demonstrates that the concept of real truth is not sustainable because it proclaims something “real” and that, therefore, is justified by itself at the same time that it does not obviate the need for an interpreter to give it meaning—which leads to the judicial protagonism that makes

fundamental guarantees more flexible for the sake of public or social interest that cannot be precisely defined. Consequently, according to Salah Khaled H. Jr. ([22], p. 1), the search for truth is nothing more than an unlimited search for confirmation of a hypothesis previously chosen by the magistrate.

The great problem of the inquisitorial system (in general and of the Brazilian criminal procedure in particular), therefore, lies in the legitimization of the search for the truth that, by reflecting the past in an integral way, at least in theory, certainly distinguishes and accurately determines innocents and guilty. Hence the reason why, in the name of this absolute truth, all flexibilization of fundamental guarantees and all judicial abuse are legitimized, whether in the search for evidence or its subsequent evaluation.

4. The context of Operation Car Wash and the judicial partiality of Federal Judge Sérgio Moro

Operation Car Wash took place after the enactment of the so-called Clean Record Law (Supplementary Law 135/2010), which prevents anyone criminally convicted by a collegiate body from running for any elective office for 8 years. Without this restriction limiting the will of the electorate, Operation Car Wash would probably not have caused so much institutional turmoil: after all, the mere non-definitive conviction by a collegiate body would not have removed the leader of the polls from the 2018 electoral dispute.

Mariana Mota Prado and Marta R. de Assis Machado explain that in July 2013 there were huge protests against corruption and an increase in the attention of the press and institutions responsible for accountability to the issue, which may have created a window of opportunity for changes ([23], p. 10).

Structured and publicized since the beginning (2014) as the biggest operation against corruption in the history of Brazil, Operation Car Wash clearly had a predestined aim: to strike the Workers' Party (PT), which at the time occupied the Presidency of the Republic with Dilma Rousseff (she was impeached in 2016), and especially former President Luiz Inácio Lula da Silva, who would seek reelection in 2018 (when he was leading the polls [24]) but ended up in prison for 580 days due to a non-definitive conviction—and without evidence—delivered by an admittedly biased judge.

One of the changes referred by Mariana Mota Prado and Marta R. de Assis Machado may be directly linked to the very definition of corruption. The Brazilian Penal Code describes corruption as two distinct crimes: active corruption (supply side) and passive corruption (demand side). Former President Luiz Inácio Lula da Silva was convicted of passive corruption—a crime that requires the actions of requesting, receiving, or accepting a promise of undue advantage on behalf of the public function in exchange for an action, an omission, or a delay in its performance—for allegedly receiving gifts from private companies. As the authors point out, when substantiating the conviction Federal Judge Sérgio Moro expressly highlighted out that it was unnecessary for those private companies to have received any advantage in retribution for those treats for the setting of the crime of passive corruption. He acknowledged that this was a controversial interpretation of the crime of passive corruption but maintained it, arguing that it was necessary to tackle high-level corruption ([23], pp. 13–14).

Although the Brazilian Penal Code is not entirely clear on the matter, until recently the tendency of the courts was to demand proof of the existence of a connection

between the payment promised or made by the private agent and the benefit received by the public official (in a word: *quid pro quo*), still according to Mariana Mota Prado and Marta R. de Assis Machado. However, this trend was abandoned in *Mensalão* Case, when—a few years before Operation Car Wash—the Brazilian Supreme Court “ruled that there was no need to prove a causal connection between the payments and a particular action” and that it was enough to prove that the public official had received an undue advantage in exchange for performing acts related to his public function ([23], p. 15).

According to Mariana Mota Prado and Marta R. de Assis Machado, to criminally convict Luís Inácio Lula da Silva, Federal Judge Sérgio Moro went even further: the conviction was based on indicia that private companies were planning to give him a triplex in Guarujá/SP, but the only substantial evidence was that the senior managers of Petrobras (the Brazilian petroleum corporation)—who is not even appointed by the President of the Republic but by the board of directors of the state company—favored the companies that were supposedly providing the gift. There was no direct relationship between the triplex and the performance of Luís Inácio Lula da Silva as President of the Republic—the link was established through the following chain: the board of directors of Petrobras appointed individuals (senior managers) recommended by a government minister, in turn, appointed by the President of the Republic ([23], p. 15).

In the words of the authors, the assumption was that Luís Inácio Lula da Silva appointed high-level officials “who would, in turn, appoint corrupt directors, who would then strike the deal for overpriced contracts between construction companies and Petrobras.” ([24], p. 16). However, it was not demonstrated that the appointments had this deviation purpose, much less that Luis Inácio Lula da Silva had any knowledge about the corruption scheme inside Petrobras. The conviction was based on a presumption against the defendant, not on substantial evidence.

The vices of that sentence are numerous. João Paulo Allain Teixeira, Gustavo Ferreira Santos, and Marcelo Labanca Corrêa de Araújo ([25], p. 67) stated that “In espousing and courting public opinion fostered by the national mass media, Judge Moro transformed evidence into mere procedure details. When the evidence (or lack of it) does not speak for itself, any verdict is unpredictable, depending on the whims and convenience of the moment.” “A decision that appears nothing like a judicial sentence. It is more like a long—as it has more than 200 pages—personal opinion in relation to the accused,” in the words of João Ricardo W. Dornelles ([25], p. 68).

Pedro Estevam Alves Pinto Serrano, Anderson Medeiros Bonfim, and Juliana Salinas Serrano ([26], p. 42, 43) demonstrate that, if in the United States of America and continental Europe it is possible to identify both a clear jurisprudence of the Criminal Law of exception and measures of exception in special laws on the subject of national security (terrorist threats), in Brazil the enemy is fought by the criminal law and criminal procedure of every day, reinterpreted in an exceptional way, so that the criminal justice system (magistrates, public prosecutors, and police precinct chiefs) became—with the fundamental support of the media—the sovereign author of the exceptional measures.

Also according to the authors ([27], p. 43), the exceptional jurisdiction is characterized by the simplification of the judicial decision itself, which is no longer mediated by Law—in fact, it temporarily suspends it in specific situations, without any coherence or rationality (so much that it does not produce jurisprudence, since changing the actors involved or the political purpose, also changes the decision, which can return to Law or produce a new exception).

It is difficult to interpret Operation Car Wash otherwise. Pedro Estevam Alves Pinto Serrano *et alia* ([27], pp. 45–47) point out, among other extravagances, that Federal Judge Sérgio Moro (i) did not remain equidistant from the prosecution and the defense; (ii) issued the decree of coercitive conduction of Luís Inácio Lula da Silva in violation of the law (on the grounds of avoiding possible riots – with clashes between political activists in favor and against the former President if the coercitive conduction did not occur); (iii) determined his appearance at the hearings of the 87 witnesses listed by the defense, despite the Criminal Procedure Code does not require the presence of the defendant in such acts and (iv) successfully intervened, even while on vacation, to keep him in prison after a court decision that restored his freedom in a *habeas corpus* decision [28]. The authors ([27], p. 47) continue to argue that, after the conviction of Luís Inácio Lula da Silva to 9 years and 6 months in prison for corruption and money laundering (on 07 December 2017), both the prosecution and the defense appealed to the Federal Regional Court of the 4th Region, which was resolved at an absolutely atypical speed for Brazilian standards, with the conviction being maintained and the sentence upsurged. From then on, the requirement of the Clean Record Law was fulfilled in order to prevent Luis Inácio Lula da Silva from running for the 2018 elections.

For Brazilian democracy, as already exposed, the direct consequence was the removal of Luís Inácio Lula da Silva from the electoral dispute (he was leading the polls even at the pinnacle of Operation Car Wash) with the consequent election of Jair Bolsonaro in 2018. For the anti-corruption agenda, the consequence was its discredit in front of the perception that it is in fact a speech easily used against political opponents by chance. This feeling became even stronger when Federal Judge Sérgio Moro left the Judiciary a month after the elections to join the newly elected government as Minister of Justice and Public Security [29]. When he later announced his departure from Jair Bolsonaro's government [30] and tried to run in the 2022 presidential election [31], it was already clear to everyone that his political project had begun much earlier.

In addition to specific problems related to the way in which the turn state's evidence (institute on which the convictions in Operation Car Wash were built) was envisioned in Brazil through Law 12.850/2013, Federal Judge Sérgio Moro took advantage of circumstances and structural deficiencies of the Brazilian criminal procedure to reach the conviction of Luiz Inácio Lula da Silva. The manipulation of the electoral process through the criminal procedure was only possible in Brazil because (i) the punitive agencies joined the mass media for the spectacular dissemination of excerpts of turn state's evidence in order to garner the support of the population against politicians and great businessmen (similar to what happened in Operation *Mani Pulite*, in Italy—and where the Federal Judge Sérgio Moro clearly drew inspiration, since more than a decade before he had written a paper sustaining that public opinion would be essential for the success of the legal action [32]), (ii) the Brazilian Criminal Procedure Code is inquisitorial and was structured in such a way as to enable the neutralization of individual guarantees that the system formally enunciates, and (iii) the doctrine and the technicist jurisprudence that began to form after the enactment of the Criminal Procedure Code has progressively fed back into the system to the present day, ignoring and emptying the new reality imposed by the Constitution of the Federative Republic of Brazil of 1988.

5. Conclusion

The intention of this article was to demonstrate that the constant disrespect for criminal procedural guarantees in large cases of political corruption is particularly harmful to democracy, especially when Law is used to interdict the popular will expressed in polls for voting intentions.

Through the Operation Car Wash, the Brazilian case is the reference of a bad example in this sense, as former President Luis Inácio Lula da Silva was convicted and held in custody for 580 days when he was leading the voting intentions in 2018 only to be recognized by the Supreme Court, after the election of the new President Jair Bolsonaro, the partiality of Federal Judge Sérgio Moro. A judicial bias that was already clearly perceptible from the beginning for those with a minimum knowledge of criminal procedure.

The construction of the conviction of a popular former President was only possible because:

1. The mass media aligned itself with the interests of the Federal Prosecutors to receive first-hand information and publish it in a sensationalist way;
2. Over the precedent years, a shallow and banalized perception that political activity is impregnated with corrupt people had already been created;
3. The Brazilian Criminal Procedure Code (1941), inspired by the *Codice Rocco* of Fascist Italy, cannot guarantee due process of law in terms of democracy (its inquisitorial structure authorizes the judge to seek evidence and interpret it freely);
4. The authoritarian spirit of the 1941 Brazilian Criminal Procedure Code was spread to doctrine and jurisprudence, having crystallized over the decades;
5. The legal reforms after the 1988 Federal Constitution were not enough to change the core of the original Brazilian Criminal Procedure.

Considering that the now President Jair Bolsonaro took anti-political speech to extreme levels, that after winning the elections he started to delegitimize the electronic voting system and that it is already beginning to be said that he can even bar the October 2022 elections [33], it is possible to correlate the disrespect for individual guarantees operated by Operation Car Wash with political and institutional instability that recalls the worst moments of recent Brazilian history.

It is important to emphasize that legal sanctions against acts of political corruption are necessary and healthy for democracy and for the very realization of social rights. But due process of law can never be neglected; Law cannot be manipulated to achieve political and punitive purposes in a specific case, even under the pretext of fighting corruption. Otherwise, democratic institutions—including the Judiciary—shall become weakened.

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Chapter 4

The Root Causes of Corruption in Public Procurement: A Global Perspective

Jack Magakwe

Abstract

Public procurement plays a pivotal role in driving economic activities. Globally and in Africa, one of the key drivers of economic acceleration is vested in the procurement of goods and services. The main objective of the study is to assess the root causes affecting the public procurement functions in key public institutions. The chapter is analytical and explores the root causes of corrupt practices globally and more specifically in the South African environment. This chapter, furthermore, highlights the need for the risk methodology approach to clearly understand why corruption in public procurement is rampant globally and in Africa, and how can measures be implemented to eliminate potential risk factors. This chapter contributes to the body of knowledge on corruption by looking at the sources of corruption through the lens of institutional inefficiency and root analysis. To answer the issue of whether traditional causes of corruption hold up in the face of strong anti-corruption regulations in globally and Sub-Saharan Africa, we complement conventional variables in modern literature with institutionally entrenched ones.

Keywords: public procurement, corruption, root causes, risk management, public institution, risk factors

1. Introduction

For centuries Africa as a continent is confronted with the challenges such as poverty and corrupt practices. To a certain extent, the operationalization of good governance principles as an anti-dote to fight corruption in public procurement does not always achieve the desired outcomes.

Nonetheless, with the introduction of governance metrics, assessing the administrative machinery's proactivity in the fight against corruption has become easier. The motivation for involvement is defined by strong institutions, while the level of engagement is determined by the level of participation. It is equally possible that the reverse is true. Strong institutions are the source of anticorruption measures; as a result, institutions determine the scope of social behavior that is fundamentally connected to corrupt activities.

As a result, social behavior is commonly viewed as ‘the rules of the game’ as established by institutions [1]. The current article, which is based on this idea, highlights institutional ineffectiveness as a problem. Once an organization cannot operationalize anti-corruption measures through training, awareness and capacity building, it is proven that corrupt activities can be increased. More importantly, the social environment is crucial as it influences behavioral patterns of either anti-corruption or corrupt practices. This article reflects on the root causes of corruption on an institutional level and also highlighted measures, which be implemented to mitigate the risk factors identified.

2. Literature review

Globally, a plethora of laws and legislative instruments are available to address the root causes of corruption in public procurement. Corruption is especially prevalent in public procurement [2]. Almost all public-sector operations, from building to education, healthcare to innovation, need the procurement of commodities, services or works. However, the gap between who wins these bids during the procurement of goods and services and paying a bribe to obtain a specific bid opens the door to corruption. In this regard, the organization globally is confronted with the risk of corruption during the procurement processes of goods and services. The availability of international best practices and legal instruments does not mean countries will implement these set guidelines to create a corruption-free environment. The solution for a corruption-free environment and the management of risk processes is based on the ability to engage suppliers and implement anti-corruption processes and political will in public procurement [3].

According to the research, one of the most important underlying factors that defines corruption is historical ties, which have a significant impact on the current administrative and political environment. Among these, the philosophy of the legal system appears to have practical relevance in current times. Existing legal rules, according to the notion, always impact the quality of governance, especially the amount of corruption control. Countries that have been colonized in the past, in one manner or another, are likely to have had their legal codes heavily affected by their colonizers. According to [4], the genesis of common law legal codes may be traced back to historical antecedents, which primarily track the attempts of property owners to restrict the discretionary authority of the king. Corruption is a multifaceted problem with far-reaching consequences that are closely tied to economics, history, sociology, public administration and political science. As a result, defining corruption precisely and comprehensively is challenging. Corruption is described as ‘using public office for private gain’ [5].

La Porta et al. [6], also contend that legal systems in nations that have embraced the OECD guidelines relate to measures to curb corruption. The primary aim of OECD guidelines and frameworks for countries is to improve good governance, adherence to the rule of law and reduced levels of corruption [7]. Understanding the structural connections between corruption and fundamental causes lays the groundwork for integrated approaches to resolving both processes. Corruption has a well-documented negative influence on fragile societies, as well as state-building and peacebuilding in many countries and thereof it is imperative to approach corruption in public procurement holistically. Corruption is both an underlying cause and a driver of public procurement procedures, and if not handled, it may weaken the

purchase of goods and services process. Highly corrupt nations are more likely to be weak states, and popular views of high levels of corruption in public procurement are likely to worsen corruption in the long run.

Fighting corruption in countries required a collective approach and collaboration with international best practices legal frameworks and guidelines. The United Nations Commission on International Trade Law (UNCITRAL) produced the 'Model Law on Procurement of Goods, Constructions, and Services' in 1994 [8]. It is aimed at national lawmakers and acts as a template law, providing samples of how to organize public procurement legislations and therefore serves as a guide to best practice, supporting strong public procurement policies and lowering transaction costs for implementation. The Model Legislation, as a framework law, offers broad norms and principles of public procurement while leaving precise procedural procedures to the different countries. Countries are given extensive latitude in adopting the Model Law; they are not required to adapt it in its entirety but can choose which elements to apply.

Put simply, public procurement is a complex phenomenon and required governments in various countries to pay attention to the risk factors which can contribute to corruption. Public procurement has traditionally been regarded as a government activity best left to restricted experts, with little respect for its larger governance implications or the critical role it plays in ensuring efficient governments [9]. This was a mistake that policymakers and experts throughout the world are increasingly recognizing, leading to a re-evaluation of public procurement and what it implies for governments and society. It is difficult to overestimate the role of public procurement in bringing down entire administrations, especially in well-established democracies such as Italy [10].

For example, in the South African context, the National Development Plan [NDP] 2030 was announced in 2012, and it lays forth a long-term vision for South Africa in addressing the root causes of corruption in public procurement [7]. The National Development Plan [NDP] aims to eradicate poverty and reduce inequality by 2030. According to the plan, South Africa can achieve these goals by harnessing the energy of its people, growing an inclusive economy, building capabilities, strengthening the state's capacity, and promoting leadership and partnerships across society. The NDP also supports a values-based culture and charts a new course for the country, including the building of a strong anti-corruption system and the formation of an ethical and competent public sector [11].

Globally, the various organization provided guidelines on the root cause analysis and assessing procurement risk. The United Nations Global Compact [12] provides a framework for addressing supply chain corruption. Customers and suppliers are both given useful tools and advice on how to operationalize procurement processes. There is general and particular guidance on corruption prevention and reaction, with a specific one defined in various situations from three primary categories: vendor selection process, contract performance and third parties such as government officials. The risk management and root cause analysis, as methodology is discussed in the next section.

3. Risk Management and root cause analysis

Risk management is not a new phenomenon. Risk management is a continuous activity that occurs throughout a system's life cycle. It is a systematic technique for detecting and assessing unknowns continuously, creating mitigation alternatives,

choosing, planning and executing suitable risk mitigations, and tracking implementation to guarantee effective risk reduction [13].

Risk management planning; early identification and analysis of hazards; early execution of remedial measures; ongoing monitoring and reassessment; and communication, documentation and coordination are all required for effective risk management. Merna [14] defined risk management as ‘any collection of measures performed by people or businesses to modify the risk emanating from their company’. Two things are evident from the preceding definitions: risk management includes the identification, evaluation and prioritizing of risks, and this is important to companies in attaining goals and objectives. The systematic application of management rules, processes and practices to the duties of detecting assessing, evaluating, addressing and monitoring corruption risk is known as corruption risk assessment.

Risks have three components: 1) a future root cause (yet to occur) that, if eliminated or corrected, would prevent a potential consequence from occurring, 2) a probability (or likelihood) of that future root cause occurring at the time of assessment and 3) the consequence (or effect) of that future occurrence [15]. The most fundamental explanation for the occurrence of risk is a future root cause. As a result, risks should be linked to future underlying causes and their consequences. In the context of public procurement, risk management is an essential component of government procurement. For example, a study conducted at a South African metropolitan municipality demonstrated that procurement policy review is the key factor when addressing risk in public procurement, on the other hand, reveals the necessity for a coordinated effort and action to correct anomalies caused by ineffective controls if risks in public procurement are to be reduced and addressed [16]. The findings of the aforesaid study suggested that procurement practitioners and managers lack risk management knowledge and abilities to perform activities assigned to them [17]. As a result, there is an urgent need to empower procurement authorities and managers by providing risk mitigation training opportunities. The overarching process of risk management includes detection, analysis, mitigation planning, mitigation plan implementation and tracking.

Based on the above analysis, it can be argued that risk management should be considered at the onset of the procurement process. All procurement processes should be subjected to scrutinizing whether the risk management methodology has been applied. In the context of the procurement of goods and services, risk management plays a critical component. Procurement of goods and services as a process is confronted with irregularities emanating from weak control measures. The root causes of corruption in procurement emanate from various weaknesses in the system, the application of policies and the inability to operational anti-corruption measures.

3.1 Root cause analysis (RCA)

One way of enhancing the effectiveness of the public procurement policy outcomes residing in the quality management is root cause analysis (RCA). In the context of dealing with fraud, two things must be done: prevention and/or deterrent. To prevent fraud, the RCA technique is used, which eliminates the root cause, whereas deterrence is more about behavior change, such as the use of strong punishments so that criminals do not commit fraud [18]. RCA is one technique for gaining insights from recognized results. RCA investigates the root causes of an issue [19]. RCA assumptions include that the analysis of the root of the problem to be identified and remedied suggested addressing the main problems. The outcome of the RCA is

aiming to propose an effective solution, which has an impact rather than being purely normative [20]. The advantages of RCA include increased organizational value, the potential for cost savings, learning regarding cause-effect relationships and strategies, providing a logical approach to problem-solving, reducing risk, preventing multiple and repeated failures, improving performance, encouraging system strengthening and streamlining examiner team reporting [21].

Corruption risk assessment techniques are often geared towards assessing systematic hazards in the public sector. There is currently no standardized post-disaster governance or corruption risk assessment approach for specific development projects or development organizations. In the context of corruption in public procurement, root cause analysis is an appropriate technique for various reasons. Firstly, it can be used to identify corrupt behavior before the actual corruption occurred. It can prepare the organization implements measures to address behavioral challenges by minimizing their impact on organizational outcomes. Secondly, root causes analysis also not identified problematic procurement processes prone to corruption but also ensures that mitigation measures are operationalized to address such areas. Put simply, RCA is a tool meant to assist in determining not just what and how an event occurred but also why it occurred. Only by determining why an incident or failure occurred will investigators be able to define effective corrective procedures to prevent such situations in the future. The next section will discuss the institutional root causes of corruption.

3.2 Institutional root causes of corruption

Institutional root causes are not a new phenomenon globally and, in all continent's procurement environments, limited attention has been devoted to establishing why root causes are the institutional problem. In recent years, theorists have developed a notion of institutional corruption that varies from conventional corruption in both its individual and structural manifestations [22, 23]. Individual corruption, as illustrated by bribery and related unlawful acts [24], is not institutional corruption, nor is structural corruption prevalent in the work of emerging countries [25]. Corruption preys on lawful institutional activities that offer advantages that even an uncorrupted institution needs and for which substitutes must be developed if the institution is to function properly campaign funding, unlike bribes, serves a legitimate purpose. Second, institutional corruption is impersonal: Agents of corruption work in institutional positions and do not have the corrupt intentions that define agents who participate in quid pro quo transactions. Politicians that take campaign money and offer favors to people do so partially in their political interest, but they also promote the competitive and other values of the country [26].

Theorists who have chosen this path draw attention not only to institutional corruption but also to various ways in which institutions might be compromised. The operationalized policy framework and rules should be institutionalized, and procurement practitioners and managers should be aware of the non-compliance and negative effect it might have on the ability of an organization to deliver on its mandate.

Procurement rules should be implemented on an agreed policy directive. On this premise, uniformity among the rules that comprise an institutional field is seen as a predictor of compliance. Compliance is at least achievable if institutional rules are consistent and not mutually exclusive. When the institutional context is marked by uncertainty and ambiguity, the connection begins to deteriorate [27]. Individuals may be unable to demonstrate institutional conformity even though their intent to do so is unquestionable.

From the perspective of global procurement and supply chain networks, [28] analyses internal and external hazards and risk factors. Internal risk factors are those resulting from interactions between enterprises in the supply chain network, such as supply, demand, and trade credit risks. External hazards and risk factors are those resulting from interactions between procurement and supply chain networks and the environment. It can be inferred that internal risk factors must be identified across all procurement and supply chain networks and ensure that early detective systems such as auditing of processes are implemented to mitigate such risk factors. Besides, institutional root causes of corruption factionalism is one of the key root causes that need to be addressed relating to the corruption in public procurement.

3.3 Factionalism

Political parties play a critical role in the operation of democratic regimes [29]. It is not surprising, however, that their structures and processes, as well as the variables that govern and impact them, have been extensively studied. The resultant stream of study has revealed a wide range of organizational structures that political parties may adopt – and consequently a wide range of methods in which parties execute societal and state-oriented responsibilities. Parties can be hierarchical and bureaucratic in organizational terms, or they can function as flexible umbrella groups for individual candidates. Define factionalism entail according to [30] provides a reasonably impartial explanation, providing two definitions for the word ‘faction’:

1. A group or combination that acts collectively inside the larger body, generally against it (as in a state, political party, or church).
2. Disharmony within a group (Latin factor ‘act of creating, faction’, from *facere* ‘to make, do’).

In general, there are two fundamental points of view on factions and political parties. According to modernisation theory, factions are proto-parties or types of the party structure that serve as predecessors to more evolved ‘modern’ parties [31]. Factions are seen as being typical in the context of the political environment and when potential opportunities are presented for corruption in public procurement. Put simply, factions are about the advantage you can gain over the opposition. In the context of corruption, factionalism presents the opportunity for the ruling political party to get an advantage over the opposition and as a result, use its position to explore the fragile political environment to obtain benefits through corrupt processes.

First, political corruption relates to corrupt acts and activities committed by political leaders to use their discretionary authority to influence national policy in their favor. Consider the following examples from African countries such as Sierra Leone, Angola, Nigeria and Kenya. With this form of corruption, public expenditure is redirected to areas where the profits from corruption are highest, but less attention may be paid to the needs of the bulk of the people [10]. However, it is impossible to discern and quantify political corruption because at least some segments of society benefit from the policies implemented by corrupt political leaders [32].

Rose-Ackerman [33] contends that interest groups offer political contributions to political leaders rather than unlawful bribes to ensure that the political leaders would assist them by enacting favorable policies if elected. She continues to state that when money is used for purposes other than bribery, the illegality of bribery and the

legality of some campaign donations force politicians to accept alternative forms of payment rather than cash transfers. Furthermore, politicians may attempt to protect themselves by arranging for bribes to be delivered to aides, wives, or business connections; and if they do take bribes. The causes of corruption are rooted in the particular political and economic conditions of each country and institutional level within the procurement processes of an organization [34].

The consequences and form of corruption by political leaders, for example, do not mirror copies of bureaucratic corruption. Corrupt politicians use their positions of power to enact economic agendas. Politicians, as elected officials, are expected to make resource allocation decisions purely in the interests of their principal - the public. Instead, corrupt political leaders can modify the national policy to promote their interests staying in power and increasing their riches at the expense of the public [32].

For example, when an official receives a bribe in exchange for a favor, the personal gain is not a valid component of the official's compensation, and granting the favor is not a lawful part of the official's job description. In a well-functioning institution, the transaction serves no useful purpose. Institutional gain, on the other hand, encompasses assets that are primarily useful in an institutional capacity and are required for, or crucial by-products of, fulfilling the position. Institutional gain may be just as self-serving as personal gain, but it fulfills a legitimate institutional role. Even in a fully operating institution, it is required and beneficial under certain situations. The system in a democracy is based on politicians pursuing political gain; we rely on their wanting to get elected or re-elected [35]. It can be inferred that corruption increased because of the inability of political leaders to adequately implement measures to curb corruption. In many cases, politicians sometimes handled corrupt cases causally and clumsily and as a result, no prosecution is pursued against the corrupt officials. More importantly, the implementation of red flags relating to corruption is only the first step of anti-corruption initiatives but also the adequate protection when corrupt practices are disclosed by whistleblowers, which will be discussed in the next section.

3.4 Inadequate protection of whistleblowers

Whistleblowing concerning professional misbehavior is a critical component to curb corruption. In addition to inadequate training, knowledge and resources, important grounds for whistleblowing include public procurement outcomes, anticipating and reporting of catastrophic occurrences, suspicion of fraud, a bullying culture towards patients or colleagues, and research misconduct [36]. Whistleblowers have historically encountered daunting workplaces in which their concerns are ignored, maintaining a fear culture [8]. As a result, many regulatory agencies now allow for anonymous reporting and shield informants from victimization, harassment, and dismissal.

Global and regional whistleblower protection demonstrate the rising importance that the international community places on whistleblowing as an anti-corruption instrument. The Inter-American Convention Against Corruption (IACAC), the first inter-governmental agreement to address whistleblower protection, emphasizes the importance of whistleblower protection as a weapon for anti-corruption. Member States are urged to adopt and improve measures to safeguard those who report corrupt behavior. The United Nations Convention Against Corruption (UNCAC) requires state parties to adopt domestic steps to include protection for whistleblowers, witnesses, and their families in their legislation and other provisions [37].

Countries are also asked to put in place procedures that ease reporting of corruption to competent agencies to comply with the terms of the UNCAC. Article 32 also specifies that State Parties must establish appropriate mechanisms to safeguard witnesses who reveal wrongdoing and their family from real or threatened harassment, reprisal or intimidation. According to the Council of Europe's Civil and Criminal Law Conventions on Corruption, 'each Party shall provide in its internal law for appropriate protection against any unjustified sanction for employees who have reasonable grounds to suspect corruption and who report in good faith their suspicion to responsible persons or authorities' [38]. The first step of the whistleblowing process includes reporting illicit activity. The reporting can be done open and anonymous, according to the specific circumstance and the nature of the corrupt case in which it occurs. While anonymous reporting takes the form of disclosures of confidential information, the safety of the whistleblower must be protected. Depending on the institutional policy or arrangements reports may require a level of authorization. The reporter of the corrupt practices can be a member of the organization where the reported facts occur [39]. If the whistleblower is a member of the organization it can be seen that easy access to some information relevant to the reported case. In practice, most of the rage whistleblower report on wrongdoing occur within the organization.

In the context of Africa, the African Union Convention on Preventing and Combating Corruption (AUCPC) acknowledges the negative impacts of corruption on the stability of African countries and peoples and also recognizes whistleblowing's potential as an anti-corruption instrument and urges states to enact legislation to penalize individuals who make false and malicious complaints against innocent people in corruption and related offenses [40]. It can be inferred that the root causes of corruption in the context of whistleblowing are residing in the fact that protection of the whistleblower can be guaranteed and as a result, they are reliant to report cases of corruption. In the absence of reporting, the corruption can increase in an organization and later on becomes the accepted norm and the corrective action relating to the corrupt act is not addressed. It can be concluded that the impact and effectiveness of whistleblower policies and protection laws in the curbing of corruption is a novel and complex undertaking because the relationship between the whistleblowing and the motion to promote good governance, whether direct or indirect, is a still challenge and more research needs to be conducted to address the whistleblower protection measures from an organizational perspective.

3.5 Political interference in procurement processes

Political meddling has a negative impact on contracts and tenders [41]. In many countries, public procurement plays a significant role in the provision of goods and services to its citizens. Over the last few decades, emerging countries have paid close attention to public procurement. Procurement budgets in developing nations account for almost 20% of total government spending globally [42]. Many countries have begun procurement system changes to simplify and harmonize the legislative and institutional environment. Political influence in the procurement of goods and services plays a role and non-compliance to the legislative framework can lead to corrupt practices.

The ruling party of many countries is ultimately responsible for the development and implementation of policies and set the agenda for political direction [43]. Demonstrate that by rigorously implementing the legislative framework and procurement policies in all government purchases, any tampering in awarding government

projects can be reduced. The usage of technology during the procurement processes such as e-Procurement acts as a 'barrier' to a greater range of intervention by entrenched interests. As a result, the awarding of government contracts adheres to core principles of government procurement. The next section will discuss the non-compliance to procurement integrity pacts.

3.6 Non-compliance to procurement integrity pacts

Transparency International promotes the Integrity Pact (IP) as an effective instrument for combating corruption in public contracts. It is a pact between the government and bidders in public procurement and contracting that no party will pay, give, demand or accept bribes. They will also not work with rivals to secure or carry out the contract. It compels bidders to declare all contract-related costs and to commit to being sanctioned if there are any breaches. Loss of the contract, forfeiture of the company's performance bond, damage responsibility, blacklisting and criminal or disciplinary action against government workers are all possible sanctions.

As a result, compliance with a previously defined procurement policy is judged vital and critical for public organizational procurement management success. Nonetheless, it is important to mention that the effectiveness of procurement management is measured not only in terms of compliance or conformity with government regulations and processes but also in terms of real outcomes or impacts on the ground. As a basic role in an economy, public procurement is vulnerable to market changes and trends, as well as the interests of the government in many countries. Due to increased government spending and assistance from development partners, the public procurement function faces a slew of issues [44]. To guarantee cost-effective use of government resources, it is critical to characterize the issues faced by public procurement partners.

4. Recommendations

4.1 Adoption of the international legal framework

Various international organizations provide guidelines and legal instruments for the countries to adopt in their fight against corruption. The Organization for Economic Development and Cooperation's Convention on Combating Bribery of Foreign Officials in International Commercial Transactions, [45] adopted in 1997, was one of the most important international documents classifying anti-corruption tools. Following that, the OECD supplanted the UN as the major international anti-corruption body, issuing several recommendations, guidelines and anti-corruption tools.

The World Bank, an international financial body, has also been focused on eliminating corruption, which has resulted in anti-corruption initiatives being integrated into the bank's lending conditions. As a result, the World Bank became aware in the early 1990s that a considerable amount of its loans had been diverted as a result of fraudulent activities [46]. Following that, specific incidents of corruption, such as the corrupt practices in Kenya utilizing World Bank money, prompted a shift in the organization's focus [47].

As the most recent binding instrument enacted at the international level, and as the sole universal convention on corruption, UNCAC is the finest instance to analyze the actuality and breadth of the international regulatory framework's recognition of

corporate standards and their potential function. However, international guidelines are paying more attention to the international regulatory framework, on which countries want to construct and enhance the legal environment of anticorruption initiatives. This focus stems from a preoccupation with the uniformity of the relevant framework. At the same time, this acts as an extremely effective instrument for the dissemination and circulation of shared standards. International guidelines referencing the international legal framework may result in their incorporation and absorption into governments' policies, anti-corruption guidelines and plans and standards, resulting in the attempt to strengthen the enforcement capabilities of anti-corruption initiatives.

It should be highlighted that the idea of corruption in this international legal act encompasses not only the receiving of payment or gifts but also the official action of an official in connection with the receipt of such gifts. Starting with this definition of corruption, we may broaden the list of corruption offenses to include abuse of office and misuse of official power. It is also worth noting that, according to this definition, corruption can encompass legal official activity by an official if it is motivated by gifts received or promised. Despite the plethora of international anti-corruption guidelines, corruption cases are on the increase in many countries. There are various reasons why corruption in public procurement is on the increase in countries.

It can be argued that the root causes are based on the adoption of the international legal instruments but on the ability of each country to implement and operate anti-corruption measures to curb corruption in public procurement. It is clear that public procurement is vulnerable to corrupt practices and without a strong institutional anti-corruption culture the battle against corruption cannot be won. It also requires political will to ensure that procurement processes are implemented according to the set of rules and policies.

4.2 Revamp the public procurement system and processes

Globally, the corruption in the procurement of goods and services posing major risks to the development of economic prospects. Despite the availability of legal frameworks provided by international organizations, countries still lack the political will and accountability to implement measures to curb corruption in public procurement. These institutions, such as the World Bank, the African Development Bank, and the European Union, have supported 'country procurement assessment reports' in Sub-Saharan African countries, to expose weaknesses in in-country processes and encourage procurement reforms where necessary [48].

Revamping also includes exploring the use of online technology for the procurement of goods and services to reduce face-to-face interactions, increase openness in the procurement processes and concurrently build trust, limit the risk factors of corruption and fraud [49] E-procurement involves fewer human interactions and risk factors are mitigated by ensuring that possible bribes cannot be concluded between the supplier and buyer. It also increases competition, which helps to limit the number of personal judgments made when awarding contracts. As a result, e-Procurement is an important instrument for reducing the risk of fraud and corruption in private and government agencies. This article attempts to give insights on the mitigation risk factors in public procurement and how its implementation might be utilized as a 'tool' to reduce global public procurement fraud by employing a political economy approach. The political economy approach helps to mitigate procurement fraud in the private and public sector and provides solutions to deal with unacceptable behavior

of procurement and suppliers individuals. More importantly, the institutionalization of the rule of law is crucial to addressing corruption and will be discussed in the next section.

4.3 The institutionalization of the rule of law

Public procurement is a key aspect of the law. Insofar as public services, supply contracts, and works contracts are concerned, it is aimed to maintain internal market freedoms and an opening up to the competition in the member states, which must be undistorted and as broad as practicable [50]. Under the institutional dichotomy, the absence of rule of law has been highlighted as a determinant of corruption. According to the Executive Director of the United Nations Office on Drugs and Crime (UNODC), 'where corruption exists, the rule of law cannot flourish' [38]. This means that the rule of law and corruption are negatively connected [51, 52]. Corruption and bribery undermine fair tender procedures, with serious consequences: funds meant for life-enhancing initiatives [such as schools and hospitals] may be diverted into the hands of corrupt persons. Corruption weakens the rule of law.

Procurement has more to highlight that an efficient procurement system includes monitoring and enforcement tools to guarantee that system rules are followed by procuring public entities and participating parties. Important procurement system fundamentals should include challenge mechanisms, in which suppliers and contractors have the right to oppose decisions and acts of procuring public organizations that violate procurement principles and norms. Ensuring that procurement choices be reviewed or challenged deters future illicit acts [53].

Based on the above assessment, public procurement procedures fall under the purview of administrative law due to their nature. However, due to the unique characteristics of public procurement, not all parts and legal institutions of the 'conventional' administrative process apply to these operations, and instead, specific procurement laws are applied. To begin with, contracting authorities must follow OECD standards, Transparency International rules and principles derived from the United Nations and the World Bank when awarding public contracts.

4.4 Strengthening capacity building

Strengthening the capabilities of public procurement officials to execute procurement functions within the boundaries of the procurement legislative framework including policies and guidelines is one the most important factors to curb corruption. In building and strengthening capacity in public procurement, the World Bank proposes various strategies to mitigate risk and enhance the implementation of anti-corruption measures [54]. These proposals from the World Bank's assistance are to guide governments to mostly concentrate on institutional reform and capacity building initiatives in procurement. These reforms include assistance in drafting procurement regulations, determining the institutional setup and functions of central procurement units or agencies establishing cross-cutting procurement systems including procedures, guidelines and standard bidding documents, with a focus on e-procurement systems, promoting procurement process transparency, for example, through web platforms and establishing procurement training centres and technical assistance to procurement units. Implementing institutional reforms is not easy and requires management commitment. Various country-wide challenges such as infrastructure, the level of education and aptitude to operationalize anti-corruption is one

of the many challenges. Based on the aforesaid, it can be deduced that well-resourced countries are in a better position to implement web platforms such as the technological approach to curb corruption than less resourced.

Besides building capabilities in the procurement environment, the salaries of public officials can have an essential role in determining the reasons for corruption. According to [55] model, greater earnings correlate with less corruption due to the costs of misconduct. If a bureaucrat accepts bribes and is caught, he will lose his job and be forced to work in the private sector. The higher the earnings in the public sector in comparison to the private sector, the greater the expected loss from job loss and the lesser the incentives to participate in a corrupt activity—provided there is a sufficiently high degree of supervision. For example, the Hong Kong and Singapore anti-corruption models demonstrated that anti-corruption can be implemented based on the situation and context of a particular country. It can be inferred that the payment of incentives to government officials is one of the effective methods to curb corruption in Singapore and Hong Kong.

4.5 Implementation and prioritization of lifestyle audits

The conducting of lifestyle audits is one of the anti-corruption measures countries need to consider to curb corruption. Lifestyle audits are based on the assumption that one's financial capability has a significant impact on one's quality of life and level of affluence. Any evidence of inconsistency between an individual's income and lifestyle should prompt an inquiry and the recovery of corrupt gains.

Globally, the Inter-American Convention against Corruption (IACAC) advocates an inter-governmental agreement to strengthen the whistleblower capabilities as an anti-corruption tool. It is required from members state signing the agreement (IACC) to implement measures for the protection of whistleblowers of the person disclosing corrupt activities. Additionally, the United Nations Convention Against Corruption (UNCAC) also protected whistleblower protection.

In the light of the above, the G20 countries pledged in 2010 that they would have enough safeguards in place by 2012 to protect whistleblowers and give them secure, dependable channels for reporting fraud, corruption, and other misconduct. Despite great progress in several areas, they have fallen short of reaching this objective overall. Many G20 countries' whistleblower protection laws fall well short of international norms and best practices. More importantly, whistleblower protection should remain a top focus in G20 leaders' promises to promote integrity and anti-corruption in all countries. The G20 countries consist of a group of twenty of the world's top nations created in 1999 and were envisioned as a bloc that would bring together the world's most significant industrialized and developing economies to debate worldwide economic and financial stability [56].

In a sought to explain the features of the legal and institutional frameworks in highlighting the related causes of systemic challenges, responses relating to the lack of political will; improper human behavior and resistance to change and the presence of institutional corruption is evident. To address corrupt practices in countries there should be intent to operationalize and implement anti-corruption measures country-wide and on an institutional level. Building strong anti-corruption organizations required also not only an effective and functional governmental organization but also training on human behavior and the impact of corruption on the economical precepts and opportunities in a country. The evidence of poor -institutional design and structures including insufficient control measures and reluctance to change is the breeding ground for corrupt practices in public procurement.

Stemming from the above, it can be concluded that a multi-approach is required to implement anti-corruption measures. Thus, one of these measures is the conducting of lifestyle audits earmarking all officials involved in the procurement of goods and services. It, therefore, requires more than collaboration with the suppliers but also continuous assessment of the risk factors, which could negatively influence the ability of the organization to minimize corrupt practices.

5. Concluding remarks and policy consideration

This article investigated and analyzed the causes of corruption in Sub-Saharan Africa through the lenses of three major sources such as historical roots, contemporary causes and institutional causes. The crux of the article is an attempt to evaluate the effectiveness of anti-corruption strategies in combatting corruption in the subregion by including institutional variables. This method allows nations in the subregion to be evaluated using the same institutional features while concentrating on a slew of subjective and objective variables. By offering contextual information, our study adds to existing cross-country studies on the causes of corruption. This article contributes to the body of knowledge, through the literature and highlighting risk factors in public procurement and also by addressing these flaws in the context of the development of risk mitigation strategies, which can be operationalized in any country's public procurement systems.

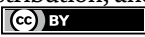
The procurement of goods and services is the backbone of each country to provide service to its citizens. Exploring the guidelines and procurement pacts provided by various international organizations can be used as the basis to build a strong legal framework in each country. In this regard, the development and implementation of these guidelines can enhance the legislative framework of countries and strengthen compliance with procurement processes. Operationalization of procurement processes will therefore become less prone to corrupt practices. It can be argued that the effectiveness of the adherence to the procurement legislative framework is also based on the political will and transparency to eradicate procurement corruption.

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Perspective Chapter: Models of Sanctions Compliance and Regulatory Expectations

Denis Primakov

Abstract

This article is devoted to the analysis of models of sanctions compliance in different countries. In the first part, I discuss the definition of sanction compliance. Concept compliance is an institution of private law, it is a mechanism (function, system, and culture) of self-regulation for companies, and the methodology of compliance risk management is based on a risk-based approach stemming from different corporate governance and culture. A comparative methodology is based on three criteria: 1) principles of compliance; 2) the ability to interact with regulators and the ability to exclude themselves from sanctions (delisting); and 3) methods of appeal. In paragraph 1.2, I concisely describe models under the above-mentioned criteria of sanctions compliance in the US, the UK, the EU, Germany, and Russia. I carry out a comparative analysis of various models. Each of these models of sanctions compliance has its own specifics.

Keywords: sanction compliance, regulation, interaction, regulatory expectations, countersanctions

1. Introduction

1.1 Definition of sanctions compliance

The Basel Committee first defined the compliance function as:

“An independent function that identifies, evaluates, advises, monitors, and prepares reports on compliance risk, defined as the risk of legal or regulatory sanctions, financial losses, and reputational damage that may be incurred by the bank as a result of its failure to comply with legislation, regulation, code of conduct, and standards of good practice” [1].

Compliance is based on risk identification and assessment, self-assessment, and a compliance audit. In our case, sanction compliance builds corporate procedures for identifying and managing sanction risks. See in the Webster dictionary: compliance: “conformity in fulfilling official requirements.”

If we abstract from the literal translation of compliance as “compliance” and extrapolate it to the differentiation of ways of implementing the rule that is familiar to Russian lawyers, then compliance refers to the way of implementing this rule as “compliance”/“execution” of the rule. Unlike law enforcement and legislative

activities, the method and scope of compliance are determined by the company itself. Thus, sanction compliance is a voluntary corporate activity of commercial sector organizations.

Compliance is an institution of private law, a mechanism (function, system, and culture) of self-regulation for companies, and the methodology of compliance risk management is based on a risk-based approach, stemming from different corporate governance and culture. The government (regulatory body) can only set its framework for voluntary compliance, in which it expresses its expectations on ways to comply with the legislation and its enforcement.

At the same time, the compliance documents should reflect the state's expectations in relation to the company's compliance with the law.

Companies are concerned about three aspects:

1. Principles of compliance.
2. The ability to interact with regulators and the ability to exclude themselves from sanctions (delisting); and
3. Methods of appeal.

1.2 The U.S. sanction compliance model

The United States has historically been a champion of imposing sanctions restrictions and regimes [2]. As a result, this activity affects the functioning of financial institutions around the world, who adapt their policies, to match the expectations of the American regulators, which gives rise to the phenomenon of the "Americanization of compliance" [3]. Banks spend \$270 billion per year on compliance. Some 10% or more of most bank operating costs can be attributed to compliance, and some estimates have regulatory costs doubling by 2022 [4]. Therefore, it is reasonable to start studying models of sanction compliance in this country.

The general approach to corporate compliance is expressed in a document of the Criminal Division of the U.S. Department of Justice called the "Evaluation of Corporate Compliance Program," [5] which was published on April 30, 2019. This is the second edition of this document originally issued in 2017. This document is intended for prosecutors who evaluate the effectiveness of corporate compliance policies by answering three questions: 1) whether the compliance program is well designed, 2) whether the program is effectively implemented, and 3) whether the program works in practice.

Although the document deals generally with corporate compliance, and the principles of performance evaluation can be applied to different types of compliance, the subject of this document is the evaluation of anti-corruption programs. This conclusion can be made since the creator and addressee of the document are employees of the prosecutor's office, which has criminal and civil jurisdiction over companies found to have violated the FCPA.

Two days after the evaluation was published on May 2, 2019 [6], the main US regulator in the field of sanctions, The Office of Foreign Assets Control ("OFAC"), published its "A framework for OFAC compliance commitments" (hereinafter – "The Framework") [7]. From this point on, we can talk about separating sanction compliance into a separate object, which requires a special methodology.

Long before the publication of this document, experts noted problems in the communications of the agency, especially on issues of extraterritorial application. Paul Lee notes:

“The U.S. authorities failed to articulate and communicate at an early stage their expectations for extraterritorial compliance with OFAC sanctions. This failure in the 1980s and 1990s may have stemmed from policy differences among departments in the U.S. Government as to the appropriate extent of extraterritorial application, particularly as to a foreign bank’s clearing of U.S. dollars for transactions between non-U.S. citizens and sanctioned countries. The U.S. Treasury Department began in 2005 to articulate a view on the appropriateness of clearing in US dollars for such transactions, it would have been appropriate for the Treasury Department—at least for retrospective enforcement purposes—to recognize the air of benign neglect that surrounded these issues for many years” [8].

One of the essential reasons for the publication of this framework was the Exxon Mobil case (See: *Exxon Mobil Corp vs. Steven Mnuchin*, U.S. District Court of Northern District of Texas/CIVIL ACTION № 3:17-CV-1930-B. December 31, 2019), in which the court concluded that OFAC did not provide a clear explanation of the regulation (“fair notice of its interpretation”) [9]. The decision on December 31, 2019, provides an analysis of OFAC’s explanations of sanctions restrictions. The FAQs section administered by OFAC is “a part of OFAC’s commitment to regulatory transparency” [9–13]. As of June 2022, over 1000 questions were answered. But these FAQs, like the clarifications provided under general and special licenses, did not give an overall picture of the regulator’s expectations.

a. Voluntary-compulsory compliance

The main expectation of the U.S. regulator of sanction compliance is voluntary-compulsory compliance, which is the implementation of the carrot-and-stick approach [10] mechanism, which applies to legal entities at the level of state regulation.

The first element of expectations is voluntariness. In the context of compliance, the English concept of “commitment” differs from “requirement” in that it is a voluntary commitment by a company to follow the rules, as opposed to an external requirement imposed by the state. ISO 19600: 2014 Compliance management systems — Guidelines P. 3.15 stipulates “compliance commitments” are requirements that an organization chooses to comply with.” Compared with P.3.14, which stipulates the following: “compliance requirements” are a requirement that an organization has to comply with” [11]. The framework explains:

“OFAC strongly encourages organizations subject to U.S. jurisdiction, as well as foreign entities that conduct business in or with the United States, U.S. persons, or using U.S.-origin goods or services, to employ a risk-based approach to sanctions compliance by developing, implementing, and routinely updating a sanctions compliance program (SCP)” [7–11].

On the one hand, it is assumed that this is just a recommendation; on the other hand, a rather long list of subjects who are strongly advised to implement sanctions compliance is provided:

- All American companies (U.S. persons).
- Foreign legal entities that conduct business in the United States or have American counterparties/partners.

- All persons who use goods of American origin or use the services of American companies or American individuals. (For instance, 31 CFR § 560.205).

Moreover, transactions made in U.S. dollars may be subject to OFAC review, since the use of the U.S. financial system to circumvent sanctions is prohibited. This is explained in paragraph V of the root causes section:

“Many non-U.S. persons have engaged in violations of OFAC’s regulations by processing financial transactions (almost all of which have been denominated in U.S. Dollars) to or through U.S. financial institutions that pertain to commercial activity involving an OFAC-sanctioned country, region, or person. Although no organizations subject to U.S. jurisdiction may be involved in the underlying transaction, such as the shipment of goods, from a third country to an OFAC-sanctioned country—the inclusion of a U.S. financial institution in any payments associated with these transactions often results in a prohibited activity (e.g., the exportation or re-exportation of services from the United States to a comprehensively sanctioned country, or dealing in blocked property in the United States). OFAC has generally focused its enforcement investigations on persons who have engaged in willful or reckless conduct, attempted to conceal their activity (e.g., by stripping or manipulating payment messages, or making false representations to their non-U.S. or U.S. financial institution), engaged in a pattern or practice of conduct for several months or years, ignored or failed to consider numerous warning signs that the conduct was prohibited, involved actual knowledge or involvement by the organization’s management, caused significant harm to U.S. sanctions program objectives, and were large or sophisticated organizations” [7–10].

In this regard, one expert notes: “The compliance framework, therefore, explained that the use of U.S. dollars may “often” result in a prohibited activity, such as the export of services, to a sanctioned country, but the framework did not reach the issue of whether a blanket prohibition is in place against the use of U.S. dollars in transactions with sanctioned entities, both for the U.S. and foreign parties” [12].

In a Deferred Prosecution Agreement, 2010 between OFAC and the British Barclays Bank PLC (United States v. Barclays Bank PLC, No. 10-CR-00218-EGS), it is stated that the bank’s criminal actions are more than a deception of U.S. financial institutions—they threaten the security of the American state.

Such language shifts the burden of decision-making on compliance with sanctions restrictions into commercial entities, including non-U.S. entities.

Now let us move on to the second element—enforcement of compliance. The framework stipulates that the sanctions compliance program should consist of five *mandatory* elements:

1. Management commitment;
2. Risk assessment;
3. Internal controls;
4. Testing and auditing; and.
5. Training.

The five mandatory elements of the OFAC Program are identical to the five COSO elements [13–20]:

1. Control environment.
2. Risk assessment.
3. Control activities.
4. Information and communication; and
5. Monitoring.

The first mandatory element of the program—the commitment of the management, contains the obligations of the company’s management in relation to the following:

- Allocation of adequate resources.
- Implementation of sanctions compliance processes in current operational activities.
- Support and formalization of the sanction’s compliance program.
- Creating reporting channels; and
- The ability of the sanctions policy to have oversight over the actions of the entire organization, including those of senior management.

The second mandatory element is risk assessment. Unlike other similar documents, OFAC has taken an innovative approach to the problem of risk assessment. First, it described the fact that risks can come from customers or buyers, products or services, logistics, intermediaries, counterparties, transactions, and/or geographical locations, so each company should have its own risk assessment (saying “no one size fits all approach”).

Second, the company must conduct its own periodic assessment of potential risks, and OFAC determines two events where risk assessment is mandatory: when initiating a transaction (on-boarding), and during mergers and acquisitions (M&A). Third, OFAC provides an OFAC risk matrix for financial institutions [14] based on the risk matrix of the guidelines for the implementation of the Anti-Money Laundering Act of 2005 [15].

However, the risk matrix includes not only indicators of sanctions risks for financial institutions (Sanction A), but also indicators for evaluating the effectiveness of the compliance program (Sanction B). Thus, OFAC defines low-risk criteria as:

1. Management has fully assessed the bank’s level of risk based on its customer base and product lines. This understanding of risk and a strong commitment to OFAC compliance is satisfactorily communicated throughout the organization.
2. The board of directors, or a board committee, has approved an OFAC compliance program that includes policies, procedures, controls, and information systems that are adequate and consistent with the bank’s OFAC risk profile.

3. Staffing levels appear adequate to properly execute the OFAC compliance program.
4. Authority and accountability for OFAC compliance are clearly defined and enforced, including the designation of a qualified OFAC officer.
5. Training is appropriate and effective based on the bank's risk profile, covers applicable personnel, and provides necessary up-to-date information and resources to ensure compliance.
6. The institution employs strong quality control methods.
7. Compliance considerations are incorporated into all products and areas of the organization.
8. Effective policies for screening transactions and new accounts for specially designated nationals and blocked persons (SDNs) and sanctioned countries are in place. These policies consider the level of risk of the type of transaction being screened.
9. Compliance systems and controls effectively identify and appropriately report potential OFAC violations. Compliance systems are commensurate with risk. Records have retained that document such reporting.
10. On a periodic basis, determined by the bank's level of risk, all existing accounts are checked to ensure that problem accounts are properly blocked or restricted, depending on the requirements of the relevant sanctions program.
11. Compliance systems and controls quickly adapt to changes in the OFAC SDN list and country programs, regardless of how frequently or infrequently those changes occur.
12. Independent testing of a compliance program's effectiveness is in place. An independent audit function tests OFAC compliance regarding systems and training.
13. Problems and potential problems are quickly identified, and management promptly implements meaningful corrective action.
14. Overall, appropriate compliance controls and systems have been implemented to identify compliance problems and assess performance [14].

In other words, the effectiveness criteria of the sanctioned compliance system are defined by the regulator in the program and are part of it.

Enforcement of these five elements is made through "compliance" section in the regulatory documents. At the end of settlements with violated companies, two sections began to be added. The first reference section called "Compliance considerations», which briefly provides an analysis of what compliance measures (mechanisms) the company should have used to avoid a violation or analyzes that

errors in the compliance system led to the violation. The second reference section is “OFAC Regulatory and Compliance Sources,” which provides a link to this program.

For example, in an agreement with Amazon (Amazon.com Inc. Settlement. July 8, 2020) in the section “Compliance considerations”, the following explanation is given as to why the company did not properly check the spelling of geographical locations that are under sanctions (the examples of Crimea and Cuba):

“This case demonstrates the importance of implementing and maintaining effective risk-based sanctions compliance controls, including sanctions screening tools appropriate for e-commerce and other internet-based businesses that operate on a global scale. Such large and sophisticated businesses should implement and employ compliance tools and programs that are commensurate with the speed and scale of their business operations. Global companies that rely heavily on automated sanctions screening processes should take reasonable, risk-based steps to ensure that their processes are appropriately configured to screen relevant customer information and to capture data quality issues, such as common misspellings. Routine testing of these processes to ensure effectiveness and identify deficiencies may also be appropriate. Moreover, companies that learn of a weakness in their internal compliance controls may benefit by taking immediate and effective action, to the extent possible, to identify and implement compensating controls, until the root cause of the weakness can be determined and remediated” [16].

In appropriate circumstances, OFAC may refer the matter to appropriate law enforcement agencies for criminal investigation and/or prosecution. Apparent sanctions violations that OFAC has referred for criminal investigation and/or prosecution also may be subject to OFAC civil penalty or other administrative action. Criminal procedures under the Department of Justice, and criminal liability are also mentioned in the International Emergency Economic Powers Act (IEEPA) 50 U.S.C. 1705(c).

The agreements that OFAC has the right to sign with companies are one of the types of “transactions with an administrative authority” (as opposed to an agreement with criminal charges—a deferred prosecution agreement). An OFAC agreement is made under certain conditions: the payment of a civil fine and the implementation of a compliance system. At the same time, it is specifically stipulated in the Economic Sanctions Enforcement Guidelines (Appendix A to 31 C.F.R. Part 501) that the fine can be reduced by 20–40% if the company did not voluntarily disclose a violation but cooperated during the investigation [19].

The mandatory implementation of the five elements of sanctions compliance is reflected not only in the abovementioned references to the agreements but also in the section on corrective measures for the legal entity. For instance, in the agreement with the Italian bank UniCredit, the regulator prescribes the introduction of five mandatory elements of sanctions compliance [17].

The Appendix A to Chapter 501 (Reporting, Procedure, and Penalty Regulation) Code of Federal Regulation states fines for violations. If the OFAC Framework states that best practices are those that involve senior management in the adoption of a sanctioned compliance program and allocate the necessary resources for this. The instructions state that one of the aggravating circumstances when punishing violations of sanctions restrictions is the involvement of the company’s management in sanction violation. This is the way how the carrot-and-stick approach has been implemented [19].

b. Voluntary reporting

The second expectation of the regulator is the voluntary nature of reporting. The American model of compliance is based on encouraging voluntary reporting of violations, and this is a continuation of the practice developed based on the example of anti-corruption compliance, for instance, 9-47.120 - FCPA Corporate Enforcement Policy [18].

So, Appendix A to 31 C.F.R. Part 501, App. A §I(1). say the following:

“*Voluntary self-disclosure* means a self-initiated notification to OFAC of an apparent violation by a subject person that has committed, or otherwise participated in, an apparent violation of a statute, executive order, or regulation administered or enforced by OFAC, prior to or at the same time that OFAC, or any other federal, state, or local government agency or official, discovers the apparent violation or another substantially similar apparent violation” [19].

In the agreement with Airbnb Payments, Inc. dated January 3, 2022, OFAC justifies the reduction of the civil monetary penalty by stating that Airbnb Payments voluntarily self-disclosed the apparent violations, and the apparent violations constitute a non-egregious case [20].

OFAC may refuse to file claims against a company that voluntarily reports a violation. This is similar to the Declinations Agreement, which the Department of Justice implements under FCPA. [See: Corporate Enforcement Policy, Justice Manual 9-47.120 and Principles of Federal Prosecution of Business Organizations, JM 9-28.300], or when still pursuing, voluntary reporting is considered when calculating the fine [21].

The regulator’s expectation of voluntary reporting reflects the state’s desire, on the one hand, to facilitate limited departmental efforts (“procedural savings”), on the other hand, as a continuation of procedural savings, to reduce budget funds [22].

c. International cooperation and participation of lawyers in sanctions risk assessment

With respect to existing compliance programs, for infringing companies that are incorporated in foreign jurisdictions, paragraph III (E) of the Annex establishes the principle of interaction between regulators in different countries regarding the evaluation of the effectiveness of a compliance program.

OFAC considers “the existence, nature, and adequacy of a subject person’s risk-based OFAC compliance program at the time of the apparent violation, where relevant. In the case of an institution subject to regulation where OFAC has entered a Memorandum of Understanding (MOU) with the subject person’s regulator, OFAC will follow the procedures set forth in such MOU regarding consultation with the regulator regarding the quality and effectiveness of the subject person’s compliance program. Even in the absence of an MOU, OFAC may take into consideration the views of federal, state, or foreign regulators, where relevant. Further information about risk-based compliance programs for financial institutions is set forth in the annex hereto” [22].

Regarding the compliance function and the provision of consulting services in the field of sanctions restrictions, OFAC back in 2017 prepared a short guidance of the provisions of certain services relating to the requirements of US sanctions laws, according to which the US person can:

1. Provide advice to third-party unauthorized countries and be in any role, including compliance specialist.

2. Express an opinion on the legality of individual transactions in accordance with U.S. restrictions. Also, they can request information from sanctioned individuals and conduct research on the legality of transactions [23].

Unlike the British document, the American document says nothing about client-attorney privilege (“attorney-client privilege”), but most likely this principle does not require additional references.

Thus, the principles (expectations) can be distinguished by a state approach to sanctions compliance in the United States. The first principle is the voluntary enforcement nature of the company’s compliance obligations, and the second principle is the encouragement of voluntary reporting. The third principle is the active application of civil and administrative penalties. The fourth principle is the proportionality of sanctions restrictions to business opportunities.

This principle is reflected in the U.S. Treasury Department’s Sanctions Report for 2021. Among the goals of improving sanctions regulation, it lists: “Proportionality of sanctions to reduce unforeseen economic, political and humanitarian costs.” In specific, it says the following:

“Treasury should seek to tailor sanctions in order to mitigate unintended economic and political impacts on domestic workers and businesses, allies, and non-targeted populations abroad. This will protect key constituencies and help preserve support for the U.S. sanctions policy. For example, U.S. small businesses may lack the resources to bear the costs of sanctions compliance while competing with large companies at home and abroad; uncalibrated sanctions could unnecessarily lead them to turn down business opportunities in order to avoid these costs. Better tailored sanctions can help avoid these costs and maintain the competitiveness of U.S. businesses” [24].

The program did not mention the functioning of an independent monitor, which evaluates the company for the effectiveness of compliance measures for a certain period. For example, the New York State Department of Financial Services in 2012, pending the decision to revoke the license of Standards Chartered Bank in New York for transferring transactions to the sanctioned bank of Iran. An independent monitor for 2 years has been appointed as an interim measure [See more Consent Order Under New York Banking Law §§ 39 [25]. The New York State Financial Services Act § 206(c) provides for the right to monitor bank accounts.

1.3 The UK sanctions compliance model

The UK sanction compliance model is based on the Sanction and Money Laundering Act, 2018 [26] and falls under other UK legislation, such as the Export Control Order, 2008, and the Anti-Terrorism, Crime and Security Act, 2001, which regulates issues related to sanctions (types of sanctions), law enforcement, and regulating countering money laundering by criminal means.

The explanatory note to the draft law explained that, after the UK leaves the EU, the UK will be unable to continue to use the European Communities Act of 1972; therefore, the UK will need a domestic framework of powers to continue to meet its international obligations to implement U.N. sanctions. Without this, the UK will be in breach of international law [27].

With the provision of the law, the Ministry of Finance created the Office of Financial Sanctions Implementation (OFSI), which prepared in December 2020 “General guidance on financial sanctions under the Law on Sanctions and Countering

Money Laundering.” (hereinafter–the “Manual” [28]) As stated in the preface, this document prescribes the “obligations” of the submitted documents. It also reflects OFSI’s approach, OFSI to licensing and compliance.

While the American model pays attention to voluntary reporting, the British office separately imposes an obligation on “relevant companies” to inform them about suspicious individuals and transactions. “Relevant companies” include the following entities: banking and credit organizations, exchange offices, auditors, companies, and/or persons who provide advice in notary services, taxes, real estate services, holders of casino licenses, and those who are associated with the trade of precious metals. Therefore, British law combines two areas: sanctions and anti-money laundering–the arsenal of legal tools is built into the logic of anti-money laundering and FATF standards.

In relation to direct compliance, OFSI is built on a holistic approach, and the agency promotes compliance by publishing information about financial sanctions, and through interaction with companies.

Unlike in the United States, one type of response to a company that has violated a financial sanctions law is the DPA–Deferred Prosecution Agreement. This type of court agreement is well known in the American, British, and French anti-corruption practice (in French law SAPIN II it is called Convention Judiciaire d’Intérêt public). A characteristic feature of this type is that the agreement is approved by the court (as opposed to a noncriminal agreement–Non-prosecution Agreement) and it is based on encouraging the company to engage in positive post-criminal activities, establishing a zero tolerance to corruption, maintaining a full-fledged compliance system, and external supervision of the company in the form of an independent monitor.

However, the British approach has its own logic in assigning penalties for violations of the law. Criminal liability is divided into two types: imprisonment of up to 7 years for individuals in accordance with the Policing and Crime Act, 2017 of 2017, and DPA–for legal entities. Civil liability is implemented through serious crime prevention orders (SCPOs) for individuals and legal entities and fines. Consequently, only the DPA acts as a criminal law enforcement mechanism for companies, but it is not clear what methods of coercion will be applied to legal entities in case of violation of the terms of the DPA.

The next source for sanctioned compliance is the guide on penalties for violations of financial sanctions, adopted pursuant to Section 149 (1) of the British Act, which requires the supervisory authority to develop guidelines on the procedure for assigning fines and determining their amount (last updated in June 2022) [29].

In this document, OFSI says that the agency follows a holistic approach to compliance with financial sanctions, which covers the entire life cycle of compliance: “This means that we take a comprehensive approach to ensuring compliance with the regime, rather than just waiting for the law to be broken and then only responding to the a violation» [29].”

This approach consists of a combination of compliance and enforcement and covers four activities:

- The regulator *promotes* compliance, publicizing financial sanctions, and engaging with the private sector. An effective compliance approach promotes compliance by reaching the right audiences through multiple channels, with messages that they can understand and respond to.

- The regulator *enables* compliance by simplifying procedures and providing guidance and alerts that will help individuals and companies fulfill their own compliance responsibilities. An effective compliance approach enables cost-effective compliance, makes it easy to comply, and minimizes by designing the opportunities for noncompliance.
- The regulator stops noncompliance by intervening to disrupt attempted breaches and by tackling breaches effectively. An effective compliance approach responds to noncompliance consistently, proportionately, and transparently, considering the full facts of the case, and learns from experience to continuously improve responses.
- The regulator does all this to *change* behavior by directly preventing future non-compliance by the individual and more widely through the impact of compliance and enforcement action [29].

If the principles of inevitability, proportionality, transparency of procedure, and subjective imputation can be found in criminal proceedings, then the fixed approach, interaction or mutual influence of compliance, and law enforcement practice, reflect the latest theoretical developments in the field of compliance.

For example, in the work “Compliance Revolution: how compliance must change to survive,” [30] the author notes: “The goals of the regulator are rarely unreasonable, but regulators have little practical experience in how to implement measures effectively and in a balanced manner. On the contrary, compliance has the extensive practical experience but is removed from the development of a political program. Naturally, it is ideal when there is a combination of a dynamic learning process between the law enforcement officer and the companies, but this requires the appropriate infrastructure, trust, and extensive practice” [30].

The UK’s Joint Anti-Money Laundering Steering Group (JMLSG) has also issued guidance providing best practice recommendations for internal compliance programs [31]. The JMLSG guidelines aim to provide insight into the types of controls and processes that firms can adopt, in order to comply with sanctions obligations in an effective and proportionate manner. The guidelines emphasize that companies should take a case-by-case approach to their sanctions policies and procedures, and carefully consider the specific types of risks that their institution may face. Companies should have a sanctions policy that is clearly defined and documented, as well as supported by a regular employee training program. In addition, senior management and/or the board of directors should understand the company’s obligations and be responsible for the firm’s compliance policies and procedures [32].

The Regulatory Handbook (FCA Handbook) 2018 edition of the Financial Institutions Regulatory Authority (FCA) [33] contains a section on financial sanctions. Section 8 recommends that the company’s senior management be sufficiently aware of the firm’s financial sanctions obligations, that firms consider in which areas of their business they are most likely to provide services or resources to sanctioned entities or individuals, and that firms should have a state-of-the-art verification system appropriate to their business, and that firms should have procedures in place to determine where name matches resulting from verification processes are real, and that systems and controls should address proliferation risks.

Analysis of standards: Both the FCA Handbook and the JMLSG Manual JMLSG show that they are identical in compliance principles:

- Management tone (commitment to compliance),
- Risk assessment,
- Due diligence (compliance controls),
- Compliance procedures (availability of policies), and
- Employee training.

In a statement “Reporting sanction evasions” published on 17 May 2022, the FCA announced a new reporting tool, akin to a whistleblower hotline, this is designed to facilitate the voluntary reporting of sanctions evasion issues or weaknesses in sanctions controls by firms or persons listed on the FCA’s registers, or companies with the UK listed securities. The FCA has called for information about:

- Any suggestion that a firm has poor sanctions controls,
- Actual or suspected breaches of the UK sanctions regime, and
- The methods believed to be used by firms or individuals to breach the UK sanctions regime [34].

This new tool aligns with the concerted approach taken by the UK to strengthen its sanctions and enforcement regime in response to Russia’s invasion of Ukraine. As set out in a joint statement from the Office of Financial Sanctions Implementation (OFSI), the Financial Conduct Authority (FCA), and the Bank of England published on 11 March 2022 on sanctions and the cryptoasset sector [35], the UK regulators have announced their broad intention to work with the government and law enforcement, to share intelligence and prevent sanctions evasion. As the FCA explains in the notice, it will carefully consider any information it receives and use it to “help build up a picture of conduct risk or inform how we develop policy and work with partners to assist the UK enforcement of sanctions” [35].

The tool allows reports to be submitted anonymously, including by (i) individuals in relation to a current or previous employer; (ii) an authorized firm in relation to its own issues; and by (iii) a firm or professional with information about the conduct of another firm or individual. The question is whether it will encourage a series of potentially disgruntled current or former employees to make reports.

The new reporting tool aims to collate information relating not only to suspected or actual sanctions breaches but also to any methods that are being used to breach UK sanctions and “any suggestion that firms have poor sanctions controls.”

This last category is broadly worded but could trigger reports in relation to perceived weaknesses in the internal sanctions policies and procedures of regulated firms, the adequacy of training on sanctions policies and procedures, etc.

Voluntary reporting to the FCA through the above channels does not satisfy any duties arising out of the Proceeds of Crime Act, 2002 or the Sanctions and Anti-Money Laundering Act, 2018. In a joint statement with OFSI and the Bank of England, the FCA urged that where transactions give rise to concerns about sanctions evasion or money laundering firms should also consider their obligations to report to

the UK Financial Intelligence Unit (UKFIU) at the National Crime Agency under the Proceeds of Crime Act, 2002 [35].

An additional source of sanctions compliance is the Compliance Code of Practice 2010, the subject of which is control procedures in the field of strategic exports [36]. This document highlights the following elements of the compliance program:

1. Commitment to compliance.
2. Appointment of responsible persons.
3. Information and training.
4. Compliance procedures.
5. Check.
6. Recording checks.
7. Audit.
8. Integration with effective management practices.

The British model of sanctions compliance is based on an integrated approach and seeks to combine law enforcement practices and compliance with regulatory norms on the part of companies. The British regulator has come to realize that effective compliance, that is, compliance with sanctions restrictions by companies, can be requested when the rules are clearly defined, information is brought to relevant groups, and there is a simple and clear procedure for obtaining permits and appealing. It is economically cheaper for the regulator to prevent a violation, than to work with the result of a violation, thus compliance as prevention. The British model demonstrates the transition from the carrot-and-stick approach to the holistic approach.

1.4 Sanctions compliance model in the EU and Germany

1.4.1 The EU

At the EU level, we can observe gradual changes in the regulatory approach. This is evident both in the level of greater detail of the norms, as well as in the approach to awareness and clarification. In 2008, the Committee of Permanent Representatives (*COREPER II*) prepared an updated report, "On best practices in implementing restrictive measures" [37]. Despite the fact that the addressee of this document is the competent authorities of the EU countries, the described problems in identifying sanctioned entities, obtaining licenses, delisting, and asset freezing (administrative and judicial), give companies an idea of regulatory wishes.

The release of this report coincided with the decision of the EU Court of Justice in the Yassin Kadi case of 2008, which was the first successful decision to exclude them from the sanction lists [38]. In its decision on his complaint, the EU Court of Justice stated that targeted restrictive measures should be subject to the rule of law requirements, including the Council's regulations to:

- Clearly state the grounds for inclusion;
- Justify the need for inclusion with evidence; and
- Respect the right to a defense and ensure effective judicial control, while respecting the principle of proportionality [38].

As explained by Sergey Glandin: “In the wake of the Kadi case, the Council of the European Union has been challenged by the court’s case-law practice, which has led the latter to start outlining the general inclusion criteria in more detail in its regulations, as well as better articulating the individual’s compliance with these established criteria in their annexes” [39].

In 2018, the council of the EU returns to the formulation of the principles of implementation and compliance with sanctions restrictions. In the updated version, the guide to the implementation and evaluation of restrictive measures (Sanctions) 2018 in the context of the EU common security policy [40] explains many aspects of compliance, although the “compliance” section itself contains just a few lines. Regarding compliance with sanctions by companies incorporated in the EU, it is stated that they cannot, among other things, use controlling companies as a tool to circumvent the ban, including those companies that are not registered in the EU, nor can they give instructions in this regard [40]. The concepts of ownership and control are given in accordance with the previously accepted definitions set out in the 2001 in the following paper: Council Regulation (EC) N° 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism.

The next source of sanctions compliance in the EU is the EU’s guide to internal compliance programs for the control of trade in dual-use products (ICP) [41]. There are seven mandatory compliance criteria, which almost coincide with the BAFA criteria [42]. Despite the fact there are only seven criteria, however, risk assessment precedes the work on building an effective compliance system.

The European Institute for Export Compliance (hereinafter referred to as “EIFEC”) prepared the Export Compliance Code in 2018. This document links sanctions and exports through the definition of export compliance:

“Export compliance is the specialized multidisciplinary framework/discipline, which covers all activities of export (i.e., goods and services, tangible and intangible items, and transfer of means of payment), that are somehow subject to export controlling regulations (i.e., dual-use, sanctions, etc.) applicable to transactions between two different states/jurisdictions/entities. It provides support to organizations in compliance risk management, that is, the risk of legal or administrative sanctions, financial losses or reputation deterioration for failing to comply with laws, regulations and legislations, and codes of conduct and good practices” [43].

The code sets out six export compliance principles developed by the Institute for the International Standard EIFEC EC1001. 00: 2011 ECPS.

The first principle, *Unicuique suum* (lat. “to each his own”), reflects the approach one size does not fit all: each company has unique risks, so compliance controls and measures should relate to these risks. The second principle is a commitment to transparency, the third principle is a commitment to compliance, and the fourth principle is accountability.

An interesting fifth principle is a consistency. “All organizations act consistently with prior obligations and commitments. Organizations must be consistent in

applying the export compliance principles, methods, practices, and procedures. Organizations will ensure that the same rules and behaviors are followed in all activities. If a change is made to an export compliance policy, the effects of the change must be clearly disclosed” [43]. The sixth principle speaks about the effectiveness of export compliance. These principles and the code are not mandatory for implementation, since they are formulated by a non-governmental organization, but they can serve as a guide for companies.

On 4 March 2022, the European Commission announced the introduction of the EU Sanction Whistleblower Tool [44]. According to the commission, the tool can be used to report on “past, ongoing or planned” EU sanctions violations, as well as attempts to circumvent these.

Reports to the commission can be made either directly by email or on an anonymous basis via the online platform provided through the tool. Submitted reports will, in the first instance, be examined by the commission, which will conduct a preliminary inquiry. If the commission considers that the information is credible, it will provide the anonymized report and any additional information gathered during the preliminary inquiry to the competent authorities in the relevant EU Member State(s). The national competent authorities are ultimately responsible for the enforcement of EU sanctions and may initiate formal investigations further to the information provided to them [44].

The information reported can relate to EU sanctions violations, their circumstances, or the individuals, companies, and third countries involved, which are not publicly known but are known to you. This can cover past, ongoing, or planned sanctions violations, as well as attempts to circumvent EU sanctions [44].

1.4.2 *Germany*

Recently, Germany has adopted several legislative initiatives that also address compliance issues. In July 2021, the law on “Comprehensive verification of supply chains” (German: Das Lieferkettensorgfaltspflichtengesetz (LkSG)) was adopted, [45] which starting from 2023, will require companies with more than 3000 employees in Germany (and beginning in 2024—with more than 1000 employees) to comply with the principle of due diligence in their activities in relation to human rights and environmental protection. The law will apply to direct suppliers, and to a limited extent to indirect suppliers.

The Federal Office of Economic Relations and Export Control (BAFA) published the second edition of the Internal Compliance-Program (ICP) Newsletter for Internal Export Control Systems (the “Bulletin”) in 2018 [42]. The preface to the document states the following:

“The concept of compliance also means the willingness of the company’s management to take organizational measures to prevent violations of the law within the company from the very beginning. Companies meet this requirement in practice by implementing a compliance management system (CMS) that is designed in accordance with the company’s risk profile” [42].

The bulletins set out the 9th criterion for an effective program, and stipulate that these criteria are suitable not only for compliance in the field of weapons but can also be used in companies engaged in international trade.

1. Commitment of top management.
2. Risk analysis.

3. Organizational structure and distribution of responsibilities.
4. Human and other resources.
5. Operational management and procedures.
6. Documentation.
7. Staff selection and training.
8. Process control/system control (compliance audit)/information systems.
9. Physical and technical security.

Sanctions and embargoes are described directly in the “questions and answers” section. Thus, the agency makes the following recommendation for identification:

“It is recommended to configure the test software so that the name components being tested are linked using the” and “ function, so that only data sets with a first and last name match are represented. Thus, the number of matches is reduced, which makes it easier to manually check a lot of irrelevant data sets, for which, for example, only the name appears in the sanctions lists” [42].

At the EU level, we can observe gradual changes in the regulator’s approach. This is evident both in the level of greater detail of the norms, as well as in the approach to awareness and clarification. The content in the guidelines on sanctions implementation and compliance has doubled over the last decade (from 2008 to 2018). At the country level in Europe, in particular, in Germany, compliance checks follow the essence of export controls and export restrictions, including restrictions related to dual-use goods.

2. Model of sanctions compliance in Russia

There are several obstacles to the development of a domestic sanctions’ compliance model, which will be discussed below. At the same time, these obstacles outline the “sovereign” model of sanctions compliance for companies, where in the absence of recommendations from the state, each company develops and implements those elements that are most relevant to it, based on its corporate risk assessment, thereby making its own contribution to the patchwork of national sanctions compliance.

2.1 A holistic approach to compliance

To illustrate this problem, we need to return to the discussion of the concept of “compliance” and the understanding that government agencies in Russia have about it. If we analyze the use of the concept of “compliance” in Russian law enforcement practice, it turns out that compliance is perceived as an obligation of all organizations to follow a certain norm (Art. 13.3).

The main problem is that these measures are prescribed for all organizations, regardless of their organizational and legal form. Let us call this a unitary approach, which differs from the dualistic approach in foreign legislation, where special legislation (norms) has been applied. (FCPA, Bribery Act, French Law Sapin II, and Kazakh law on Preventing Corruption) are aimed directly at the commercial sector.

If we are talking about antimonopoly compliance, the Russian Federal Antitrust Agency (hereafter - FAA) has achieved some success, even before the adoption of amendments to the law. However, when developing antitrust compliance measures, the FAA adheres to the same unitary approach, which does not distinguish between the specifics of antitrust regulation for companies and for state departments, obliging municipal and state bodies to engage in “antitrust compliance.”

Misunderstanding of the nature of compliance can mislead regulatory effects and effect on economic activities of business entities.

At the same time, it is necessary to recognize that Russia has not developed a regulator for sanctions restrictions, such as OFAC, OFSI, or BAFA. Neither the Ministry of Foreign Affairs of the Russian Federation, nor the Prosecutor’s Office, nor the Department of Control over External Restrictions under the Ministry of Economic Development, created at the end of 2018 (Order Ministry of Finance № 3272 of 28.12.2018), nor the Central Bank, nor Ministry of Finance can be called full-fledged regulators of sanctions policy in Russia.

2.2 Missing benchmarks and best practices

The only one group of companies, Eurochem AG, publishes on its website sanction policy since the company is incorporated in Switzerland (Zug). All large companies, including those with state-owned companies, have corporate documents and procedures dedicated to sanctions compliance. At the same time, we can note that they are reluctant to disclose information on sanction compliance.

On the website of the Moscow Exchange, for example, it is mentioned that, within the framework of compliance, the direction toward “compliance with economic restrictions” is recommended.

On the website of SBERBANK (<https://www.sberbank.com/ru/compliance/ecs>) in the section “Compliance,” the following information is posted:

“The control of economic sanctions in the Sberbank Group of Companies is carried out in accordance with the Policy on Special Economic Measures, which defines the goals, distribution of powers, and rules for the implementation of controls. The bank has implemented automated procedures aimed at ensuring that the parties involved comply with the relevant sanctions programs, as well as with the requirements of the applicable legislation.”

There is no information about economic restrictions on VTB’s website.

It is still impossible to find sanctions compliance policies and procedures freely available on company portals. We can find certain information about check screening carried out under economic restrictions (sanctions) in corporate documents at the second level. For example, according to P.4.30 of the terms of implementation of depository activities of JSC National Settlement Depository, it is specified:

«The depository also has the right to refuse to enter into a deposit account agreement or an agreement that is the basis for opening and maintaining an account that is not intended for recording rights to securities”...”: international sanctions and/or sanctions of foreign states applied to legal entities and individuals have been imposed on the depositor or its affiliates in the Russian Federation, individual sectors of the economy of the Russian Federation or the Russian Federation as a whole, and the laws of a jurisdiction other than the Russian Federation are applicable to such sanctions of the Russian Federation (hereinafter-Sanctions)” [46].

The reluctance to disclose documents can be explained by political reasons: Russian state bodies constantly emphasize the nonrecognition of unilateral sanctions.

The constitutional court's decision in the Kuznetsov case (Russian Constitution Court Decision from July 9, 2021) confirms the critical attitude toward restrictive measures:

“The imposition of restrictive measures against Russia and its economic entities by a foreign state in an inappropriate international procedure and in contradiction to multilateral international treaties of which Russia is a party is quite common at present [47]. “And such circumstances are recognized as” illegal per se” [47]. This decision also confirms the correctness of the position expressed by the judges of the constitutional court of the Russian Federation in 2018, that compliance with sanctions restrictions can be considered to be unfair behavior [48].

Unlike the American regulation, which provides explanations about the legitimacy of U.S. persons' participation in compliance expertise, including sanctioned entities, there is nothing like this in Russia, and for a year, the market has been discussing the legal bills to introduce criminal liability for managers of companies and other entities for “abuse of office” committed in Russia for the purpose of compliance with international sanctions against Russia. Amendments to the Russian Criminal and Administrative Codes have been enacted, criminalizing the following activities: calls for the introduction of sanctions against Russia and Russian nationals/companies (Art.284.2 Criminal Code). The latter provision criminalizes only Russian citizens, and only if the offense has been committed within a year of being subject to an administrative penalty for a similar offense.

The lack of open access policies and regulations for assessing sanction risks, such as what happens with anti-corruption documents, hinders the development of best practices in the field of sanctions compliance in Russia and increases the risk of violations of the requirements of regulators, including Russia. In addition, the lack of public access to documents related to sanctions compliance makes it difficult to conduct an expert examination and audit.

2.3 Increasing complexity of inspections of sanctioned individuals

Over the past 8 years, after the introduction of the U.S. and European sanctions against Russia, the state has developed several protective mechanisms, but their disorderly application has led to results that the developers of these measures did not expect.

Such a mechanism was established at the EU level to counter the American sanctions on Cuba imposed by the Cuban Liberty and Democratic Solidarity Act of 1996 and on Iran imposed by the Iran Sanctions Act of 1996, the Iran Freedom and Counter-Proliferation Act of 2012 in 1996 [49]. This mechanism was designed in the Blocking Statute (Council Regulation (EC) № 2271/96 of 22 November 1996. “Protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom.” The blocking statute has two purposes:

1. Revocation of any foreign court's actions in the EU based on the laws mentioned in the Annex.
2. Permission for EU producers to recover damages in court for losses caused by the extraterritorial application of these foreign laws [50].

Since the adoption of the CAATSA, and the consolidation of the concept of “secondary sanctions” articulated in Art 228, the Russian state has adopted several

resolutions that give companies and banks under sanctions the right not to disclose some information about themselves.

For example, in 2018, several regulatory acts were adopted that allow specialized depositories (Federal Law № 482-FZ of 31.12.2017), insurers (Russian Government's Regulation № 1322 of 03.11.2018), and non-state pension funds (Russian Government's Regulation № 1155 of 28.09.2018) and investment funds (Russian Government's Regulation № 1201 of 05.10.2018) not to disclose information about the structure and composition of the shareholders (participants) of a legal entity, including persons under the control or significant influence of which this legal entity is located.

Such measures were taken on November 23, 2018, in relation to banks (Russian Government's Regulation № 1404 of 23.11.2018), which may be subject to sanctions. As a follow-up to this topic, on April 4, 2019, the government of the Russian Federation adopted Resolution No. 400 "On the specifics of disclosure and provision of information subject to disclosure and provision in accordance with the requirements of the Federal Law" On Joint-Stock Companies" and" Securities Market" (Russian Government's Regulation № 400 of 04.11.2019), which allowed banks and companies not to disclose information on 18 points, including information about persons who are members of the issuer's management bodies, the issuer's transactions, the banking groups that the issuer belongs to, the issuer's affiliates, financial indicators, the volume of operations, and even the risks and organizational structure of the issuer.

Thus, key data on the management, assets, ownership structure, banking groups, and affiliated persons to the issuer, transaction volumes, and financial position are not accessible and must be verified by additional sources.

Finally, another document adopted in the form of a Government Decree in 2019 (Russian Government's Regulation № 729 of 06.06.2019), introduced the ability to restrict access to the information contained in the Unified State Register of Legal Entities, in relation to the following entities, if:

- The legal entity is subject to restrictive measures imposed by a foreign state, state association and/or union and/or state (interstate) institution of a foreign state or state association and /or union; and/or.
- The legal entity is in the location of the territory of the Republic of Crimea or the territory of the city of Sevastopol.

In February 2021, the Ministry of Economic Development developed a draft law titled "On Special Administrative Regions." (Legal bill was not published). According to this draft, the principle of investor confidentiality is introduced.

The irony is that the sanction screening aims precisely at checking sanctioned individuals and, therefore, due to the nondisclosure of certain information, compliance specialists are forced to resort to additional checks. Thus, in contrast to what is written in the document and what the developers intended to do, the risk of violating sanctions is increased.

2.4 The procedure for exceptions for interaction with sanctioned persons is complicated

Unlike the United States, the United Kingdom, and the EU, where there are certain rules for issuing general and special licenses issued by regulators, in Russia,

the development of permits can be divided into two clear periods: before and after February 2022.

Until February 2022, there was practically no complete system, nor a dedicated regulator. We may notice links to getting permission in several acts. In accordance with the Decree of the Government of the Russian Federation No. 1716-83 of December 29, 2018, titled “On Measures to Implement the Decree of the President of the Russian Federation № 592 of October 22, 2018” (hereinafter referred to as the “Decree of the President of the Russian Federation”). The second similar paper is Resolution 1716-83, “On the ban on the import of goods into the Russian Federation, the country of origin or country of departure of which is Ukraine, or which move through the territory of Ukraine.” In 2019, this resolution was supplemented by Appendices No. 2 and No. 3, and accordingly, a norm with the following content appeared:

“Set that, from June 1, 2019, export of goods from the Russian Federation to the territory of Ukraine according to the list according to Appendix № 3, is carried out exclusively on the basis of permits issued by the Ministry of Economic Development of the Russian Federation”

Another example: an Order of the Ministry of Industry and Trade of the Russian Federation in 2019, which is now no longer valid, approved the procedure for confirming the conformity of gravel and crushed stone imported into the territory of the Russian Federation. According to this document, the total period for approving the issue or refusal of a permit takes approximately 3 months and is valid until the end of the calendar year from the date of its signing. However, this procedure applied only to gravel and crushed stone, which is insufficient.

In the administration of blocking sanctions imposed by Resolution № 1300 of November 1, 2018 (as of January 2021-922 individuals, 84 legal entities). The Ministry of Finance of the Russian Federation is responsible for granting temporary permits for certain operations in relation to certain legal entities that are subject to special economic measures (paragraph 4). In the case of exclusion from the list, temporary permits are also granted, but the system is still not transparent. In addition, it is inconvenient that no search engine for persons is included in blocking sanctions.

Moreover, by the Order of the Minister of Finance of the Russian Federation № 3272 of December 28, 2018 “On approval of the Regulations on the Department for Control over External Restrictions of the Ministry of Finance of the Russian Federation,” a corresponding body was established, however, it does not even have a control function. The function of this department is to develop measures to reduce the negative impact of restrictive measures in the financial sector in relation to the Russian Federation and Russian legal entities. Responsibilities are as follows: monitoring, analyzing, collecting, and processing information. In other words, this body does not have any of the functions inherent in Western sanctions regulators.

Thus, the licensing system was administered by three ministries: the Ministry of Economic Development, the Ministry of Industry and Trade, and the Ministry of Finance.

After February 2022, two more regulators appeared, the Central Bank of the Russian Federation and the government commission for monitoring the implementation of foreign investments in the Russian Federation, which administer their own licensing systems.

By the Presidential Decree of March 18, 2022, the Central Bank of Russia has been granted the right to issue permits to residents to conduct foreign economic activities, including on contributions of deposits, shares of a nonresident legal entity, as well as in the framework of the implementation of a simple partnership agreement with inversion. Also, the Bank of Russia issues permission not to sell foreign currency in the amount allocated for the fulfillment of obligations to Russian residents. Moreover, the Central Bank is authorized to provide explanations of the application of the Decree of March 18, 2022. Explanations are given in the form of Official Explanations, such as 2-OP of March 18 2022.

The Board of Directors of the Russian Central Bank makes decisions of a regulatory nature, for example, the decision of the Board of Directors of the Bank of Russia to establish a “C” type account regime for the purpose of fulfilling a resident’s obligations to a nonresident set out in Decree No. 95 of the President of the Russian Federation dated March 5, 2022 “On the temporary procedure for fulfilling obligations to certain foreign creditors.”

At the same time, the Government Investment Control Commission of the Ministry of Finance has the right to issue permits for the purchase and sale of real estate with nonresidents from unfriendly countries, or for other transactions exceeding the restrictions imposed. By the Decree of the Government of the Russian Federation dated March 6, 2022, the following documents were approved: “Rules for issuing permits by the government commission for monitoring foreign investment in the Russian Federation for the purpose of implementing additional temporary economic measures to ensure the financial stability of the Russian Federation and other permits provided for by separate decrees of the president of the Russian Federation.”

The Ministry of Industry and Trade can also issue permits for the import and export of goods that have fallen under restrictions, which is established by Government Decree No. 311-313 of March 9, 2022.

Thus, at present, we can say that there are five regulators for countersanctions. At the same time, each of these regulators has its own licensing system and adopts regulatory legal acts in its field. The multi-directed nature of making decisions on counter-sanctions, the complexity and the ambiguity of the criteria according to which permits are granted, put an additional burden on companies.

2.5 Countersanctions before February 2022

The next type of work with sanctions is the introduction of countersanctions. Russia introduced various packages of countersanctions, constantly increasing the regulatory framework on this subject. Since 2006, when Federal Law № 281-FZ of December 30, 2006, was adopted “On Special Economic measures,” which established the concept of special economic measures, the regulatory body of countersanctions has been increasing.

The regulatory framework can be divided into different blocks. The first block concerns the embargo of products from the EU, U.S.A., Canada, Ukraine, and other countries, introduced in 2014 (Russian President’s Decree № 560 of 06.08.2014) and extended every year. On the implementation of the Russian President’s Decree № 560, decrees extending the embargo were adopted, and the Russian Government Decree №. 778 was adopted, which distributes responsibilities between agencies for monitoring the Russian market during the introduction of the embargo. The rules for the destruction of products were established by Government Decree №

774 of July 31, 2015. Confiscation of sanctioned goods is part of the administrative and legal liability provided for in Article 14.2 of the administrative code of the Russian Federation.

The second block concerns relations between Russia and Ukraine. The main act in this block is a Decree of the President of the Russian Federation № 592 of October 22, 2018 “On the application of special economic measures in connection with unfriendly actions of Ukraine against citizens and legal entities of the Russian Federation.” Blocking sanctions were introduced by Resolution № 1300 of November 1, 2018 (as of January 2022–922 individuals, 84 legal entities). Resolution of the Government of the Russian Federation № 1716 of 29.12.2018 is related to this block, dated 12.2018.

The third block is a response to US sanctions. The first act was FZ-282 of December 28, 2012 “On measures of influence on persons involved in violations of fundamental rights...,” which became a response to the introduction of the Magnitsky Act (Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012). With the adoption of the Federal Law of 04.06.2018, “On measures to influence (counter) unfriendly actions of the United States and other foreign states,” the concept of “unfriendly foreign states” was introduced. Thus, the law contains broad and flexible rules, which make it possible for the Russian authorities to impose restrictions not only against the United States and American companies, but also against affiliated organizations and individuals friendly to the United States, or with a state/organization unfriendly to Russia. Measures of influence (counteraction) are introduced and canceled by the Government of the Russian Federation by a decision of the President of the Russian Federation.

2.5.1 Counter-Sanction regulation since February 2022

Due to the Decree of the President of the Russian Federation from February 28, 2022 № 79 “On the application of special economic measures in connection with the unfriendly actions of the United States of America and foreign states and international organizations that have joined them”:

A provision was introduced for the mandatory sale by Russian exporters of 80% of foreign exchange earnings under foreign trade contracts. This requirement also applies to the proceeds already credited to the accounts of resident participants in foreign economic activity starting January 1, 2022;

- From March 1, 2022, residents (Russian legal entities and citizens, but not local branches of non-Russian entities) are prohibited from providing foreign currency to nonresidents under loan agreements and crediting foreign currency to their bank accounts outside the country, as well as making transfers without opening a bank account using ESP provided by foreign payment service providers; until December 31, 2022, PJSCs can acquire their shares, subject to a few conditions.

The next Decree of the President of the Russian Federation from March 1, 2022, № 81 “On additional temporary economic measures to ensure the financial stability of the Russian Federation” was introduced, aiming to restrict divestment of foreign investors of their Russian assets. Decree № 81 provides for, inter alia:

- From March 2, 2022, a special procedure, namely, obtaining approval by a special Government Commission for making certain transactions with persons of

foreign states that commit unfriendly actions, was introduced. Certain transactions may not be performed if permission is not granted by the commission. In particular, these transactions include the provision of credits and loans (in rubles) to foreign investors, as well as transactions that entail the emergence of ownership of the real estate and securities.

- From March 2, 2022, a ban on the export of cash in foreign currency exceeding 10 thousand US dollars was also introduced.

The introduction of a procedure, implying the need for permission, may complicate the efforts of international investors to divest their interests in Russian businesses and real estate. Nevertheless, currently not much can be predicted, as the enforcement practice did not develop any positions on the topic.

Further rules on obtaining permits for the performance by residents of transactions (operations) with foreign persons were approved by the Decree of the Government of Russia from March 6, 2022, № 295.

By means of Federal Law N 30-FZ from March 4, 2022 “On amendments to the Federal Law “On measures to influence persons involved in violations of fundamental human rights and freedoms, rights and freedoms of citizens of the Russian Federation“ and Article 27 of the Federal Law “On the procedure for departure from the Russian Federation and entry into the Russian Federation,” the list of persons subject to counter-sanctions has been adjusted. Now the latter includes citizens of any country, not only the United States, as well as stateless persons. Counter-sanctions include a ban on entry, seizure of assets, and suspension of the activities of Russian branches of controlled organizations.

The Decree of the President of the Russian Federation of March 5, 2022 № 95 “On the temporary procedure for the fulfillment of obligations to certain foreign creditors” from March 5, 2022, established a special temporary procedure for the fulfillment of obligations to certain foreign creditors.

Due to the named procedure, Russian citizens, and legal entities, as well as the state, its regions, and municipalities having foreign exchange obligations to foreign creditors from the list of “unfriendly countries,” will be able to pay them in rubles. The temporary procedure applies to payments exceeding 10 million rubles per month (or a similar amount in an equivalent foreign currency).

The Decree of the Government of the Russian Federation from March 5, 2022, N 430-r specified the list of “foreign states and territories committing unfriendly actions against the Russian Federation, Russian legal entities and individuals” includes 46 countries.

On 31 March 2022, a special restriction was introduced regarding payment for Russian Gas. According to the Presidential Decree “On the special procedure for foreign buyers to fulfill their obligations to Russian neutral gas suppliers, the customs authorities decide to prohibit supplies to the unfriendly states if:

- i. The payment deadline for gas supplied under a contract has passed, or
- ii. Payment has not been made, or
- iii. Payment was made in a foreign currency
- iv. and/or not in full,

- v. and/or to an account at a bank that is not an authorized bank Gazprombank joint-stock company (an authorized bank), which opens special K-type ruble accounts and special K-type foreign currency accounts for payments for gas that has been supplied.

3. Comparison study

Each of these models of sanctions compliance has its own specifics. The American recommendations of OFAC outline what the U.S. regulator wants to see as an effective sanction compliance program. This model reveals the stick-and-carrot approach. This approach is based on the idea that it is advisable not only to punish the company but also to encourage it to implement elements of the compliance system.

At the same time, the allocation of sanctions compliance as *sui generis* is partly fair, but it is necessary to consider the generic relationship with anti-corruption compliance. The regulator's approach to sanctions compliance is based on four principles:

1. Voluntary obligations assumed by the company;
2. Encouraging voluntary reporting;
3. Priority of civil and administrative /civil penalties over criminal penalties; and.
4. Proportionality of sanctions restrictions to the company's capabilities.

The British model of sanctions compliance is associated with AML compliance, and from this point of view, the regulation of financial restrictions (sanctions) is based on an arsenal of methods applicable to AML. The connection with AML regulation also justifies the choice of criminal response methods for violating companies: the DPA, and in that the manual separately imposes an obligation for "relevant companies" to report suspicious individuals and transactions. The difference between the British model and the American one is also seen in the fact that the British regulator announced a comprehensive approach that takes into account not only the interests of the regulator but also the company's ability to comply with restrictions. In the United States, the regulator, when determining what it expects from companies, still speaks from the position of a body that has the right to both pardon and punish (the "carrot and stick" approach), the British regulator goes further, and expresses its readiness to cooperate with companies, and share responsibility for noncompliance.

At the EU level, we can observe gradual changes in the regulatory approach. This is evident both in the level of greater detail of the norms, as well as in the approach to awareness and clarification. The content in the guidelines on sanctions implementation and compliance has doubled over the decades (from 2008 to 2018). At the level of European countries, in particular, Germany, compliance checks follow the essence of export controls and export restrictions, including restrictions related to dual-use goods.

When complying with sanctions restrictions (compliance), companies deal with three aspects:

1. Principles of compliance.
2. The ability to interact with sanctioned entities and the ability to exclude themselves from sanctions (delisting); and
3. Methods of appeal.

As it demonstrates the indicators in the **Table 1**, the model of sanctions compliance in Russia before 2022 was radically different from other models. Unlike the United States, the UK, and the EU, Russia just started to develop a methodology for sanctions compliance. Currently, Russia has 5 sanction regulatory bodies seem to be excessive.

Thus, there is still a need to develop a methodology for sanctions compliance or to consolidate the regulatory expectations. But this raises the following question: who is the sanctions regulator in Russia?

Currently, in Russia, banking and credit, brokerage companies, mining corporations, and companies affiliated with international businesses develop their own systems of sanctions compliance measures based on the logic of AML/CFT, actively using IT systems. In this sense, “uncodified” Russian sanctions compliance is closer to the European and UK models than to the U.S. model. At the same time, when setting up compliance, they focus on the foreign experience.

In the above-mentioned book “Compliance Revolution: how compliance must change in order to survive, “ [30] it speaks about the types of regulatory maturity and compliance.

The author identifies five stages in the development of regulatory norms and compliance: 1) start up, 2) crises, 3) extension, 4) sustainability and 5) outcome-led [30].

In the models of the UK, the U.S.A., and the EU, we can see a transition from the stage of expansion to the stage of sustainability. At the stage of sustainability, there is a realization that expansive development cannot continue exponentially. Regulatory and compliance approaches are becoming more relevant to the original goals, and more detailed. Methods for improving implementation and performance include:

- Risk-based compliance.
- Cost-benefit analysis.
- Principles-based regulation, and
- Focus on the a prevention and development of corporate culture, ethics, and corporate governance [30].

In the Russian regulatory model, we can observe disorganized, and often disproportionate, policy concerning counter-sanctions. There are three approaches to counter-sanctions that have been implemented in Russia:

1. The model of assistance to sanctioned persons.
2. The model of countersanctions.
3. The model of prohibition of compliance/calls for sanctions.

	U.S.A.	UK	Germany/EU	Russia
Principles	<ol style="list-style-type: none"> 1. Management Commitment 2. Risk assessment 3. Internal Controls 4. Testing and Auditing 5. Training. 6. + 15 Sec B Risk matrix 	<ol style="list-style-type: none"> 1. indicators 1) Management tone 2. Risk assessment 3. Compliance Controls 4. Compliance procedures 5. Employee training 	<ol style="list-style-type: none"> 1. Commitment to senior management 2. Risk analysis 3. Organizational structure and distribution of responsibilities 4. Human and other resources 5. Operational management and procedures 6. Documentation 7. Personnel selection and training 8. Process control/system control (compliance audit)/communication systems 9. Physical and technical security 	None
Getting licenses and delisting	This procedure applies to all modes	The order is spelled out	The order is spelled out	Some acts have separate mechanisms for obtaining permits. There are five regulatory bodies
Appeal	Administrative or in the federal courts	Administrative or in the courts of the United Kingdom, the ECHR	EU Court of Justice, National Courts, the ECHR	Courts of the Russian Federation

Table 1.
With equal elements of the compliance system.

These approaches if the regulator implements simultaneously are costly and time-consuming for the state budget and economic actors. Sanctioned countries facing undue advantages often must choose one of the three approaches for counter-sanction restrictions, but never three at the same time. This model corresponds to the stage of the crisis. The speed of transition to the next stage depends, among other things, on determining who is the main sanctions regulator in Russia.

Regarding compliance environment, large Russian companies running activities globally follow international standards. However, we need to indicate that we are talking only about big business. Small and medium enterprises often do not have the expertise and economic resources to implement compliance requirements.

According to David Jackman's opinion, "Compliance revolutions' are needed," ideally, when regulation and compliance can cooperate at the same level, but more often one of them gets ahead. If regulation is ahead of compliance, companies may face regulatory risks; if compliance is ahead of regulation, then the risk arises from unexpected interpretations of regulatory norms on the part of companies, while the regulator suffered reputational damage and loses support due to its slowness [30].


Backing to Russian experience, it is necessary to recognize that sanctions enforcement and compliance in Russia go at different "speeds," or rather at different stages of development.

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Chapter 6

Nepotism and Corruption: A Descriptive and Analytical Study in the Reality of Kuwaiti Society

Muaath Sulaiman Al Mulla

Abstract

Nepotism is a form of corruption that threatens the main components of states since it's a phenomenon that poses a real threat to the stability of social, cultural, and economic security in society due to the absence of standards of justice and equality therein. This phenomenon has clearly spread in the majority of Arab countries, including Kuwait, which continues to suffer from fluctuations in its global and regional ranking, up and down, despite its accession to the international and Arab anti-corruption convention, and despite the promulgation of a specific law concerning combating corruption. In this research, the goal is to clarify the concept of nepotism and its relationship with corruption by considering the causes and effects in the reality of Kuwaiti society and then show the position of the penal legislature regarding it and the extent to which its provisions are consistent with the international and regional conventions. For this reason, the descriptive and analytical methods were followed in presenting the content to arrive at conclusions and recommendations that will be hopefully reformative and guarantee limiting the spread of this phenomenon.

Keywords: nepotism phenomenon, corruption, crime, convention, penal legislature, preventive measures

1. Introduction

1.1 Corruption Reality in Kuwait

The British, Mr. Robert Cunningham explains in his book on the phenomenon of nepotism in Middle Eastern societies, *Wasta: The Hidden Force in Middle Eastern Society* "In eastern societies, *Wasta* 'nepotism' has become a social and necessary course, although it is a means of wasting competencies and talents, and prevents serious and needy individuals from achieving their goals. Exacerbation of it has created social looseness that made people lose confidence in the change and in the future, and has made them unwilling to challenge. Moreover, the law may be absent confrontation of this widespread phenomenon, which is used to create an influence or tribal dependence or friends, who should be called nepotists" [1].

Kuwait, as well as other countries in the Middle East, suffers from the culture of *wasta* (i.e., nepotism), as it has become a rooted conduct practiced with a kind of acceptance

in the spectrum of society, whether big or small, and has spread in all aspects of social, political, economic, and cultural life [2]. This bad habit was transmitted through tribal, communal, subordinate, and state. This bad habit was transmitted through tribal, sectarian, subordinate, and state allocation and is difficult to dispense with in recruitment, promotions, or otherwise. Since this phenomenon removes the criteria of efficiency in selecting the right persons for the right positions to ensure good performance and quality of works, the spread of corruption is a natural effect thereto. Nepotism and corruption are two sides of the same coin, and their effects are the destruction of the main components of society and the disruption of the means of development and growth. There is no harm in saying that nepotism is the cornerstone of corruption.

The frightening spread of nepotism between members of the society and the fluctuation of the levels of the State of Kuwait, between decrease and an increase in the Corruption Perception Index, as well as the inaction of government authorities, parliament, civil society, and even individuals in correcting this culture was the reason behind studying the reality of this culture and its dimensions in our small society in its size and area.

For this reason, we relied on the descriptive-analytical method, which is based on describing nepotism in the Kuwaiti society by defining it, its causes and effects, and considering the relationship of nepotism to the phenomenon of corruption, and then analyzing the position of Kuwaiti law and the extent of its commitment to the provisions of the Convention against Corruption criminalizing nepotism and the mechanisms of combating it. Some experiences of countries in this aspect are herein reviewed leading to results that ensure the treatment of this bad manner. Therefore, this chapter is divided into several sections as follows:

1. Nepotism is an Actual Example of Corruption.
2. Nepotism: Causes, Effects, and Its Reality in Kuwait.
3. Criminalization of Nepotism in International and National Conventions.
4. Preventive Measures to Limit Nepotism and Corruption.

1.2 Nepotism is an actual example of corruption

Nepotism “Wasta” is a well-known phenomenon in the Arab societies [3]. Since ages, it has been a tool of peace and conflict resolution between Arab tribes, until it becomes more important in the modern times as an aid to people, but in a way that contradicts the rules of morals and the law. Some even called it the “Vitamin W” [4, 5]. It’s a clear indication of the difficulty of abandoning it in order for a person to get what he wants. There are many definitions for Nepotism (Wasta) where there’s a consensus that “Wasta” is a personal relationship between two or more parties, mediating between them who assists or intercedes for another person to obtain a benefit or bypass an obstacle, whether by a legal or illegal way. Among these definitions; “interference of an individual or a group without commitment to the work principles and the required competence [6]. “Helping someone to get something he does not deserve or to relieve him thereof” [7]. “Introducing a mediator to solve a problem or obtain a benefit” [8]. Or “mediation by a person for the purpose of help or intercession” [1].

It appears from these definitions that nepotism in some cases is commendable if its purpose is to achieve justice and equality between individuals, demonstrate a

wrongful right or to facilitate a legal task or other concepts that do not violate these principles. Mediation in other situations may be inglorious if these principles are violated and the beneficiaries lose their rights [9]. It is worth mentioning that mediation for the benefit of people is the approach of Islamic Sharia in the Holy Quran and the Prophetic Sunnah [10].

Some also differentiate between the concept of Wasta (Nepotism) and Mahsubiyya (Favoritism). The latter is related to providing a service to relatives or friends, and it's limited to specific areas, unlike Wasta, which is considered to be of a broader scope [11]. Distinguishing between them is not of the same importance herein as clarifying their disadvantages, since both violate the principle of equality and justice. The question here is: What is the relationship between nepotism and corruption?

It should be known that nepotism and corruption are two sides of the same coin, and the latter is a problem that societies all over the world suffer from, especially developing countries [12]. Notwithstanding the difference of criteria for defining corruption as a negative phenomenon in Arab and Western jurisprudences, they agree that both are perceived as having a devastating effect on society's main components or statutes [13]. We agree with the view that defined corruption in a broad sense as legally, morally, administratively, politically, economically, socially, educationally, or morally deviant behavior [14, 15]. Nepotism would be considered the cornerstone for the growth of manifestations of corruption in society, since without nepotism, corruption would not appear as both have the following characteristics:

1. Violation of the rules of religion, ethics, and law.
2. Achieving personal or collective benefits.
3. Negatively affect the public interests.

Therefore, it is a social disorder that affects the morals of individuals and spreads bit by bit among society until some people lose the sense of justice and that they cannot fulfill their needs except through it. Corruption is an effect of appointing persons in positions that they do not deserve to take advantage there from in their capacities [16] as public officials exercising their powers in order to override public or personal interests for their own interests, or who come from persons with knowledge, kinship, or social standing that gives them the ability to influence or otherwise power.

1.3 Nepotism: causes, effects, and its reality in the Kuwaiti society

One of the most pressing challenges faced by Kuwaiti society is the difficulty of distinguishing between the concept of nepotism and the concept of intercession, since the latter, as stated hereinabove, is legally permissible because its concept tends to help others to obtain their rights, to repel injustice from them, or to reconciliation between people, but nepotism is completely different there from because it unbalances the justice and spreads the manifestations of corruption. The effects of nepotism do not differ from corruption in terms of the danger to societies [17].

Therefore, nepotism has penetrated terribly in Kuwaiti society, even the phenomenon of corruption has become not unusual in Kuwait, and some have called it "Vitamin W" in a clear indication of the importance of resorting to nepotism in order to complete transactions, which is a negative administrative culture as some describe it [18].

Carnegie Center describes corruption in Kuwait as another invasion threatening the state's existence after the Iraqi invasion and identified five levels that were the basis of the corruption phenomenon, the first of which was the nepotism [19]. What are the reasons for nepotism? How did it affect the Kuwaiti society?

The reasons change in order from one society to another. In Kuwait, several reasons for the spread of nepotism have been identified, and they can be summarized in terms of importance respectively as follows:

First: Effect of values and habits related to family bonding in Kuwait (such as family, tribal, or sectarian loyalty) or even acquaintances [2]. A person who does not benefit his family, tribe or sect—even if he is right—is considered an outcast and may be socially isolated.

Second: The reduction of high values of integrity, morality, and honesty of many people, especially those who have reached their positions through the nepotism. There are many models clarifying the extent of the meanness of some, especially those called “National Assembly service members” who allocated hot lines to complete the faltering transactions of citizens [20] and not only that; but some of them are even ready to mediate for someone who has committed a criminal offense.

Third: Failure of government institutions in confronting nepotism because of its desire to pass its interests to some influential people, among them the National Assembly service members. Bureaucracy, job flabbiness, and inefficiency are factors that contributed to the spread of nepotism where they drove individuals to search for easy access to certain services.

Fourth: The actual absence of the role of civil society in confronting this phenomenon and studying its negative aspects on the reality of society has entrenched in some people the sense of impossibility of fighting it.

There is no doubt that nepotism has a very negative impact on the reality of Kuwaiti society, which in the sixties considered it a humiliation to the citizen. Now, the situation has changed to as nepotism becomes a ladder for corruption in all its forms and types. The International Monetary Fund 2018 report showed that 80% of Kuwaitis believed that the nepotism was necessary to obtain a job in the country [21]. The same finding was concluded in its 2020 report that Kuwaitis were the most Gulf people who consider the nepotism as a precondition for recruitment [22]. This is reflected in the Global Corruption Perceptions Index (CPI) over the previous years¹. Despite the indicator fluctuating between increases and decreases, nepotism is considered the most important reason that hinders the process of improving Kuwait's position in this indicator.

From **Table 1**, it's clear that the extent to which the ranking of the State of Kuwait fluctuated at the international, Arab, and Gulf levels between 2003 and 2020 and what has been done in order to measure the level of corruption in the Corruption Perceptions Index of Transparency International is through the number of points obtained by each country out of 100 points. It has improved, and it clearly shows the level of fluctuation in the State of Kuwait, which reflects the difficulty of confronting and limiting the nepotism even in the long run due to the lack of seriousness in confrontation.

¹ See the official website of Transparency International at the following link: <https://www.transparency.org/en/countries/kuwait>

Year	Score out of 100	International ranking	Arab ranking	Gulf ranking
2003	53	35	4	4
2004	46	44	7	5
2005	47	45	7	5
2006	48	46	6	5
2007	43	60	6	5
2008	43	65	7	5
2009	41	66	8	6
2010	45	54	7	6
2011	46	54	5	6
2012	44	66	6	6
2013	43	69	7	6
2014	44	67	7	6
2015	49	55	6	5
2016	41	75	7 bis	6
2017	39	85	8	5
2018	41	78	8	5
2019	40	85	9	6
2020	42	78	7 bis	5 bis
2021	43	73	7	5

This table has been prepared based on reading the statistics published in the Corruption Perceptions Index over the years from 2003 to 2021.

Table 1.
Kuwait corruption scale from 2003 to 2021.

1.4 The criminalization of nepotism in Kuwaiti law

As previously stated, Kuwaiti society considered nepotism to be a humiliation to the citizen, and despite that, the legislature was not desirous to explicitly criminalize this conduct in Law No. 16 of 1960 Promulgating the Penal Law and its amendments, but it criminalized another conduct that may be similar to nepotism in terms of concept, i.e., the offense of abuse of influence stipulated by the legislature in Article 37 of the Penal Law.

This article stipulates that “whoever seeks for himself or for others a promise or a gift claiming that it is a bribe to an employee and intends to keep it or in part for himself or for the use of real or alleged influence to obtain or to attempt to obtain from any public authority a business, order, judgment, decision, authority, obligation, license, supply agreement, interview, employment, service, or any advantage of any kind shall be punished with the same penalty stipulated in Article 35 of this law.”

This text establishes the criminalization of whoever enjoys an influence exploiting it or trading it in front of others by seeking or accepting a material benefit from them such as money or gifts or moral such as illegal relations or obtaining votes in elections

or other benefits obtained thereby in return for doing what they request in the face of public authority.

The Kuwaiti Court of Cassation defined influence as “the offender does not have to be an employee or under the authority of an employee, as it is valid for him to be one of the people as long as he enjoys a degree of influence at the authority who can achieve the advantage, whether the reference for this influence is his general position in the society or the presence of a special connection that binds them, such as kinship or friendship”².

This crime is similar to the crime of bribery in terms of its conduct and purpose. Therefore, it becomes clear that the legislature has considered it one of the crimes attached thereto [23]. However, it differs from bribery in several points, the first of which is that the latter requires a capacity of the offender, to be a public employee, while the crime of abuse of power—as the court indicated—may involve the offender as an ordinary person. It was real or illusory, so the required service does not fall within the scope of his job, so that the exploiter is considered a mediator between the requester and the public authority [24].

In order to complete the state of criminalization, the legislature required that it to be committed in a deliberate manner, i.e., that the perpetrator perceives that he exploits his real or illusory influence in the interest requested by the requester, perceives that such interest was linked to an act of public authority, and that it was against a benefit he could receive both before and after the exploitation of influence. The legislature decided to punish the offender with the penalty prescribed for bribery, which is a felony that deserves imprisonment for not more than 10 years, and a relative fine determined by the value of what was given or promised to the employee. As well as penalties decided by the legislature, which are confiscation and removal from office. The question here is: Is the crime of influence exploitation in line with nepotism conduct?

From our reading of the criminal description of the abuse of power, it could be recognized that it can be applied to the conduct of the nepotism in the narrowest limits, since that the person has a social position whereby he can use his influence in terms of acquaintances, friendship, or kinship to pass the request that the requester desires to be fulfilled, and hence the person with influence obtains the benefit he desires. This description applies to the so-called “National Assembly Service Members,” who are members of parliament and who have taken their influence as a means to meet the needs of their voters, even if they go beyond the law, such as mediating in drug cases, traffic issues, employment, or other matters in order to obtain votes in the legislative elections. However, it may not be applied to the nepotism if one of the conditions mentioned in Article 37 is absent, such as the absence of the condition that the exploiter obtains the interest, because in that case it’s considered a mere compliment, or the abuse of influence in employment in the private sector, which was not criminalized by the Kuwaiti legislature at all.³

It is worth mentioning in this regard that the Kuwaiti Constitutional Court repealed Law No. 13 of 2018 regarding the prohibition of conflict of interests and the

² K.C.C. 29.1996. Pen. K.C.C. 9.2014. Pen.

³ The Kuwaiti legislature does not provide for a punishment of a private sector employee for the offense of bribery, even if he receives great amounts of money to refrain from performing works or from breaching duties. In view of this legislative gap, he shall not be held accountable under the Penal Code and remains accountable only in accordance with the provisions of the Civil Labor Code where no penal punishment is provided for thereto. It is noteworthy that the Kuwaiti legislature is seeking to pass a draft law criminalizing bribery in the private sector in response to reports recommended by the Kuwait Anti-Corruption Authority, in line with the International Convention against Corruption.

fall of its Executive Regulation No. 298 of 2018 accordingly. The court justified the unconstitutionality of this law for violating many provisions contained in the Kuwait Constitution of 1962, such as the principle of individualization of punishments, right of ownership, circulation of capital, and freedom of work⁴. Unfortunately, the Kuwaiti legislature has not yet dealt with the conflict-of-interest ruling, and perhaps this situation contributed to the widespread nepotism in Kuwait.

1.5 Preventive measures to reduce nepotism and corruption—Modern technology as a model

In many fields, researchers have touched on many means that can be considered preventive measures to reduce nepotism and corruption, but they are not sufficient as long as the moral value is removed from the individual who prioritizes his personal interest over public interests. In fact, the motive behind searching for untraditional means to reduce nepotism and corruption is the loss of self-control over conduct, and it has been proven that the use of modern technology is a key ally in confronting corruption as it allows for the detection of corrupt practices [25, 26]. The more services and works are electronic, the more the nepotism and the manifestations of corruption reduced. This is natural because we have removed individuals from dealing with public officials.

On this, Caroline Anstee, World Bank Managing Director, and Leonard McCarthy, Deputy Director of the World Bank for Integrity Affairs, stated: “technology democratizes development, dramatically improving how important information can reach its beneficiaries.

We are already witnessing how technology is changing the reality we live in. Employing the full potential of modern technology—such as open government initiatives—would help to foster transparency, thereby reducing corruption’s drain on the fruits of development.” They concluded: “Integrity is how one acts when there is no control thereupon. Indeed, with the power of modern technology, we can be censors with varying degrees. Technology can give real meaning to transparency and accountability. It can help reveal the dark sides, but it is ultimately human-made and driven by human needs. It is an effective tool in anti-corruption efforts. Integrity is always important and valuable” [27].

There are many experiences in some countries, where modern technology (artificial intelligence) has been an effective tool in reducing the manifestations of corruption as Estonia, which pursued the idea of digital transformation to confront corruption “Changing a faulty system using AI rather than chasing corruption” [28]. And it has been risen in the Corruption Perceptions Index, where it was superior to many other European countries in 2019, such as France, Spain, and Italy. Artificial intelligence technology has been employed thereby in government administration, parliament, judiciary, and investment [29].

As for Kuwait, despite what the legislature revealed in the context of Law No. 2 of 2016 on the Establishment of the Anti-Corruption Authority, the purpose of establishing this authority as stated in Clause 4 of Article 4 of this law is to protect state bodies from bribery and trading in influence abuse of power to achieve private benefits and to prevent nepotism and favoritism⁵. However, it’s not actually noticed in terms of the bitter reality that simulates the difficulty of completing the

⁴ K. C. C. 1. 2019 (Constitutional)

⁵ Refer to the website of the Public Anti-Corruption Authority in Kuwait at the following link: <https://www.nazaha.gov.kw/ar/pages/ourgoal.aspx>

e-government system in Kuwait, as the government bodies in Kuwait are still unable to complete their path.

1.6 Findings and recommendations

In conclusion, it's worth noting that nepotism has become a rooted phenomenon in the culture of modern Kuwaiti society, which seems to refuse to address this phenomenon socially, legislatively, or organizationally. From a social point of view, civil society has not faced this phenomenon by raising awareness of its risks, conducting studies, and preparing statistics that put society in front of a reality that violates the principles of justice and equality. From an organizational point of view, it's found that the government has not sought to fully follow up its electronic environment and services to ensure the achievement of development plans, and this matter may serve it because its interests are accomplished through National Assembly service members. In view of the legislature role, which is the legislative aspect, the legislature has not made the due effort in addressing this issue by introducing legislative amendments capable of confronting this phenomenon, particularly after ruling that the prohibition of conflict of interest is unconstitutional.


Therefore, the recommendation is limited to the need to address these points with awareness to create a new generation that is fully aware of social responsibility to ensure justice and equality and to expedite the completion of the electronic system to improve government services and works to ensure the transition to digital transformation, as well as criminalizing nepotism and compliments to ensure that deterrence is achieved for mean-spirited persons. It's believed that all of this, if addressed seriously, would ensure the elimination of nepotism and hopefully reducing corruption and hence moving to global indicators.

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Chapter 7

Corruption: Drivers, Modes and Consequences

Douglas Matorera

Abstract

Corruption has become ubiquitous in both the private and public sectors of rich and poor countries across the globe. It occurs in various modes and always causes human suffering, particularly on the most innocent poor and vulnerable, the same humans who have neither the means nor resources to resist or escape. The chapter investigates corruption, where and how it happens, its drivers, causes, and strategies used to conceal it when and where it happens. It looks at the growing movement of anti-corruption activism and the factors key to the success of this movement. The factors steering the anti-corruption drive are knowledge, confidence, solutions and intolerance to corruption. Literature makes some distinction between petty and grand corruption. While corruption is seen as either petite or grand, there are two factors that make corruption indistinguishably concerning: systematisation and the multiplier effect. What may look like petty corruption will in the long run have huge repercussions on more than the two or so who started the corrupt act. Petite or grand, corruption kills, its devastating impact on the social, economic, financial, developmental and political lives of communities is gusty and puffy. Technology is making a footprint in the fight against corruption as much as it is worsening the scourge of corruption on humankind.

Keywords: corruptor, anti-corruption activism, wilful blindness, corruption multiplier effect, concealment of corruption, cognitive dissonance, psychological entitlement

1. Introduction

Corruption has become an item and an agenda of great concern for its undesirability in both the public and private lives of persons and institutions. Defining this evil is difficult because of its dependence on a number of factors that are never the same over time and geographically. There are no limits to what corruption can involve: services, humans, money, physical objects, (mis)representations, sex and even deaths. Corruption can involve embezzlement, influence peddling, collusion, commissions and fees, insider trading, bribery and kickbacks, extortion and solicitation, and sexual favours. Humans are generally aware of corrupt deeds and engage in them out of cognitive dissonance. When systemic corruption habituates corruption, the state of psychological entitlement to a bribe engulfs the perpetrators and calcifies in them somehow like in the 'boiling the frog phenomenon'. The key driver of corruption

is greed but the extreme destitute seems to be winning lenience. Weak governance systems, disorderly and punitive economic situations and cultural habits are creating grounds that variably ‘encourage’ corruption. Corrupt people will try to conceal their misdeeds through physically concealing the proceeds from corruption, misrepresentation, using intermediaries such as agents, agencies, joint ventures, falsifying documents and transacting through cryptocurrencies. It is, therefore, always important to check the moral probity of the ones your business is engaging with. Attempts to evade punishment have always been assessed and weighed against the constructs of innocent blindness, *ignorancia affectada* or wilful blindness. Petty corruption may have a different definition from grand corruption, but the multiplier effect makes petite corruption as devastating as grand corruption. The multiplier effect in this sense has four implications: Once one tests the benefits of a corrupt action, they are likely to do it again, thus multiplying the deed. Corruption starts with small benefits and progressively seeks high-rewarding misdeeds, thus multiplying the magnitude of the ill-benefit. Corruption is contagious, and bystanders see and want to be involved, thus multiplying the number of corrupt persons. A corrupt deed may start with money between two persons but escalates through other things aside from money and the suffering of many thousands of people in time and over geographical space, thus multiplying the suffering. Effectively corruption kills. Systemic corruption destroys individuals, organisations and countries systemically and systematically. However, increased corruption literacy and confidence in the workability of proven solutions have calcified anti-corruption activism. Corruption should not be tolerable anymore, and someone should be encouraged to stop the corruption-but at them, here now and forever. With more resolve with the anti-corruption activism, societies should be able to stop erosion of human dignity by reversing corruption in education, mining, oil and gas industry, wildlife trade, waste disposal, etc.

2. Corruption: the slippery concept

A definition of corruption is difficult to construct and universalise because of variable perceptions of what constitutes an unacceptable and selfish act across geographical space and across cultures and longitudinally over time. To help my argument, I will take you to these search results over the Internet, which is a global phenomenon. A search on the meaning of corruption raised the following:

- <https://www.thesaurus.com> generated 246 synonyms and antonyms
- <https://www.merriam-webster.com> generated 396 synonyms and antonyms
- <https://thesaurus.yardictionary.com> generated 94 best synonyms for corruption

I further looked for synonyms of corruption using the following constructs: immorality, lustful behaviour, distortion, vice and misrepresentation. The Internet gave the following:

- 72 synonyms for corruption relating to vice or immorality,
- 60 synonyms for corruption relating to lustful behaviour that is considered abnormal and unacceptable,

- 90 synonyms for corruption related to distortion of the original course, meaning or state of something,
- 132 synonyms for corruption related to immorality, or an act of immorality or sacrilege
- 200 synonyms for corruption related to a false, absurd or distorted representation of something

I will end here otherwise I could show other results from other sources. The search results communicate to us that there are different ways of seeing, assessing and reacting to the same thing (corruption) depending on time and space and moods. Effectively we can say the quintessence of corruption is historically conditioned in space and time. What remains as core to a conceptualisation of corruption is the selfishness, the self-aggrandisement and undesirability of the deed and the undesirable consequences of corruption on the innocent person(s). If a hard, cut-and-dried definition of corruption is not achievable, we can still read through and accept the characterisation of corruption as a false, absurd, distorted (mis)representation of something, an act of immorality or sacrilege, unacceptable and abnormal lustful behaviour driven by greed and selfishness.

3. Corruption: where it happens

Corruption is ubiquitous across the world. It happens in the private as well as in the public sector, in charitable organisations and non-profit organisations. It happens equally as much in the interface of the public and the private sectors. Corruption, in its multiple forms, occurs in different spheres of influence and at different levels of corporate activity within the following:

- societal surroundings,
- wider business operation/the whole government,
- the supply chain,
- the company/the government ministries,
- Company's divisions/the government and the ministerial departments

There are no limits to where, when and what corruption can involve: money, sex, objects, people, almost anything as is discussed ahead. Corruption is, however, thought to be deep-rooted in narco-states, kleptocracies, oligarchies and mafia states.

4. Corruption: How it happens

There are many ways by which the corrupt activity is sealed: bribes, kick-backs, extortion, sex, solicitation, gifts, hospitality, fees, commissions, collusion, trading of information/insider trading, embezzlement, etc. Because some of the ways are very similar, they will be treated jointly in the below discussions.

- **Embezzlement** is when an employee or other person misappropriates anything of value that was entrusted to them because of their position, be it in the private sector, public sector, charitable organisation, non-profit organisation or the community.
- **Trading in influence/influence peddling** involves a corruptor giving payments, expensive gifts, hospitality or undue advantage to a corruptee in exchange for undue advantage.
- **Collusion** will involve two or more parties agreeing and effectively working together to defend a position that benefits them at the expense of a party not in the collusion. This can be exemplified by a Union (or its representative) conniving with the employer to not pay-out or to underpay a claim by an employee.
- **Fees and commissions** are generally used to conceal a bribe payment. All processes will be done to (mis)represent and title the bribe as a fee or a commission. The (mis)representation can be complete or partial. An example of a partial misrepresentation is where a bill quotes say USD\$100000 when the real cost is USD\$75000, then the other USD\$25000 will pass out as a bribe payment.
- **Trading of information/insider trading** may involve a past or current employee or a past or current board member offering or receiving something of value in exchange for some sought-after confidential information.
- **Bribery and kickbacks** involve one party giving another party something of value in exchange for an undue advantage/something of value.
- **Gifts and hospitality** involve giving excessive hospitality or gifts to person(s) that can influence a particular business task or decision. The object of the corrupt transaction can be a ticket to a special event, luxury item(s) or an outing.
- **‘Sextortion’** may involve the making of a sexual assault, sexual harassment, rape case allegation against an individual and then requiring payment in return for the withdrawal of the allegation. There are two things here: a threat of making the claim can be extended to the ‘victim/alleged perpetrator’ or the sextortionist may have already reported the alleged case to the police/community and now wants payment in exchange for withdrawal of the reported allegation/case. Commoner cases are now involving elder people (ab)using minor kids to make sodomy and sexual harassment claims. Because of sometimes oversized reactions to ‘allegations’ of sexual misdemeanours on minors, ‘framed victims’ are often too frightened and ready to pay anything they can afford to get off the hook. It fetches lots of money ‘on the market with minors’. The flip side of this form of sextortion is where a person with advantage of power or other possession require the lessor advantaged to perform sexual favours in exchange of a consideration. The consideration/favour can be for instance food, permission to cross a border illegally, a job, a place in a college, a textbook.
- **Extortion and solicitation** generally involve a party demanding some payment or undue advantage in exchange for a favourable decision or the execution of a task. Stories of various forms of thievery abound in societies. These include gems

and jewellery, huge amounts of monies and bricks of gold being smuggled across borders. The money made from these corrupt activities is used in setting up offshore businesses, building mansions and depositing in foreign accounts. The above modes of corruption will be constantly coming up in the discussions that follow. However, these are not the only means of completing corrupt deals.

5. Corruption: the drivers

The key driver of corruption is greedy, wherein a person, a group or an institution seeks to secure something of value using immoral and unethical means. In corrupt activities, there is almost always an aspect of selfishness at the expense of the rest of those who will, one way or the other, brush with the immediate, delayed or long-term devastating consequences of the corrupt activity. The quintessence of a driver is that it is a condition inherent or induced in the psychological or biological making of a person that pushes or pulls the person to commit a dishonest, unethical, immoral, illegal and unduly self-aggrandising act. The innocent and benign desire to be a doctor, or a rich entrepreneur does not qualify as corruption, we are all driven by some (intense) desire to achieve something. In corruption, the means of achieving that which drive us is (intense) selfishness. There are two psychological states that generally hook with corruption, particularly under the contexts of systemic corruption: a state of cognitive dissonance, when a person/institution is very conscious that what they are doing is corrupt and causing suffering to their targets/victims, but they do not stop doing that wrongful and selfish act. For instance, dumping waste near slums and informal settlements on the argument that you are doing those people a favour because among them the 'poor but entrepreneurial' will come up to the dumps, retrieve recyclables and make money. We are aware of the diseases that can be contracted from the dumps and the danger of hungry kids walking in search of edibles. On a moral analysis, a benefit-against-cost analysis this act has no better description than 'corruption'. When corruption takes root we get those persons who will grow the psychology that they are entitled to payment for whatever they are doing for you. For instance, a government worker issuing birth certificates. They can tighten up the process so that they create discomfiture in getting a birth certificate. The discomfort may be in the form of slow services, with long disappearances in the other rooms. Those in a hurry will start offering a bribe to quicken up the worker. Then, the next one in a hurry does the same of giving a bribe until it becomes a norm, a standard and a culture. Those not in hurry can afford to wait, and it is 'okay' to be served after the 'dirty' of those with money to bribe is done. With repetition, there is normalisation, standardisation and acculturation of the bribing. The corruptor (worker) gets it in her/his psychology that (s)he must be paid to issue the birth certificate, now it does not matter whether you are in a hurry or not—birth certificate for a bribe. Psychological entitlement in this case is when the corruptor feels they are entitled to something, for example, a bribe before they can do what they are already paid to do.

6. Corruption: the causes

Causes of corruption are conditions outside of the moral feelings of the (potential) corruptor or corruptee, which are exploitable in the execution of the corrupt and selfish deed. They are exploitable in that they make the object of the intended corrupt activity

vulnerable; they facilitate concealment of the corrupt deed, or they naturally or artificially are used to degrade the seriousness of an act of corruption. Some of the causes or environmental factors that literature variably link to the prevalence of corruption are as follows:

Governance issues: Former colonies, size of government, structure of government, political Systems, press freedom, criminal justice system.

Corruption tends to be rife where governance systems are weak or non-existent. Systems create rules, content and processes of interdependence, working and relating which vary in their level of corruption proof. Thus, corruption is more a function of the nature of governance than any one of the factors: former colonies, size of government, structure of government, political systems, press freedom and criminal justice system operating singly.

The attribution of corruption to historical statehood as a colony has generally been with reference to Africa and the Latin American world. However, such a link becomes difficult to sustain in argument, taking into consideration that even some European states that were at some point colonised are not regarded as corrupt states, least as countries where corruption is visible even by the 'hidden cameras'. I do not dispute that most former colonies could still be experiencing corruption not necessarily because they were colonised but because individuals from the former colonial masters have maintained grip on systems, structures and resources in ways that help to keep them from exploiting the former colonies through corrupt channels. Much of this has been achieved and will be sustained through bribery and other forms of corruption, including the threats to withdraw aid and support.

Root [1] and Gerring and Thacker [2] argue that the bigger the state, the higher the levels of corruption. However, I argue that size alone cannot cause corruption. What we can suppose is that size and systems can be made to create resources, structures, processes and interface relationships that are exploited by the greedy and selfish for their personal aggrandisement.

To curb corruption through the Criminal Justice System (CJS), it matters to ensure deterrence at the policing level, the justice dispensation level and the prison/correctional services level. The effectiveness of the CJS depends indirectly on the stance-to-crime of the legislation, which sets the laws and monitors the CJS.

Kauffman and Krany [3] argue the presence of a correlational link between voice and accountability and control of corruption. They claim that the weaker the voice and accountability, the higher the level of corruption. The assumption here is that when voice and accountability are low, too will be their level of influence on conditions that can facilitate creation and strengthening of activism against corruption.

Treisman [4] and *Institute for Economics & Peace* [5] concur that democracy in itself does not put an end to corruption. What democracy does is reduce corruption by creating a system and environment where corrupt activities are not censored, are discussed and are exposed. It is this fear of being 'exposed, named, and shamed' that act as the deterrent against corruption. Brazil and Mexico have a public 'dirty list' that features all those convicted of corruption [6]. Democratic set-ups enhance the power of voice and the power of media channelled at challenging the multiplication and proliferation of supply chains of corruption. Where corruption manifests as a technical problem, it should be confronted by technical anti-corruption means, and where corruption manifests itself as a political phenomenon, it should be confronted by both technical and political devices.

- **Economic issues:** Extent of competition, Salary levels, Recruitment systems, Percentage of women in the labour force, Endowment of natural resources, economic environment.

What is difficult to understand is relationship between relative presence of women in the labour force and levels of corruption. There are numerous cases where women have been at the centre of corruption in their femininity or operating alongside men. Women can also be party to corruption within labour as outside labour and business.

There are anecdotal claims that the higher the extent of competition the high the extent of corruption. But this relationship can be disrupted by other factors such as press freedom and the vigour of anti-corruption activism. Harsh economic environments can be causative of high corruption as is low endowment of natural resources. This relationship is in response to the natural instinct to survive in ambiances of scarcities. Low salaries create situations of scarcities. Extent of competition, salary levels, percentage of women in the labour force, endowment of natural resources, economic environment are factors that influence the scramble for jobs, thus the content and processes of recruitment systems and the prevalence of corruption in recruitment and selection channels.

- **Cultural issues:** Cultural determinants, political environment, professional ethics, morality, habits, customs, traditions, demography.

These factors, in one way or the other influence the prevalence of corruption. These too are the main explanation for the slipperiness of our conception of corruption. These factors can normalise and standardise particular actions to the extent that they become viewed as lesser or more corrupt. We cannot deny the fact that due to cultural hegemony perpetrated by the west and the USA on the other nations, the labelling of some cultural artefacts as corruption has been found offensive by people in other cultures. This is so, particularly, when these cultures take the issues in question as core to their way of living and socialising.

I would like to leave a note on the relation between corruption (C), economic rent (R) discretionary power (D) and accountability (A). If a society or system of governance confers too much space for decision makers to exercise their discretion they are increasing the chances for those decision-makers to act corruptly. Equally so, if a system allows for huge opportunities for creating economic rents, then it is allowing itself to suffer from rampant corruption. The stronger the accountability requirements in a system the lesser the chances for corrupt behaviours to occur. The equation below sums up the relationship among these variables.

$$\text{Corruption} = \text{opportunities for economic Rent} + \text{amount of Discretionary power} - \text{Accountability} \quad (1)$$

$$C = R + D - A$$

The equation sums up the discussion in that governance, economics and culture in some sophisticated manners do affect rent, discretion and accountability and consequently corruption.

7. Corruption: concealing strategies

Corruption is almost always concealed because there is the risk of detection, arrest and prosecution. There is also interest in that the benefit from the corruption must be realised in full. Thirdly is the avoidance of exposure and blackmail. In fact, a corrupt activity must be concealed so that the corruption can be perpetuated. There are a number of ways corruption can be concealed.

- **Physically concealing the proceeds of corruption or the objects of the corruption is one way of avoiding detection.** For instance, material gotten of corruption may be kept at some warehouse until such time its visibility may not attract scrutiny. The use of intermediaries is another way of concealment of corrupt activities. There are four most common intermediaries: subcontracted companies; agents; other group companies/subsidiaries; joint ventures. In the latter cases, the proceeds from corruption are immediately associated with the intermediaries.
- **A corrupt company can channel a bribe through a corrupt subcontract arrangement.** It can work this way: The main contractor may make the representation that activity A is a specialist activity and since it is a component of the deal, the contractor would outsource for the performance of activity A. The contractor will then bill the Project Owner for that service and pass the bill to the Project Owner. Or the subcontractor will never perform the ‘said work’ but gets the money and pass it on to the contractor. The fake subcontractor gets their kickback. Another scenario is when the subcontractor does the said job but uses material of lower cost. The worst scenario is when everything was a phantom story designed to get money for completely nothing. This is normally when the Project Owner is over-trusting or does not have a due diligence process in place.
- **Making of false statements in records or in public or under investigation can be used in attempts to conceal corruption.** For instance, a statement that is made in confirmation of a contract award when the award was paid to win the contract. In this case, the contract was ‘bought’ and not made on an arms-length basis as should happen in a fair deal case. Another example is where a contractor ‘buys’ a contract. This is corruption and the contractor will inflate the price of material or of service so that he tries to recover the amount used in bribes to win the contract. In doing so, a false statement of claiming costs that are nonexistent or above-price costs is in itself a false statement. The third scenario is where a subsidiary entity is used to pay a bribe. The subsidiary company will then raise a billing invoice to claim the same bribe amount in the name of a service purportedly rendered. The truth is that no such service was ever rendered.
- **Agents are often used in a corruption chain to conceal corruption.** Corrupt bidding companies may use an intermediary agent who has contacts with personnel in the Project Ownership, government or the particular country and is knowledgeable about the project. The most common form of intermediary is the agent. The company then enters into a seemingly clean agency contract with the agent. The second leg of the corruption may be misrepresenting the scope of the services. The services may be exaggerated, or the services may be fake or non-existent. Whichever, the endgame is the same: huge amounts of money are paid to the agent who then pays the Project Owner through their personnel or the Project contractor and gets the agency fee.
- **Participants to a corrupt joint venture would come together to form a joint venture of partners from different countries with the intent of concealing corruption.** The partners will take up an agency agreement whereby the agent will be from a country less likely to detect the transactions and less strict in the case of prosecution. Another scenario is where one of the partners in the joint venture (JV) is related to the representative of the Project Owner.

The representative of the Project Owner will ensure that the project bill is exorbitantly high and that payments are quickened. Another scenario is where the partners in the JV will each work on a portion of the project. Now, the representative of the Project Owner ensures that the relative of the Project Owner in the JV gets a bigger portion of the payments, much more than should have legitimately been.

- **Subsidiaries or other group companies may be created to be conduits of corrupt money.** A group of companies may select one in the group that is domiciled in a country where legislation is not harsh for their corrupt deeds and where chances of being detected are slimmest. The companies then enter a corrupt agency agreement. Alternatively, a corrupt payment is made by the identified company. The payment is done against a contract for a service that never was or that was but is exorbitantly inflated. The other companies will then be repaid through inter-company charges for services highly inflated in value or completely false services.
- **Falsifying documents can very much help in concealing corrupt dealings.** An agent agreement can be crafted so as to allow for payments under the guise of a genuine payment for a genuine service provided. The truth could be that the service was rendered but the payment figure is highly inflated. The extra money is what will be used to pay the bribe. The other scenario could be that the scope of the service is inflated to consequently cause an inflated payment. The worst scenario is that there is no service that was ever provided, what is there are falsified documents and corrupt payments. Corrupt personnel can generate a fraudulent contract claim document for a variation or extension of time that is not necessary. In fact, false reasons for extension of work are given, and such reasons could be given as thefts and strikes, etc. Falsified programmes, work records and time sheets are normally provided to support such statements. Forged or false certificates of testing or approval can be used to conceal defective materials or defective works.
- **An agency agreement will normally be used to conceal the payment of a bribe through an agent.** The agency agreement will purport to represent accurately the terms of the agency. However, it will only specify the legitimate services that are to be carried out and will not specify those services whereby the agent is to use the agency fee to pay a bribe. It will also usually specify an agency fee, which is considerably in excess of the value of the (legitimate) services specified in the agreement. The bribe will normally be paid out of this excessive fee.
- **Physical concealment of defective work or material may be done through other objects in the piece of work.** Defective works may be physically concealed by other works. For example, a foundation contractor may, for corrupt reasons, supply inadequate quantities of steel reinforcement for the foundations and then pay a bribe to the building inspector to certify the steel as correctly laid. The inadequate steel reinforcement will then be concealed by concrete.
- **Concealing the payments among corruptors, intermediaries, corruptees through cryptocurrency.** Most payments for corrupt activities are being switched over to cryptocurrencies. Finalising corrupt payments through cryptocurrency is being preferred because it is difficult to figure out accurately the credentials of the actual buyer and seller. It is therefore encouraging to use this channel and large

volumes of money can be transferred. The geolocation processes and the de-anonymising processes need time, specialists and expensive technology. The financing of corruption has in the recent past gone public through various advertising channels. To avoid being traced out, those running the corrupt deeds migrate to new sites, new logos, and new names all too frequently. Trending too is the creation of corrupt and illegal markets alongside the legal markets and sites. The law enforcement agencies will as much as those victimised not be sure who they are actually dealing with. The corrupt owners of those markets and websites will always move between the two markets and sites as pleases their safety.

In summary, the motives to conceal a bribe or other forms of corruption include as follows: a bribe paid to win a contract must remain secret lest the contract award will be set aside; a bribe paid to have an inflated contract claim approved must remain secret otherwise the contract claim will be rejected; a bribe paid to secure planning permission must remain secret otherwise the planning approval will be set aside.

8. Corruption: innocent blindness, ignorancia affectada, wilful blindness

In cases of partnerships, joint ventures, agents/consultant agreement, agency agreement, subsidiaries, outsourcing one party may be or may not be aware that the other has engaged in some bribe payments relating to the common business to win a contract, to have an inflated contract claim approved, and or to secure planning permission. Each time one is in some broad-based engagement with other parties there is a need to check how the other(s) are, lest you become culpable for guilt by composition. There are many instances that need due diligence because there are many other scenarios that carry blackmailing, blacklisting and serious legal consequences. Due diligence need to be taken to ward off the risks of being blamed and penalised for some form of negligence where: the company, partner or all of the others are aware that a fellow member of the joint venture has paid a bribe in order for the joint venture to win the contract, a subsidiary in another country is paying bribes to win contracts, and or a subcontractor paid a bribe to a representative of the project owner to ensure that the company won the tender.

9. Corruption: A typology

A number of criteria can be used to characterise corruption. In this chapter, we look at corruption through the lenses of ‘size’ and location. Thus, we will discuss petty corruption; grand corruption and systemic corruption in a perfunctory manner because the rest of my talk has no size or location biases.

Systemic/endemic corruption occurs when the perpetrators deliberately design systems, processes, norms and rules that are indifferent, and encourage or permit bribery, dishonesty, and all sorts of corrupt activities. Perpetrators can be a single small private or public entity or an entity as huge as NATO, the UN and everything in between.

Grand corruption involves major perpetrators normally with economic, financial or political clout and the consequences of their corrupt deeds have ramifications on economy, legislation and politics of the countries and regions thereof. Let us take an example where a company pays out R1.5 million (USD\$33.400 each) to three

legislators to lobby a case for a monopoly status to Company Q. Company Q gets legislated as the sole provider of a service/product. Let us further assume that the country's population is 70 million and each person consumes 2 units of the service/product daily. Let us assume because of the new monopoly status Company Q now overcharges by R1 per unit. Therefore, the total daily superprofit made by Company Q will be $(70,000,000 \text{ people} \times R1_{\text{superprofit per unit}} \times 2 \text{ units daily}) = R140 \text{ million} = \text{USD}\9.4 million , superprofits DAILY). The short-hand multiplier effect here is that for USD\$33.333 bribe payment made to each of the three corruptors, the Company Q will extract USD\$3431000000 annually from the nation (for R500.000–00 bribe received the company will milk the nation R51 465,000,000–00/R51.465 billion per year) in superprofits.

Petty corruption is generally typified by low-level servants in activities of small rent (bribe money). However, the consequences of petty corruption are not always petite. Let's use a hypothetical scenario to illustrate the multiplier effect here. Imaging a manager in a Department of Education sitting on an application for the establishment of a Private school because (s)he wants a bribe, say (R2000 = USD\$115) and the applicant sticks by their organisation's anti-corruption code and does not pay. Fifteen months pass by, and the mathematics of the corrupt deed comes to a loss of $(R10000_{\text{monthly rentals}} \times 15 \text{ months}) = R1.5 \text{ million} = \text{USD}\100000 in rentals for space that is not being used. It takes a further $(15 \times 20 \times 18,000 = R5 400,000 = \text{USD}\$360000)$ loss for paying staff who are awaiting return to their jobs. Let us further assume that each of the 20 staff members is a breadwinner in families of 5 persons. The truth is $20 \times 5 = 100$ persons have their lives held at ransom by a single corrupt official for just USD\$115/R2000. Therefore, the applicant has caused $(R1.5 \text{ million} + R5.4 \text{ million}) = R6.9 \text{ million} = \text{USD}\460.000 loss by a corrupt official wanting just USD\$115/R2000–00. Let us turn briefly to the costs for the students $(450 \times R2000 = R900.000–00/= \text{USD}\$60.000)$ for uniforms and other collateral costs.

The point here is what can look tiny and negligible may have huge knock-on effects. Something like a multiplier effect. In this simple example, R2000 (USD\$115) multiplies to a cost of well over USD\$520.000 (R7.8 million) in just 15 months.

The cost of a petite corruption may not be financially quantifiable but huge in suffering caused. Take a traffic officer who issues a driver's licence to a prospective driver without test. The unskilled driver kills 50 passengers in an accident. Assuming each of the 50 is a breadwinner to 5 kids, it means $(50 \times 5 = 250 \text{ kids})$ will have to live without a parent, without care and 250 kids will be abused for deprivation daily and 250 kids will drop out of school and these 250 kids will grow to be 250 homeless adults. Assuming each will bear 5 kids this will be $(250 \times 7 = 1750)$ destitute, all caused by the selfish want of R1000.00/USD\$66.00.

10. Anti-corruption activism: Drivers, opportunities, struggles

One of the shortfalls in confronting corruption is the practitioner mentality of fixing things and getting quick exhaustive results immediately. Corruptors and corruptees SWOT their target systems; that is, they study their target systems for their Strengths, Weaknesses, Opportunities and Threats. They do this against their own SWOTs, that is, they profile themselves for their Strengths and Weaknesses and the Opportunities and Threats to their corrupt activities present in their external environments. From match-and-merge study of the two SWOTs, the corrupt come up with strategies of Plan Concealment and Review, Plan Concealment and Implementation,

and Evidence Destruction Plan and Activation. Generally corrupt individuals and syndicates plan to be forever (at best) or hundred steps (at least) ahead of their (potential) trackers.

Anti-corruption activism should be a long-term endeavour, well invested with patience, as it sometimes experiences favourable patches, some setbacks, reversals and demotivating instances. Persistence and perseverance are key even where and when big efforts do not seem to be taking anything anywhere. We will discuss the four prominent drivers of anti-corruption activism below. I have winnowed four from literature synthesis:

- Knowledge: corruption accentuates and perpetuates poverty

Research and experience have brought humankind the knowledge that corruption accentuates and perpetuates poverty. It has also helped us see covert corruption as much as it has made humankind able to appreciate the devastating effects of even the minutest act of corruption. Research must generate better information and strong effects to convince leaders and society to change. It must expose everything. Corruption has huge negative impact on the macro-economies. Corruption has halved inward investment rates, held back growth and increased inequalities [7].

- The Emergence of Solutions: providing solutions alongside advocacy creates a powerful force for action

In recent decades, experiences and ideas with real practical and workable anti-corruption solutions began to emerge. Civil societies working and thinking together have been creating and moulding a corpus of anti-corruption experiences. Providing Solutions alongside advocacy creates a powerful force for action. However, as with many partnership endeavours, difficult times come when those who should be working in the partnership do not want to be members therein.

- Confidence: the more knowledge and solutions strengthen our resolute, the stronger our confidence to win over corruption

Confidence that corruption can be tackled is very important in multiplying number of membership, the idea, the voice and the action against corruption. The more people that become confident of the belief of winning against corruption, the more social experience less and nothing of corruption.

- No More Tolerance: the more the confidence, the stronger the intolerance become and proliferate

Once knowledge about the enormous destruction that corruption can do and people see effective solutions coming from talking and thinking together, and they each day gain units of confidence in the efficacy of their anti-corruption movement. Joly [8] and Jackson & Amundsen [9] have noted the need to grow context-responsive systems to fight corruption. In response to corruption, many organisations and networks have emerged: the United for Wildlife Task Force; EU Cybercrime Project; National Units of Europol; European Serious & Organised Crime Centre. The response includes the building of capabilities that can be deployed in fighting corruption. Such efforts include building specialist skills; building capacity for

cryptocurrency analyses; capacity for forensic analyses of devices used in corrupt activities; advocacy skills; social mobilisation skills; behaviour change communication skills, etc. Most countries have legislated anti-corruption commissions. South Africa too has a National Anti-corruption Strategy. The experienced gains strengthen our resolve never to tolerate corruption. Indeed, corruption should no longer be tolerated.

11. Corruption IN the oil and gas industry

There are numerous cases of corruption in this sector. I will use just the Panalpina case for brevity. It is interesting that this case absorbs all of the things that have been discussed above. Again, it shows that the core of corruption may remain and that any new changes may simply be to dodge legislations, maximise the ill-benefits, or set pace ahead of policing and investigation.

The Panalpina Bribery Scandal exemplifies the rampant corruption in the minerals sector of commerce and industry. The Panalpina investigations unearthed a broad scheme of widespread corruption in the oil and gas industry. Six oil and gas companies were using a third party to pay and conceal bribes to foreign officials. The aim of the bribe payments was to obtain or retain business. Between 2002 and 2007 Panalpina World Transport subsidiary, Panalpina Inc. played the role of intermediary and paid Noble Corporation, Transocean Inc., Pride International Inc., Royal Dutch Shell Private Limited Corporation, Tidewater Inc., GlobalSantaFe Corporation millions of bribe money. Corruptees in these cases included Angola, Brazil, India, Mexico and Nigeria and other countries. The corrupt deals included bypassing national rules, obtaining lower tax system estimates, gaining preferential treatment in expediting importation of goods and equipment, circumventing national importing regulations, extending drilling contracts, helping their companies to hide the payments, and obtaining false paperwork related to offshore drilling rigs, helping legitimise illegitimate payments made alongside legitimate payments. After the investigations, Panalpina Inc. was fined USD\$472 million. Panalpina Inc. was also using other corrupt means of getting payments from within the subsidiaries. Claims would be headed 'special handling' or 'local processing' and many other terminologies.

Violation Tracker has a record relating to Foreign Corrupt Practices Act showing that in 268 cases of corruption and USD\$14 billion has been collected in fines. In the USA alone, the FCPA revealed that intermediaries were involved in over 90% of cases of corruption unearthed. In 2016, the Fairfax Australian media and the Huffington Post outlets revealed that Unaoil had over a decade been paying bribes on behalf of energy companies in at least nine countries. In 2019, three of Unaoil top executives confessed that they had been facilitating bribe payments.

12. Corruption in education

Nothing can ruin a country more than its poor and corrupt education system. Corruption in education is defined by Hallak and Poisson [10] as 'the systematic (ab) use of public office for private benefit, in disregard to the significant loss of quality of educational services and goods, equality and access to education.' In Africa's universities, the massification, commoditisation and marketisation of education have led to many chances of corruption [11]. Some of the corrupt activities within the higher

education sector include fake universities, fake circulating information by sending spam, deceptive advertising, sale of theses over the internet, ranking high on hit list of search engines, little content to support levels of offering, hyper-production of certificates through surprisingly short courses, knowingly producing ‘intellectual cripples’ [12].

Other forms of corruption include ‘thigh for marks’ and ‘marks for a thigh’. In ‘thigh for marks’, it is generally the student making the offer in contrast to the ‘marks for a thigh’ in which it is the teacher making the demand/offer. Still, we have corrupt cases of ‘thigh for a text-book’ or other resources in short supply. Students having examinations and assignments written for them by others are further examples of corruption all of which decimate the quality of education and the future national human resource capability.

13. Corruption in mining

Corruption in the mining sector has been blamed for the polluted water bodies, excessive destruction of natural environments, polluted landscapes, wasted public money and polluted atmospheres. The IMF estimates that annually, over 2% of the global GDP, about USD\$2 billion is lost to corruption. Much of the corruption in mining, as with the oil and gas sectors, start generally at the issuance of prospecting rights or/and mining permits. Painful instances of the mining sector corruption are when villages are removed to open space for mining, and they are relocated to other places without any help nor fair compensation for all the costs of their relocation. Resettling the displaced must be future-focused as well, that is, the new place should be better in all aspects than the place from where they have been removed. Unfortunately, there are lots of corrupt acts including relocation to other places not initially agreed to, instalment payments where the initial agreement stipulated huge once-off payment and smaller future instalments. In grand corruption cases, we have government representatives signing for the mining of mineral B without the mention of associated minerals A, C and D, for example. In some cases, mineral B could be the third in concentration. The advantage to the miner is that in mining, they make huge revenue from minerals A, C, D, etc., which are not referred to in the Government-Miner contract. They too will not pay tax on those revenues.

14. Corruption in the health sector

Corruption in the health sector can make a difference between life and death. Health sector corruption affects access to healthcare, equity in the treatment of patients, efficiency of the system and efficacy of health services. Corruption reduces the speed at which the world would achieve global health coverage. It is estimated that annually, over USD\$500 billion is lost to corruption in the health services sector alone. Ironically, the world needs less than USD\$500 billion to reach the UHC (Universal Health Care) target ([13], p. 9). It thus means that all we budget for above-average UHC is going into a leaking bucket of a system infested with greedy, corrupt individuals either operating solo or in some group, corporate or syndicate. In a 2011 study covering 178 countries, it was found that annually over 140,000 children die because the budgets that could save them have fallen into corrupt hands. Friedman [14] asserts that the number of HIV-AIDS patients across the world has remained high because of

corruption. Corruption has caused a build-up to antimicrobial resistance and also due to over-dose-induced resistance [15]. There is just not enough left for training, supporting and doing all the necessities for the millions affected in the various continents. Hussmann [13] affirms that there are chances the Patient-Provider interaction in poor countries is suffering a 51% risk of being corrupted. Similar corruption is rated at 1% in the least corrupt countries. The main routes through which corruption siphons away the money are bribery, theft and embezzlement. The corruption just restricts the human population from accessing needed medicines, supplies and equipment. Bate [16] observed that USD\$1 million worth of anti-malarial medicines was siphoned through corruption. The budget for tuberculosis was equally scammed by the corrupt hands of officials. Among the countries whose health systems are badly affected by corruption are Ukraine, Uganda and the United Republic of Tanzania [13].

In the health services sector of many countries, patients can be charged for treatments and diagnoses that never were, or that were substandard. Referrals are also done for kickbacks and 'patients' may be subdued to irrelevant and unnecessary procedures for which they are circumstanced to pay. The World Health Organisation has established that over 6.2 million Caesarean sections performed are unnecessary, About 10% of drugs used across the globe are fake and sadly around 50% are in the African health system. The selfishness of the corrupt involved is that they do not regard that fake drugs can lead to resistance, illness or death and that it is already poor that need health care the most. In most poor countries, the poorest can spend up to 20% of their hard-earned income buying fake medication. Worldwide about 25% of public health budget is lost to corruption, in the UK the figure lost to corruption hovers at 37%, in Germany at 10% and at USD\$75 billion in the USA.

Delavallade [17]; Disch and Natvig [18] and Hussmann [13] present a harrowing picture of corruption in the health sector. A study of 64 countries shows that corruption lowers public spending on social protection health and education. In Chad, corruption in the central government is estimated to consume above 66.7% of the health sector budget leaving a meagre 33.3% to trickle and reach the local regions. In Cambodia, corrupt hands at the central government grab around 10% of the health budget. In the United Republic of Tanzania, local district councils consume up to 41% of centrally disbursed funds. In Uganda as with Chad, as much as 66.7% of official user fees would go into corrupt hands. The 2020 annual global spending on health was USD\$8.3 trillion and this went to USD\$8.8 trillion in 2021. This figure is 4% of the GDP of low-income countries, and with the OECD countries, it stands at 15% of their GDP. The multiple resources in the health sector offer numerous opportunities for corruption.

Other examples of corruption include the collection of the water that has been used to wash dead bodies and sell it for ritual purposes and is said to be a prime resource for those practising witchcraft. It is also alleged that in some countries those working with dead bodies to determine their causes of death do engage in the collection of some fat and sell it for rituals as well. One of the forms of corruption in the health sector that is causing huge suffering and self-aggrandisement of doctors on a huge scale is when private doctors working as well in the public sector enter into collusion of 'stealing' drugs out of public health facilities and take them to their private surgeries. There are also reports of collusion, where public hospitals fake that they will not be having a doctor soon to attend to ambulated patients or that they are fully booked. They then refer the patient to a private doctor who will then fake diagnosis and then refer the patient to a public hospital. The patient will receive a bill with the referral cost, drug costs, bedding costs, consultancy fee, and everything until the bill satisfies the writer.

While the poor and desperate were timidly consuming every herb recommended on social media in the fear of contracting COVID-19, there was a lot of corruption involving donations and COVID-19 loans [19, 20]. Taking advantage of the regulations around medicine procurement during the COVID-19 pandemic corrupt officials did the following: In South Africa, the then minister of health was alleged to have played wilful blindness to corruption involving USD\$10 million and another involving over USD\$900 million [21, 22]. Cuadrado [19] and Alkins [21] show the following from research: in Malawi, COVID-19-related investigations focused on USD\$1.3 million involving public-private sector collusion [21]; in Kenya, one investigation focused on USD\$400 million, another on USD\$71.9 million, and USD\$69 million; in Zimbabwe, the minister of health was dismissed; in Ghana, the minister was alleged to have bought vaccine units at USD\$9 above the market price; in Lebanon, politicians were bribing for votes in exchange for free vaccination; in many countries, those who were afraid to vaccinate could still buy proof-of-vaccination cards on the black market while fake vaccines were available on the black market; in Uganda, COVID-19 patients were being billed up to USD\$15000 for hospitalisation in state facilities. This is deadening for a country whose average annual income is USD\$1000. Admission to Ugandan state hospitals is normally free. In Bangladesh, the Sinopharm vaccine had an official price of USD\$10 but was being sold for USD\$100; in Guatemala, the government is said to have paid for 16 million units of vaccine but could only show 350,000 units; the social media is awash with medicines for various ailments. Corrupt individuals are rushing to open street surgeries practising with these faked claims of medicinal value.

15. Corruption in wildlife trade

Trade becomes corrupt when the items being traded, and the considerations exchanged are not allowed but still get done and more so involving parties or persons that should be enforced against such trade. The sale of live or dead wildlife pieces is illegal in most countries as much as their hunting in the unprotected areas. The hunting and trade of wildlife in protected areas with the help of police, warders, the army, officials or any person who should be stopping the hunting and trade has become rife across the globe. This corrupt trade involves animals, birds, reptiles, molluscs, fish and other aquatics.

In the most shocking instances, warders give information to poachers, who then make their incursions to places where they will easily find the game and where they will not be detected. Bribe payments are reported to be left at indicated places including rocks, trees and dugouts near the carcasses. With the advent of technology, GPSs are sent to a third person, who passes the GPS to another then to the intended person. In all cases, the devices used are not registered with any of these persons, and in some cases, they are bought in ways that do not get them registered. The gadgets have no other purpose and after the GPS messaging they are switched off and have their batteries removed and stored away from their properties. This is part of their SWOTing and concealment of identity strategies.

16. Corruption in infrastructure and construction

Corruption in the infrastructure and construction industry has led to challenges that include poor-quality, inappropriate project choice, excessive time, high prices, excessive cost overruns, low returns and inadequate maintenance.

Kenny [23] states that financial losses through corruption will always have disproportionately high economic consequences on the nation to which Wells [24] affirms that over 20% of construction costs could be going into bribery. Corruption in the construction-infrastructure sector occurs at any of the following stages: project appraisal; project selection, design and budgeting; tender for construction; implementation; evaluation and audit [25].

Corruption thrives where governance is weak as we have noted with the many findings by Alkins [21] during the relaxed procurement procedures in the health sector during the COVID-19 pandemic. The project preparation stage can be riddled with corrupt activities including state capture. Failures of due diligence checks at this stage can lead to failure of all subsequent stages of the project. It is common that weaknesses in the project proposal stage are difficult to distinguish if they are part of corruption or are genuinely due to other factors such as lack of capacity, negligence or mismanagement.

16.1 Project development and initial screening

Politicians, companies or individuals may redirect part or whole of projects so that they serve the interests of a political sector or the politician per se. The contractors in this case have nothing to lose as the sponsor or the government will pay the real amount plus an inflationary amount. It is this inflated amount that will be shared by the corrupt handlers. In some cases, communities are faced with situations where a decision has to be made to maintain aspects of the extant project or to embark on a completely new project. Straightforward persons would choose a project on a cost-benefit analysis that values the Economic Return Ratio. Corrupt individuals would not worry about the ERR of the project but about the possibility to exploit for maximum self-gain. In some cases, in order to net a project, corrupt individuals can deliberately declare a lower cost of the project so that it is approved [25]. At implementation, cheap material, underpaid labour, etc., are used to reduce the overall project cost. The result is that the project will fail to last and soon the community will be seated with a white elephant or a dead horse. Poorly constructed projects will soon be a risk to users or will confer huge recurrent maintenance costs. Impressionist and visibility-seeking individuals are most affected by the desire to get anything to show to their constituencies.

16.2 Project selection and detailed design

At the stage of project selection, contractors and sponsors may structure the bid document enough to exclude other bidders. This can be by (a) inclusion of details which the selection committee will give excessive credit to and therefore rate the bidder very high while they know they are not necessary or (b) refuse as unnecessary details that they know are important. Their motive is simply to discredit bidders with these 'extra' items as unduly expensive when they are 'not necessary'. Once the bidder they want has won the project in the case of scenario (a) above, the extra details will not be implemented into the project. In scenario (b) above the costing of the project will be revised to accommodate the necessary features that were previously refused as unnecessary. In scenario (a), the strategy is winning the project by **detail** and in scenario (b), the strategy is winning the contract by **cost**.

The deliberate exclusion of some cost elements to get the project approved and then raise these elements at a later stage as project modification exemplifies corruption by manipulation, a kind of 'foot on the door' crookery. In some cases, corruption

can be affected by inflating every price and supporting the fake prices through fake quotations and documentations. All monies paid above the actual cost of the project find its way into the hands of corrupt individuals.

17. Corruption in waste disposal

Waste trafficking has been growing over the years. In all cases, the waste, including dangerous waste, is trafficked from rich countries to the poorer countries or those not so poor but with officials who are very corrupt. Waste treatment needs technology, manpower and treatment budgets, and these vary from one country to the other. Some countries have laws that are silent on waste management, others are more lenient, yet others are so strict that the management of waste disposal becomes fairly expensive. The current trend, among cost-benefit analysis, is that developed countries would make a saving by shipping their wastes to accepting 'poor' countries for a fee. The corruption lies in the deal involving kickbacks to officials in the accepting country, non-disclosure of all contents of the received waste, and the disregard of the knock-on effects of the waste on the local population.

Much waste, including nuclear, is accepted to be dumped in coastal areas near poor countries. The poor men of these countries normally go offshore in their fishing boats. They are unaware of the dangers of their being around waters where such waste has been dumped. They are ignorant of the danger of the consumption of sea life that has fed on part of the dumped waste. On land, it is the poor who rush for such sea-life food because that is relatively cheap, and it is generally a new culture to promote the nearest stall. This multiplies the danger of risky food to the population (a kind of multiplier of risk effect).

18. Corruption: human trafficking

Human trafficking is generally done for body parts when the victims are later killed, or it is done for the victims' cheap labour or unpaid labour or sexual exploitation for little or no money or for criminal activities for very little commission. The people involved normally use deception to get their victims to agree to be moved from one place to another. They can also misrepresent facts or themselves to convince their victims. In the most heinous cases, an acquaintance, agent or relative can travel with the victim and pretend like they have both been kidnapped or abducted and then they are separated, and the agent gets 'freed'. Agents are generally used in this corrupt business.

In some cases, for human parts like medical purposes, the agent can pretend to be a for-job recruiter. To make the whole process cost-effective, they transport only victims who will meet the criteria. This requires the victim to have full medical examinations. Desperate for a job, victims go as far as borrowing money to pay for such medical examinations. They send the results to the agent. The agent will check if the victim will be the best fit. If victim is free of diseases and is of required blood-type, travel arrangements are accelerated before there can be a change of heart. The increasing population of diabetics, heart, kidney and liver patients particularly in the so-called developed nations are certain to increase human trafficking for parts internally from the poor in the home country, and externally from those seeking employment abroad.

Where the victims are trafficked for forced labour, they end up enslaved in construction, farms, domestic servitude, mines, gardens, fisheries, etc. Most are forced

or circumstanced to marry or just have sexual intercourse among themselves. With brutal 'owners', they end up with the choice of having to abort or infanticide.

Human trafficking can be done too for criminal activities such as drug cultivation, theft, forced begging or selling of counterfeit goods. These criminal activities normally have targets. If targets are not met, punishments are meted on the individuals. Punishments can include performance of sexual acts on the boss including 'handjobs', 'sucking' and/or allowing to be penetrated.

Human trafficking by smuggling is generally the act of getting humans past someplace either because the smuggler knows the clandestine routes or can bribe past the securities. The smugglers are paid a fee from which they will also pay the securities that allow them to pass. Smugglers can make the journey artificially long so that they are able to demand more, they can tell their victims that luggage will sell them out to police and security so they must be thrown away. Meanwhile, the smugglers call on their friends with GPS to come and harvest the thrown away. Smugglers would take the harvests to their families or for sale.

Human trafficking can also be done for purposes of muthi rituals. In the most painful cases, the victim will get the required 'muthi part' removed from them while they are alive. It is argued that the felt pain make the ritual really work effectively. What a barbaric act! Corruption cannot be tolerated anymore, any further than what mankind has endured to date.

19. Corruption: the consequences

19.1 Economic consequences of corruption

Corruption breeds corruption (a multiplier effect?)

An economy can be devastated by rampant corruption involving embezzlement of huge sums of public funds, and the mismanagement, inequity, wastage and social decay that inevitably follow systemic corruption. Grand corruption has a tendency to systematically create suffering and multiplying forms of corruption. It is not uncommon that soon systemic corruption sinks portions of the formal economy into underground economy (black market). When a sizable chunk of the economy goes underground, it creates the risk of inaccurate perception and calculation of macroeconomic data. Macroeconomic data are normally calculated from the formal above-board economic sector. As corruption grinds, portions of the formal sector will sink underground and resurface at some point. Such scenarios create a real headache for economic analyses and policy formulation.

Economic analyses and policy formulation will become even harder without correct figures of the volumes of goods that are in- and out-bound through the corrupt routes of smuggling. The chain of uncertainty will impact the exchange rate. When the exchange rate has no hard data behind it and just vacillates to the whims of the currency peddlers on the black market, the official exchange rate will have its meaning eroded. The dominance of a parallel/black market renders the official exchange rate generally meaningless and symbolic as it does not stand on the shoulders of accurate figures of production inflow and outflow of goods across the national boundaries. The scenario of a strong black market creates uncertainty on prices of goods. As some goods become unavailable on the market while others have their prices inflating all too often, calculation of the consumer price index (CPI) becomes difficult, and the nation will again live with a symbolic value of CPI. Equally so the inflation rate

will be difficult to calculate to a precise figure. In conditions where the formal market is pressured by the informal sector and the black market every key macroeconomic indicator is distorted, proper economic accounting and macroeconomic management become difficult thus constraining modernization, economic development and the proliferation of a healthy functional market economy. It is not uncommon that with the deterioration of an economy quality of its exports falls as well and in a globalised and competitive economy the companies suffer modifications and terminations of international supplier contracts. As more important companies are removed from international supply chains markets dwindle and so do the national employment rates and suffering multiply among citizens.

19.2 Corruption worsens inequality

In distorted economies, the well-connected and privileged dominate both the formal and the underground economies, channelling goods from their formal into the underground economic activities, eventually making themselves the ‘economy’ through a ruthless monopolistic practice. The corrupt thus collect abnormally high profits and have the power to cartel goods off the market and return them at will at cut-throat prices. Inequality increases, the poor get poorer and anger runs in everyone with likely serious political consequences.

Examples of such inequalities include children of the rich having pocket money that surpasses the teacher’s salary, and the total budget for dog-feed in an affluent community surpassing the budget of a school in a community overlooking their own. The rich increase their imports of luxury goods right to perfumes, while the majority suffer and cannot afford a pack of painkillers for the headache.

19.3 Corruption raises investment costs, risks and uncertainty and reduces incentive to invest

Corruption has adverse impact on private investment, both domestic and foreign. Refer to the example above where a social and public investment in the form of a unique school was going to benefit generations of pupils was denied by a corrupt individual whose own kids are either failures or are in similarly good schools elsewhere. Systemic corruption multiplies situations where bribes have to be paid before any investment takes place and upon entering into negotiations for the registration and establishment of a business. The investor is followed with further demands for bribes at setting up the business and again at procurement of leases for land and buildings; permission to engage in activities such as production, transport, storage, marketing, distribution, import and export; obtaining connections for water, gas, electricity, and telephone; having access to telex, fax and e-mail facilities and so on; which can involve payment of substantial bribes at various stages and may require the services of agents with specialised expertise on how to get around complex rules and procedures to acquire these things.

More often than not the agents and intermediaries are equally or even more corrupt. They normally play on the technique of ‘we are almost there, this is the last step’. On fair analysis, intermediaries worsen the losses. Supposedly the business is finally on its feet, the corrupt officials will still demand monthly *thank you*. Councillors, local politicians and other kinds of ‘powerful’ may require that the business ‘**just helps**’ with corporate social responsibility issues like contributions to schools, charities and even birthday parties of their nominees.

19.4 Brain drains and destruction of future manpower resources

As corruption bites, those who have skills will tend to emigrate to countries where they can make a better living with their skills. For those skilled staying behind, instead of engaging in formal economic activities, they waste their spirit and effort in rent-seeking black market economic activities. Corruption tends not to value the plight of the poor. Talented businesspeople, industrialists, entrepreneurs and managers represent a scarce and valuable resource, and every country should be valuing them enormously. Businesspeople waste hours in queues caused by dishonesty and unpredictable behaviours of the corrupt in society. One strategy used by bribe-seeking officials is to pretend as if 'things are so difficult here' and as if they are doing you a favour by doing what they should and are paid to do. Imagine an applicant for a simple service had to wait 7 months for a document to have two signatures from two persons who are in the same building on the same floor and three doors apart. This waiting cost R700000–00 (USD\$47000). In corrupt societies, enormous time is lost in waiting for appointments, engaging in discussions and sitting in negotiations and meetings that are non-beneficial as they seem to worsen investment prospects, political and economic instability. The private sector generally feels that in the majority of cases officials in the public sector have the 'prey attitude' towards them. Their tricks in tactical solicitations of bribes are difficult to interpret as they often play out as incompetence and being out of pace with the fast-moving world.

19.5 Without fair foreign direct investment modernisation slows

Foreign investors are more concerned about the prospects of making some profit in the countries they invest in. Investors tend to hold back where the conditions do not seem to be encouraging. Discouraging conditions, therefore, limit foreign direct investment (FDI) to exploitation of natural resources and investments in short-term and quick-yielding, quick-closing deals that do not embed into the recipient country's uncertain economy. These FDI do not improve skills level, technology co-efficiency or industrialisation levels of the recipient country. As financial and economic discipline of the country erodes, the attractiveness of a country to foreign investors fades thus keeping investment low.

20. Corruption: political consequences

Corruption causes suffering and the citizens may get to a 'fed-up' point when they engage in demonstrations, picketing and strikes all of which can variably worsen issues. Governments can fall as has happened in unrest that start from food queues. Careers can be ruined as happens in countries where unemployment rates are near the bream. Reputations can be destroyed as happens with politicians in the wrecked countries. International and local agents for regime change generally fuel situations with the potential of worsening things rather than bettering them [26]. Political prostitutes and opportunists tend to thrive in ambience of dissatisfaction. These peddlers of regime change generally instigate situations of every form of anarchy. National legislation is generally designed to create respect, order and prosperity. Corruption encourages and involves breaking these legislated codes, rules and regulations [27]. Breaking the codes, rules and regulations leads to rule of law thus creating anarchy that does not benefit society. Road-use laws, environmental protection laws and

maritime use laws are all designed with a positive aim and breaking them causes huge negative consequences.

21. Corruption: financial consequences

Most countries have mechanisms for price subsidies on basic commodities and price controls. However, in low-income countries where the majority are rural subsistence farmers, the subsidies do not benefit them much as they are on things that do not form part of their weekly shopping basket. I mentioned under economic consequences of corruption that the underground market concentrates market control in hands of corrupt individuals. In the worst cases, more foreign currency will be in the hands of the corrupt that dominate the underground economy than in the Central Bank. This concentration of money in the hands of the corrupt can decimate the value of a local currency. Prices of things can sky rocket, leaving everyone without valuable money. Financing projects and purchases can become very expensive and most times unattainable. The flourishing of a black market will result in government losing revenue, making the government struggle to increase subsidies making it more bankrupt and more and more unable to provide services in quality and in quantity. Corruption and the underground markets, price controls and subsidies have a multiplier effect on corruption thus worsening the social and economic plight of the general population. Currencies are exchanged on the black market creating a very difficult situation for those who cannot reach urban centres where this normally happens. When the currencies are exchanged in the rural and quasi-rural areas, the rates are cut throat further making the poor suffer more.

22. Corruption: developmental consequences


Not only does corruption affect economic development in terms of economic efficiency and growth, but it also affects equitable distribution of resources across the population, increasing income inequalities, undermining the effectiveness of social welfare programmes and ultimately resulting in lower levels of human development [28]. Poor and underdone human resources development will undermine the nation's long-term economic growth, sustainable development and equality [29]. Corruption is always a stumbling block to national modernisation, economic development and integration in a world that is becoming increasingly globalised and integrated. Corruption shatters the potential and growth of future generations [30].

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Chapter 8

Media and the Uncertain Fight against Corruption

Akena Patrick Rolex

Abstract

This chapter is an extract of a whole study conducted to examine the role of the media in fighting corruption in Lira city, northern Uganda. The objectives of this chapter are to: establish the reasons for the persistence of corruption in the public administration of Lira City, examine the role of the media as a critical tool used in the fight against corruption in Lira city, examine the limitations of the media in the fight against corruption in Lira city and identify solutions to the challenges that hinder media in fighting corruption in the City's administration. This chapter derives its data from media practitioners, public officials and business people through interviewer-administered questionnaires: A total of (139) respondents and eight key informant interviews (KIIs) from a sample size of 101 respondents out of a study population of 147 inform this work. The author reviewed relevant literature and documents on the role of the media in fighting corruption from various sources.

Keywords: media, corruption, role, fight, Lira City

1. Introduction

The notion of corruption means different things to different people. According to Buckland [1], Transparency International defines corruption as the abuse of entrusted power for private gain. Corruption is a global challenge affecting both developed and developing countries such as Uganda. The effects of corruption include: retarding the effectiveness of service delivery, social welfare and general development of the affected area. As postulated by Jain [2], corruption increases the cost of investment and doing business while giving undue advantage to the corrupt who offer bribes leading to unfair competition and unbalanced socio-political and economic growth in the affected area.

In their discussions Flanary and Watt [3], state that in a bid to fight corruption in Uganda, the NRM government, since taking over power in 1986, embarked on among others, enacting several anti-corruption laws and established several anti-corruption agencies including: integrating the civil society, private sector and the media, to help in the fight against corruption. Whereas the media has been brought on board to complement government efforts in the fight against corruption [4], reveals that few studies have investigated the roles and effectiveness of the media in the fight against corruption. Researchers and authors have not extensively reported on possible reasons explaining why corruption has persisted in the public sector and the challenges faced

by the media in the fight against corruption in the country. This chapter, therefore, tries to shed more light on the gray areas in the fight against corruption with the hope that the situation and challenges in Uganda may not be different from other countries where corruption is endemic.

2. The roots of corruption

Corruption is a global phenomenon whose acts according to Arnold and Lal [5] are embedded in institutional practices and everyday lives and are perceived as fixed and uncontestable. Being a global vice, corruption knows no boundary; it affects high, middle as well as low-income economies alike and all individuals therein irrespective of race, nationality, language spoken or level of education. Corruption such as bribery causes insecurity in the economy by increasing the cost of transactions and impedes both domestic and foreign investments, reallocates talents leading to ineffective economic results. A study by Šumah [6] adds that corruption imposes a regressive tax which ends up burdening both commercial and service activities undertaken by the small entities that drive the economy, and it also destroys the legitimacy of the state. Corruption is classified into two major forms: grand corruption which [7] alternatively refers to as ‘Tigers’ and state capture, and petty corruption also referred to as ‘flies’. Grand corruption involves the manipulation of the state instruments by the politicians to benefit or profiteer from public resources and services. Here, the practitioners distort policies to a point that they own up to the state to pursue their interests. On the other hand, Graycar [7] reveals that petty corruption involves lower-level officials who may have the opportunity to do wrong things such as using their position to falsify official records that may lead to a person not paying taxes as the officer gets a kickback or other favors.

However, Šumah [6] believes that the causes of corruption vary from country to country though there are generic causes such as low media freedom, the influence of religion where Protestant countries are argued to have lower levels of corruption, the closed nature of the country’s economy, low level of a country’s income and low level of education in a country where the perpetrators are not easily identified or exposed.

The influence of a country’s political system and adherence to the rule of law is central in the fight against corruption as [8] argues that, in a democratic country where the corrupt are exposed and heavily punished, many would-be practitioners of corruption would shy away from it. He opines that a dictatorship and lassie-fare kind of political system are a breeding ground for high levels of corruption. Treisman reasons that this means a bad political system, lack of political will, weak judicial system and deliberate failure to punish the corrupt are a factor for the increase in corruption.

Research also shows that there is a positive relationship between corruption and economic development in China due to a transition to a market economy and that provinces with greater openness, anti-corruption efforts, higher educational attainment, historic influence from the Anglo-American church universities, higher wages to government employees and more media freedom had the lowest levels of corruption, and the reverse was true. Dong and Torgler [9] suggest that this means that the absence or the low levels of the above would end up encouraging and promoting corruption.

Due to its dangers to the economy and social welfare, the fight against corruption has attracted not only the international, regional and national actors but also the CSOs whose prominent actors include the media.

According to Enke and Borchers [10], media is a plural form of medium, and it refers to channels of communication. Traditionally, the media was categorized into major three types.

Print media, electronic and outdoor or out-of-home media. The print media entails newspapers and magazines, broadcast or electronic media which majorly includes radio and television and outdoor or out-of-home media (OOH) where the use of banners, flyers, pinned messages, paintings and writing materials on walls, among others. However, Peterson [11] states that the latest media category to join the rest is the internet-enabled social media. This category has become so significant of late with platforms such as Facebook, Instagram, WhatsApp, LinkedIn and TikTok, among others. He also stresses that the media plays a critical role in the fight against corruption; each media outlet acts alone or in a unified national, regional or global network depending on the nature of corruption being fought.

Several legal provisions in Uganda lend the media and media practitioners the right to fight corruption, for instance, CAP 4 (41) of the 1995 Constitution and the Access to Information Act (2005) mandate any citizen including media practitioners to access information in the possession of state officials except for the information that [12] believe may jeopardize national security. Whereas the Leadership Code Act (1992) as amended in 2017 sets limits on the financial behavior of public officials, requires them to declare their assets and liabilities, which [13] believes is an enabler for the media to demand such accountability lawfully. Walyemera [14] argues that the Uganda Communication Commission was set out in the year 2013 as a regulator and to develop the media in Uganda, including mandating the media to take a lead in advocating for development in the communities. All these and the international protocols and declarations to which Uganda is a signatory such as the Universal Declaration of human rights Assembly [15] which mandates individuals to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

Therefore, as guided by Schauseil [16] and Stapenhurst [17], the role of the media in fighting corruption anywhere can be both tangible and intangible. It is tangible when some sort of visible outcome can be attributed to a particular news story or series of stories – for instance, the launching of the investigation by authorities, the scrapping of a law or policy, the impeachment or forced resignation of a crooked politician, the firing of an official, the launching of judicial proceedings, the issuing of public recommendations by a watchdog body and so on.

A study by UNODC also observes that the media helps in empowering citizens of any given country to monitor and question the actions and inactions of elected or appointed officials in instances of corruption. This is the reason media reports on corruption have taken centre stage at the global level since there are even online platforms as an example of media that allow citizens in many countries to report instances of corruption by mail, phone, text message and other channels. Arnold and Lal [5] cite India, for instance, where an online platform dubbed *ipaidabribes.com* aggregates citizen reports to show which departments and institutions are most vulnerable to corruption. The platform also publishes reports of corruption, expert advice and links to news stories about corruption. A study by Enikolopov et al. [18] provides evidence that social media can influence the market and trigger accountability mechanisms in large and state-controlled companies even in a country with limited political competition and censorship of traditional media.

The broadcast media is equally critical in promoting good governance and controlling corruption: Ayoola [19] believes it not only raises public awareness about

corruption, its causes, consequences and possible remedies but also investigates and reports the incidents of corruption. By drawing attention to behaviors that are generally perceived as unacceptable and exposing such behaviors as corruption, Ackerman et al. [20] declares that the media can raise public awareness, activate anticorruption values and generate outside pressure from the public against corruption. Alluding to the role of the media, Kuznik et al. [21] states that fighting corruption is meticulous and broad-based and should be embraced by all echelons of a society with the media serving as a conduit of information and education.

According to Tangri and Mwenda [22], the press is the main instrument for news gathering and investigation of public officials' abuses and illegalities, uncovering scandals and 'misdeeds of the increasingly corrupt executive'.

To Sharma et al. [23], gathering available open-source information is the first and most approachable step of the data collection process on corruption, which is done by the media. While agenda-setting is a classic role of the mass media, ICT is very effective as a watchdog and a public forum in the fight against corruption. As such, a crucial element of a country's anti-corruption programme according to Stapenhurst [17] is electronic media, especially broadcast media. The media does this by setting the agenda for public discussion on corruption cases, enhancing and energizing public debate and by heightening a sense of accountability among politicians through their news and programmes. Thus, Adeyemi [24] observes that the press serves as an agent of change and, as the watchdog of society, is expected to play a part in ensuring transparency and accountability in government as well as contribute to the efforts of crime-fighting institutions to curb corruption in the country.

In the circumstances, there are three mechanisms through which the media influence our perceptions and norms: media act as a watchdog, agenda setters and public forum for a diverse set of voices. Arnold and Lal [5] state that in their function as a watchdog, the media act as monitors of government behavior and guard the public interest by highlighting cases of maladministration, abuse of power and corruption. Thus, Nnaane [25] believes it is indisputable that the media have been quite pivotal in the fight against corruption.

In Uganda, since the 1990s, there has been a proliferation of media houses due to the liberalization of the media sector by the NRM government which [26] maintain enacted a national constitution in 1995 with provisions like Article 29 (a) which entails freedom of speech and that of the media and press. This was further strengthened by other legal provisions such as the UCC Act (2013), Uganda Journalist Statute (1995) and Electronic Media Act (1996). The media houses are owned by the state, private individuals and organizations and are all mandated by law to fight corruption.

Sanyu FM and Capital FM are among the oldest Frequency Modulation (FM) radio stations in Uganda after Uganda Broadcasting Corporation radio which is owned by the state. In the year 2013, ACME [27] revealed that there were over 100 FM stations but by December 2020, there were 309 stations in the country's 14 broadcasting regions, covering over 130 districts. However, in December 2020, the Uganda Communication Commission-UCC [28], which regulates the media in Uganda, published a list of only 199 radio stations as the approved ones. This has been a great leap in the media considering the few numbers in the 1990s.

Lango Sub-region and Lira City where the author focused much of his attention have witnessed a transformative media development trend from the year 1998 when Radio Lira went on air, followed by Radio Apac 92.9 FM in the year 1999, later radio

Rhino FM in 2000, Radio WA FM in 2001, Unity FM in 2001, and now Lango has a total of 15 radio stations in operation with seven broadcasting from Lira City. These radio stations, just as observed by Nogara [4], play a role in informing, educating and entertaining their audiences. Within key elements of their work, some of them have built a name in setting the agenda for the communities they serve, reporting about corruption, investigating corruption allegations and advocating against the vice. However, little has been documented through empirical studies on their fight against corruption. This chapter has therefore delved into several pieces of literature that collaboratively confirm the centrality of the media in fighting corruption not only in Lira City but throughout Uganda and globally in societies where media enjoy some degree of independence.

3. Uganda's corruption perception index (CPI)

Corruption is a global phenomenon whose practices [5] maintain are often embedded in institutional practices and everyday lives and are perceived as fixed and uncontestable. Corruption in Uganda is deep-rooted, occurring in all sectors – public and private, and several forms including grand and petty corruption. It has continued unabated, despite the numerous anti-corruption efforts and commitments that [29] claims the state and non-state actors have undertaken. In the global corruption perception index of 2021, Uganda was ranked 144th least corrupt country out of 180 countries or territories ranked, where Uganda scored only 27 points out of 100 on a scale of '0' as being the most corrupt to '100' is the cleanest. The report indicates that from the year 2013 to 2021, Uganda's best performance in reducing the level of corruption was only 28 points achieved in 2019 according to Bosman and Clifford [30], meaning that corruption in the country is persistent!

However, Krishnan [31] claims that Uganda had been on a steady corruption scale with the year 2012 holding the worst record for the country as a year where corruption was highest in the last 10 years at 29 points perception, followed by the year 2019 where the country hit 28 points. In the year 2020 and 2021, during the COVID-19 pandemic, there was a slight reduction of one point, that is, 27 points from the 28 of 2019. The report puts the years 2015 and 2016 as the best years where the corruption perception index for Uganda stood at 25 points, much as in the two subsequent years, it climbed to 26 points before doubling to 28 in 2019. This trend shows that, much as there could be efforts to fighting corruption in Uganda, the vice remains a threat that needs concerted efforts to fight from different stakeholders such as the media, other CSOs, government and international stakeholders.

For the case of Uganda, the author relied on the available data on corruption and the role of the media in the fight against corruption from the Ugandan perspective, right from the inception of the UCC Act (2013) to date. The above legal provision has been emboldened by other legal provisions such as the Access to Information Act (2005), the anti-corruption Act (2009), which sets out specialized anti-corruption courts, Leadership Code Act (2002) as discussed by Gumisiriza and Mukobi [32] and most importantly, the 1995 Press and Journalists Statute discussed by [33] and the 1995 Constitution of Uganda as amended, where the entire Chapter 4 is dedicated to matters of rights and freedom including freedom of speech and that of the media to investigate and report independently on different issues including corruption.

4. Significance of this chapter to the study of corruption

This write-up offers significant theoretical and empirical contributions to the existing body of knowledge on media and the fight against corruption. In terms of theoretical contributions, while studies on corruption have largely used principal agency theory to investigate the subject of corruption, this chapter combines the principal agency theory by Delreux and Adriaensen [34] and the cultivation theory by Keim et al. [35] to help us understand the phenomenon of corruption because the latter bridges the gaps in the former, and this makes an interesting theoretical contribution to study and understanding of corruption.

The discussions in this piece are relevant to the following stakeholders and in the following ways: to media organizations and practitioners, the study can be useful in identifying media's shortfalls in effectively contributing to the fight against corruption and in resolving the contention or contradicting views on the role of the media in the fight against corruption in Uganda.

It is also significant for various stakeholders to appreciate the nature of corruption, its causes, effects, solutions or strategies for fighting the vice and the choice of partners in the fight. This chapter, therefore, comes in handy to help stakeholders examine the role of the media in fighting against corruption and establish reasons for the persistence of corruption in the public administration of local governments and central governments despite the existence of media, several anti-corruption agencies and actors to fight against it, identify limitations of the media in this war and find solutions to such limitations.

To the academics, this discourse may aid in identifying areas for further research especially new areas that can provide the potential for future research projects.

To the anti-corruption agencies such as parliament and the local governments, it can unearth critical areas that they could not discover or could have ignored in their fight against corruption and come out with policy recommendations on how best the anti-corruption agencies can use the media the fight against corruption.

5. Conceptualizing corruption

According to Jabareen [36], a conceptual framework is a network, or 'a plane', of interlinked concepts that together provide a comprehensive understanding of a phenomenon or phenomena. The concepts that constitute a conceptual framework support one another, articulate their respective phenomena and establish a framework-specific philosophy. It, therefore, explains the cause-effect relationships between variables, and in this case, the relationship between the independent variables, that is, the role of the media and the dependent variable which is the reduction in corruption prevalence/perception, and this eventually measures the role of the media in fighting corruption as shown below **Figure 1**.

The conceptual framework hypothesizes that when the media is effectively engaged in the fight against corruption through interventions such as playing a watchdog role, reporting, setting an agenda and advocacy, this may lead to increased awareness about the vice and dangers of corruption and increased collective action against corruption such as protests and demonstration, naming and shaming of the corrupt. This consequently may lead to a reduction in corruption incidences as may be evidenced by the increased unearthing of corruption incidences and improved service delivery. However, the effectiveness of the media in the fight against corruption

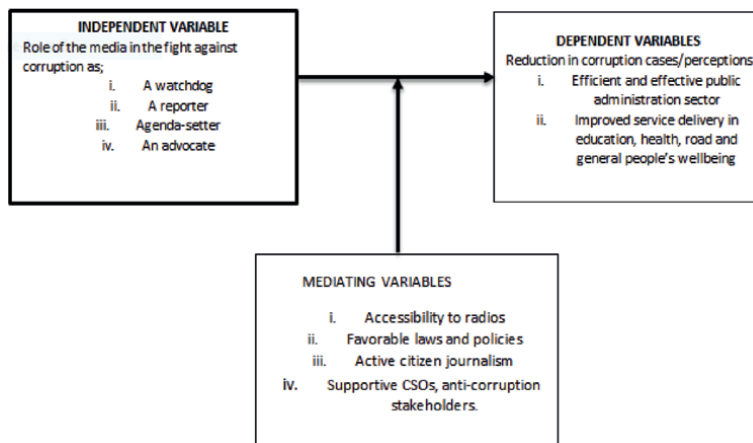


Figure 1.
 Conceptual framework. Source: constructed by the author.

depends on the accessibility to the radios by the citizens, the existence of favorable laws and policies, active citizen journalism and supportive anti-corruption institutions. The conceptual framework also assumes that there is a reciprocal relationship between the role of the media and the fight against corruption. This implies that when the media is stronger with good anti-corruption programs, then it leads to better results and a reduction in corruption prevalence, while a weaker media will lead to higher incidences of corruption.

5.1 Theorizing the concept of ‘corruption’

This discourse is anchored on the Principal Agency Theory which according to Mitnick [37] was coined by Michael Jensen and William Meckling in the 1970s. The theory postulates that, in the governance mechanism, there are two important partners; the ‘principal’ whom we can also refer to as the employer, and the other partner (employee) being the ‘agent’. In the fight against corruption case, the principal is the citizenry and the agent is the elected leader that forms the government. Their relationship is based on the self-interests of the parties, where the citizens hope to receive social services while the elected and appointed leaders want to satisfy their self-interests such as staying in power and also getting financial gain.

The degree of satisfaction of the citizens’ interest is determined by the standard of ‘Agency Loss’. Agency loss refers to the difference between the best possible outcome for the principal (citizens) and the effects or consequences of the acts of the government as an agent. When a government consistently acts in the best interest of the citizens, the ‘agency loss’ is zero, whereas consistent deviations would mean increasing agency loss. Agency loss is therefore reduced if both the citizens and the elected leaders share common interests and when the citizens understand the consequences of the government’s actions.

However, Bruce et al. [38] criticize this theory for its inherent weakness where the citizen and leaders/government pursue antagonistic individual interests by maximizing personal economic wealth rendering the theory prone to conflicts. In essence, therefore, the elected leaders should act in the best interest of the electorate so that the citizens achieve their output without competing with the leaders who ought to

represent citizens' interests. The major weakness of the theory is the information asymmetry that exists between the citizens and leaders in the government. The citizens are always kept in the information limbo as leaders in government do not provide them with necessary information, thereby creating a gap between the two parties, hence wanton corruption by government officials, suspicions and mistrust by the citizens of leaders in governments.

Therefore, the researcher employs the cultivation theory to bridge the gaps. This theory was initiated by George Gerbner in the late 1960s. Cultivation theory assumes that media exercises long-term direct, indirect and gradual influence on the public. The theory encompasses many concepts that Keim et al. [35] argues include cultural indicators, symbolic environment, the multidirectional process, the television's symbolic function, the value system cultivation, storytelling, the cultural model and television traits.

The cultivation theory hypothesizes that the whole system of value composes of assumptions, perspectives, images, beliefs and ideologies that are formulated by televisions. This is because television mirrors pervasive and hidden morals, values and rules for what is important, appropriate and right in an invisible way in the social discourse. Mosharafa [39] argues the theory adds that this is achieved through the repetitive abrasions from television from cradle to grave that become a foundation for a person's worldview.

Consequently Laranjo et al. [40], alluding to the Cultivation Theory observes that after long exposure to media, viewers' and/or listeners' social realities will be influenced. Thus, those individuals who are subjected to a higher level of exposure to news media, Laranjo et al. [40] argues, are more likely to be impacted by how the world is structured by the media they are exposed to. This would imply that the potential perpetrators of corruption would refrain from it after getting exposed to media reports regarding reprimand and embarrassment caused to other culprits of the vice. This, therefore, makes the cultivation theory most suitable to bridge the gap uncovered by the principal agency theory. The media, therefore, comes in handy to bridge the information gap between citizens and government by way of investigating, reporting, playing a watchdog role and advocacy. However, the extent to which this has been achieved remains a subject of investigation.

6. Why has corruption persisted in our communities despite numerous efforts against it?

A lot has been written about corruption as there exist several endeavors at global, national and local levels to fight corruption, but these measures fail to achieve set goals leading to the persistence of corruption. These reasons for the persistence of corruption include:

Williams [41] argue that the use of mere rhetoric without actions was identified as one of the reasons for the persistence of corruption. Several attempts and strategies have been put in place across the world by international organizations such as the G20 Osaka Leaders' Declaration (2020), transnational bodies, individual countries and institutions to fight corruption. However, another school of thought by Hutchinson et al. [42] believes that these strategies have had fewer actions than rhetoric. Their report on fighting corruption in the health sector notes that there has been much talking with very little action. This they argue is responsible for the persistence of corruption.

Lack of political will is also cited as key in frustrating the fight against corruption because the political classes, including those in charge of the government, are believed to be key beneficiaries of the vice. Hutchinson et al. [42] blame a lack of political will to enforce the arrest and prosecution of the corrupt, especially on the political class who practice grand corruption. Faisal and Jafri [43] believe this failure by the political class to clean their own house has made them resort to arresting small government officials who practice administrative corruption involving a little amount of money while those stealing in billions and trillions are left to enjoy and in some cases, the powerful perpetrators offer support and protection to the small perpetrators, hence the persistence of corruption at all levels.

The absence of true democracy, coupled with a bad political system in a country, has been identified by Rose-Ackerman and Palifka [44] as being responsible for the setbacks always encountered in the fight against corruption. They enumerate other reasons for the persistence of corruption as being the size and structure of governments, democracy and the political system of a country, economic freedom/openness, the quality of institutions, salaries of the civil service and culture of a given community among others. A big cabinet with many unnecessary bodies most of which are set to reward political supporters end up duplicating work and devising means of defrauding the public and levying multiple taxes on the citizens to maintain their statuses and power. In the thoughts of Rose-Ackerman and Palifka [44], liberalized economy with no or very little state intervention is also a great breeding ground for corruption as the rich can connive and hoard certain supplies and overcharge the people for the little available ones. This can be worsened in a situation where civil servants are paid meager salaries when they preside over huge government resources. To make ends meet, they can resort to corrupt means to enhance their pay, thereby promoting corruption as seen in Uganda and many developing countries.

However, Rose-Ackerman and Palifka [44] believe that Press freedom and that of the judiciary is very instrumental in the fight against corruption. When the media is legally freer to investigate report and agitate for the tackling of corruption without being curtailed by unfriendly laws such as libel, defamation and slander among others, they would expose corruption and call for action without fear.

According to Cai and Zhu [45], this also means the judiciary should be allowed to independently adjudicate corruption-related cases without being directed by the political class and the wealthy, whereas Faisal and Jafri [43] believe that failure by the state to take stringent actions against the corrupt has also motivated and encouraged the corrupt to continue practicing corruption since there is no deterrent factor or punishment for it.

The use of old and ineffective strategies to fight corruption besides adopting generic approach to fight all forms of corruption irrespective of their varying levels of effectiveness has not helped arrest the situation either. Clarke [46] points out that, 'the current legalistic anti-corruption measure for health systems, such as prohibition, criminalization, legal reform and capacity building, are not up to the job, and it seems likely that this is the case in other sectors where anti-corruption interventions have also been spectacularly ineffective.'

To reduce the incidences of corruption as discussed above, the use of mere rhetoric or use of words of mouth without taking serious action against the corrupt, lack of political will, use of old and ineffective strategies to fight corruption, absence of democracy, absence of press freedom, the bad political system in a country and the meager salary of the civil service should all be addressed.

7. A dive into the role of media in the fight against corruption

The UNODC; World Bank [47]; Brunetti and Weder [48]; Fardigh [49] agree that the media can play important roles in the fight against corruption unearthing corrupt dealings, investigating corruption, demanding for accountability from both public and private actors.

According to Schauseil [16], the media can fight against corruption by launching investigations on cases of corruption, adding that the media further plays its watchdog role by offering a key route for information about governmental, administrative and business activities to be disseminated throughout society and thus providing the public with a critical capacity to hold those in power accountable. Similarly, alluding to the watchdog informational role of the media, Kuznik et al. [21] states that fighting corruption is meticulous and broad-based and should be embraced by all echelons of a society with the media serving as a conduit of information and education. [23] echo the same on the role of the media in fighting corruption when they posited that the media gathers available open-source information as the first and most approachable step of the data collection process on corruption.

Alluding to the watchdog role of the media, Mendes [50] posits that the media fights corruption by uncovering, exposing, informing and educating the populace about the detrimental effects of corruption for society at large. This way, he agrees with [5], who earlier observed that the media informs the public about corruption and solutions to this problem. He adds that this way the media significantly increases the political risk of those exposed for their corrupt practices and fosters the critical awareness of civil society.

However, Baer et al. [51] observes that in democracies, mass media is an important instrument for monitoring the behavior of public officials, limiting corruption and reducing the political rents of incumbents. OECD (2018) held that media reporting in general, and especially investigative journalism by affiliated or independent journalists, or indeed non-governmental organizations (NGOs), are among the most important sources of public awareness-raising on corruption. Ayoola [19] stresses that the role of the broadcast media is critical in promoting good governance and controlling corruption: It not only raises public awareness about corruption, its causes, consequences and possible remedies but also investigates and reports the incidence of corruption. Gbadamosi et al. (2019) concur on the monitoring role of the media when they wrote that the media empowers citizens of any given country to monitor the actions and inactions of elected or appointed officials in instances of corruption. Equally, according to Adeyemi [24], the press serves as agent of change and plays the watchdog role of ensuring transparency and accountability in government. This is because if there is no searchlight on corruption and inequitable practices, hence, Adeyemi [24] explains that you cannot build the public consensus needed to bring about change.

The Panama Papers investigation is testimony to how the media helps in fighting global corruption. OECD (2018) and ICIJ [52] maintain that investigation grew out of a 5-year investigation by the International Consortium of Investigative Journalists (ICIJ) that dug into financial secrecy haven for the top 10 countries where intermediaries operate in concurrence with the foregoing finding observed that the media investigated the hiding of ill-gotten wealth in financial secrecy havens involving transnational bribery paid on behalf of companies in countries across the globe. Arnold and Lal [5] equally agree, providing an example of the Philippines where investigative media investigation of the president exposed his illegal assets. In further concurrence, they add another example of how in India, in 2000, the Tehelka news

website uncovered deeply entrenched corruption in the defense industry and motivated many other reporters to use similar methods.

Sharing a similar thought, Arnold and Lal [5] concur on the role of the media as a reporter when they posited that the media inform us about corruption and solutions to this problem. They add that the media as reporters make politicians pay attention through widespread coverage. Alluding to the same they observe that in many countries, online platforms allow citizens to report instances of corruption by mail, phone, text message and other channels, giving an example of how in India ipaidabribe.com platform was launched in 2010 to aggregate citizen reports to show which departments and situations are most vulnerable to corruption. This validates [19] earlier view that the role of the broadcast media is critical in fighting corruption by reporting incidents of corruption.

As reporters, Ackerman et al. [20] posits that media draws attention to corrupt behavior. In concurrence, Kuznik et al. [21] states that in fighting corruption, the media as reporters serve as a conduit of information and education. This validates Wasswa and Kakooza [53] finding that the media fights corruption by utilizing new media tools to showcase its activities and expenditures, which CSOs and the public can then interpret and query. They add that new media platforms such as WordPress, Blogger, Webs, Joomla, Drupal, among others, also allow more interactivity by allowing members of the public to report incidents of corruption.

Giving further credence to the role of the media as reporters against corruption, the OECD [54, 55] shows how the Panama Papers investigation grew out of a 5-year reporting push by the International Consortium of Investigative Journalists (ICIJ) that published figures for the top 10 countries where intermediaries operate, namely Hong Kong (China), United Kingdom, Switzerland, United States, Panama, Guatemala, Luxembourg, Brazil, Ecuador and Uruguay. Similarly, ICIJ [52] reports how in April 2016, after a 6-month investigation, two major media outlets reported on the Unaoil Scandal, an alleged transnational bribery scheme involving bribes paid on behalf of companies in countries across the globe as another example of how media reporting helps in fighting corruption.

According to Tangri and Mwenda [22], the press is the main instrument for news gathering and investigation of public officials' abuses and illegalities, uncovering scandals and 'misdeeds of the increasingly corrupt executive' in Uganda on regular basis. Again, one of the important monthly activities of the Uganda Media Development Foundation (UMDF) in 2011 as observed by Wasswa and Kakooza [53] was the countrywide training of journalists in how to report on corruption in all the major regions of the country.

According to Schauseil [16], they set the agenda for fighting corruption by issuing public recommendations. This validates Stapenhurst [17] earlier observation that the media puts the fight against corruption on the policy agenda, subsequently resulting in the scrapping of a law or policy.

Similarly, Arnold and Lal [5] concur that the media as agenda setters mobilize public pressure to compel politicians to act on incidents of corruption. They add that the media as agenda setters make politicians pay attention through widespread coverage of incidents of corruption. They also provide platforms for citizens to voice their opinions and demand accountability from those in power, observe [5]. This concurs with Stapenhurst [17], who earlier contended that the media as classic agenda setters provide platforms for citizens to put corruption on the public agenda by voicing their opinions and demanding accountability from those in power. Stapenhurst [17] adds that by enhancing and enlivening public debate and by heightening a sense of

accountability among politicians through their news and programmes. Recently, UNODC agrees on the agenda-setting role of the media in the fight against corruption when it observed that the media plays an important role in the fight against corruption by making corruption a public issue, thereby goading the public to demand accountability and transparency from the public and private sectors.

Whereas according to Mendes [50], the media sets the agenda in the fight against corruption by educating the public about the detrimental effects of corruption on society at large [56]; on the other hand, gave an example of how the media put the certificate forgery of a former speaker of the House of Representatives – Ibrahim Salisu and former Senate President Evan Ewerem on the public agenda; bring public pressure to bear on them – forcing them to resign. Similarly, Arnold and Lal [5] gave an example of how in the Philippines, investigative media as an agenda setter put corruption of President Estrada on the public issue that the populace gravitated around and subsequently ousted the president in 2001 through the mass uprising.

In a similar vein, Arnold and Lal [5] held that social media as an agenda setter amplifies people's disapproval of corruption through websites where citizens can report instances of corruption and through initiating a discussion about it. This validates [53] earlier observation that the new media platforms such as WordPress, Blogger, Webs, Joomla and Drupal, among others, put corruption on the public agenda by allowing more interactivity by allowing members of the public to post comments and articles on corruption incidents. Arnold and Lal [5] and Wasswa and Kakooza [53] give credence to Nogara [4], who earlier alluded to how here in Uganda popular talk shows such as the 'Capital Gang' on Capital FM put corruption on the public policy agenda for discussion with government officials, donors, members of civil society and sometimes even the president.

Maintaining that media serves as an advocate Arnold and Lal [5] contend that the media influence public perceptions against corruption as something wrong. Adeyemi [24] concurs that the media plays the role of an advocate in the fight against corruption by advocating for accountability from the government and other corruption-fighting institutions to fight corruption. OECD [54, 55] reports how the media as an advocate in the fight against corruption petitions anti-corruption institutions including parliamentary committees, ombudsmen, etc. to take action on incidents of corruption and/or abuse of public power.

On the other hand, Kuznik et al. [21] observes that the media sets the agenda for the fight against corruption through public education corruption. UNODC observed how the media as agenda setters have put corruption not only on the national public agenda but on the global policy agenda. All the above validates the [47] position that the media are agenda setters by way of building public consensus against corruption.

According to Schauseil [16], the media as an advocate in the fight against corruption advocates against crooked public officials by causing judicial proceedings against them. This is in tandem with Wasswa and Kakooza [53] observation that media practitioners as advocates against corruption use media platforms to advocate for a more transparent, accountable and better government. UNODC agrees with Schauseil [16] and Wasswa and Kakooza [53] assertions that the media as advocates play important roles in the fight against the vice as it demands accountability and transparency from the public and private sectors.

In the same spirit, Human Rights Watch [57] concurs on the advocacy role of the media in fighting corruption when it reports that 'Media attention of Uganda's corruption often focuses on the "big fish who got away" and who were allegedly protected from prosecution by other elites'. Human Rights Watch [57] for instance gives

an example of how in late 2012 the news that US\$ 12.7 million in donor funds had been embezzled from Uganda's Office of the Prime Minister (OPM) hit the headlines in many donor capitals, prompting serious questions about Uganda's commitment to fighting corruption. As a result of the report, according to Human Rights Watch [57], the European Union, United Kingdom, Germany, Denmark, Ireland and Norway suspended aid as an action against corruption.

Contributing to this role of media in fighting corruption Ranjan and Kashyap [58] also allude to the role of the media in condemning atrocious crimes, which includes corruption and putting tremendous pressure on formal judicial processes to take action on the culprits. While according to Williams [41], court proceedings that are covered widely by the media are concluded by the courts fast by and large. Keim et al. [35] validates [35, 41] when she observes that the media plays a role in influencing high-profile trials – adding that this includes public opinion regarding the court's handling of a case and gauging the court's efficiency in doing so. For instance, NBS (2021), part of Uganda's electronic media, has been advocating for the speedy disposal of the case of Giwatude, the former Permanent Secretary in the Office of Uganda's Prime Minister for mismanaging 2020 COVID-19 relief funds. Her trial has stalled for many months now.

However, on the downside, there have been several cases in which the media has been blamed for influencing court judgments, Platania and Crawford [59], maintaining that this is a media trial which is an unwarranted interference in the justice process, arguing correctly that a fair trial is an important element of the judicial system. Newburn and Peay concur with Platania and Crawford [59] when they averred that the media pushes people to prejudge verdicts of criminal proceedings, including in the trial of corruption cases. Some people use the media to influence case outcomes, yet courts are required to decide cases independently. With Ranjan and Kashyap [58] concurring that trials by media are not regulated and put tremendous pressure on formal judicial processes, further observing that the media should neither usurp the functions of the judiciary nor engage in subjective, biased reporting of formal criminal justice proceedings.

Whereas various scholars found that media play a positive role in the fight against corruption, others such as Sharma et al. [23] debunk the positive role of the media in the fight against corruption by alluding to how the media, especially some social media sites, may alert the subject of an investigation that their profiles are being monitored and therefore impede the investigation of corruption allegations or suspicions against them. They add that LinkedIn as an example requires a login and alerts users when their profile has been viewed and by whom. Similarly, Arnold and Lal [5] observed that the media can also propagate false perceptions about corruption, which can hinder the work of organizations that engage in the fight against corruption. From the various studies, it can be detected that there are mixed views about the roles the media play in the fight against corruption, and the extent to which the media play such roles, especially in Lira City. It is such gaps that this research seeks to bridge through investigation.

On the other hand, Sharma et al. [23] debunk the assumed positive role of the media in the fight against corruption. For instance, they posit that sometimes the media, especially some social media sites, may alert the subject of an investigation that their profiles are being monitored and therefore impede the investigation of corruption allegations or suspicions against them. They add that LinkedIn as an example requires a login and alerts users when their profile has been viewed and by whom. Similarly, Arnold and Lal [5] observe that the media can also propagate

false perceptions about corruption, which can hinder the work of organizations that engage in the fight against corruption. However, from the author's perspective, this observation could be true but does not over-weigh the numerous benefits and strengths of the media in fighting corruption in Lira City and the Ugandan community.

8. Limitations of the media in the fight against corruption

According to Schauseil [16], for the media to effectively play its role in fighting corruption, the following should be in place: professional ethics and skills, protection from oppression and physical abuse, media independence, sufficient resources and accessibility. However, the absence or lack of these elements constitutes some of the prominent challenges the media face in fighting corruption as hereunder discussed.

Lack of professional ethics and skills is one of the limitations of the media as Graeff [60] opines that some journalists face the challenge of maintaining a high degree of integrity and display of professional skills as expected and yet the absence of these core erodes their credibility in the fight against corruption, and yet the more accurate, unbiased and credible the media reports, the more pressure and responsibility it piles on the political class and other relevant actors to take action. The situation has however according to Mehra [61] been worsened by the growing debate and contention about media's credibility as a result of incidences of false reporting, inconsistencies in media reports and branding of news reports as 'fake news' propagated by big names such as former US President Donald. J. Trump.

The infiltration by masqueraders into the media work and profession of the media practitioners is one of the challenges. Ibelema [62] argues that poleemics masquerading as a journalist have infiltrated the media's fight against corruption and have therefore undermined the credibility of the media in the fight since they can now be seen as self-seekers trying to vent their vendetta against privileged members of the society.

On the other hand, journalism is one of the poorly paying professions and this hinders journalists' effectiveness and can greatly compromise their professionalism. Karyeija [63] writes that low salaries and little facilitation that is given to investigate stories make them more susceptible to accepting bribes, especially in cases involving corruption itself. When a corrupt officer is faced with the reality of getting humiliated by media reports to come, they will resort to using part of the loot to also bribe the journalists to ensure that the story does not surface in the media.

According to Schauseil [16], the media is also limited by a lack of access to information in their fight against corruption. Much as he argues that for the fight against corruption by journalists to be effective, the public should access the information the journalists, process through the various media channels and this accessibility should be easy and cost-effective. For instance, in many rural locations of Uganda and other developing countries, TV signals are hardly accessible for people to access information passed through the TV. Radio sets also seem expensive for the peri-urban and rural people who could be the best beneficiaries of this medium, leave alone newspaper and internet that are even more expensive and the high level of literacy they demand. Kabata and Garaba [64] reveal that Uganda as a country has in place the Access to Information Act (2005), but this has not stopped some public officials from denying the media access to the pieces of information in their possession, citing the oath of secrecy they undertook under the Oaths Act CAP (19) to keep certain information a secret.


The media is also hampered by the inability to enforce accountability as it is not their mandate; however, Ditmore and Thukral [65] contend that the media can make the issue of corruption become a public matter by investigating incidences of corruption, reporting and causing debate about corruption, the media does not have the legal mandate or authority to arrest and prosecute anybody over corruption. They argue that the media's role ends at pestering duty bearers to take action, and yet the duty bearers can either choose to renege on their role and render the media's effort in fighting corruption unsuccessful. This has been made worse by the restrictive and selective application of the media laws in Uganda which has been cited by Oxford Analytica as a restriction on the media in Uganda. These findings, therefore, open the doors to academicians and other stakeholders whose wishes and aspirations are to bring corruption under control and to devise effective mechanisms that can adequately address these above-identified factors. All the above-discussed challenges do apply to the local media houses of Lira City in Uganda as observed critically by the author who has been a practicing journalist for more than 15 years in the locality.

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Chapter 9

Corruption and Policy-Making: How Corruption Models Favor Mafias – The Case Study of Italy

Giacomo Di Gennaro and Roberta Aurilia

Abstract

Based on empirical research focused on the phenomenon of corruption in Italy. The purpose of the contribution is to show the different models that are made of corruption pacts according to the actors who regulate them. The basis of the judicial documents was provided by the National Anti-Mafia Directorate (DNAA), the Court of Auditors, and a sample of Courts of Appeal from different jurisdictional districts. The information collected offers an account of the influence that the various mafias have on public policies and the ability to circumvent current legislation. The contribution underlines the existing interpretative limits and why they do not explain to what extent great and small corruption are related.

Keywords: corruption, mafia, policy-making, crony capitalism, maladministration

1. Introduction

Corruption represents a social problem, a public evil, which unites all the countries of the world, albeit with different proportions and manifestations.¹ It is a karst river which, unlike contemporary climatic trends, is not eroded by pollution but expands, and as the attention of the *media* fluctuates, the moral impact of public opinion wavers, affected by the clamor connected with some scandal or case of a political nature.

Although the issue of corruption is addressed from different perspectives and areas (such as law, sociology, political and social sciences, etc.), due to its multifaceted character, the awareness is that no discipline can alone provide a complete definition of the phenomenon, let alone contain it or prevent it except through synergistic cooperation. Furthermore, the nature of this phenomenon, based on a *pactum sceleris* which must remain hidden, allows it to grow and operate in a silent and submerged manner.

There are many aspects related to corruption that remain obscure, and these are not limited to the mere actual number of acts of corruption committed. The phenomenon, in fact, is essentially “invisible”, as it occurs under the radar, whilst requiring

¹ The contribution is the result of a joint research and reflection of the authors who drafted the introduction and conclusions together. The par. 2; 4.1; 4.2 e 4.4. they were written by Roberta Aurilia; of par. 3 and 4.3 is responsible Giacomo Di Gennaro.

intense and secret investigations. What we know or intercept from official statistics is the result of cases ascertained, reported, or examined *ex officio* and if these emerge it is because they attract the attention of the *media*, due to intense thematic *coverage*, or because they are concentrated in sectors of the public administration, especially in services potentially subject (as in the case of healthcare during the pandemic) to significant judicial investigations. It is no coincidence that even these only intercept striking facts connected to intertwined entrepreneurial events or mafia-type organized crime, or linked to political figures or professional, administrative networks identified and framed as they violate the direct interests of third parties, besides clearly breaking the law and the prescribed duties, thus subverting the public interest.

Anyhow, corruption is not identified only with major corruption: the evident forms of the so-called visible or emerged corruption in its macro-systemic version (*grand corruption*) are contrasted by the micro-systemic dimension (*petty corruption*) that affects all aspects of everyday life; that invisible corruption which manifests itself when antisocial behaviors prevail over civic duty and ethical-institutional responsibility, feeding particularisms and the system of favors, while undermining the impartiality of bureaucratic-administrative action.

The economic and political costs of this *modus agendi* inevitably affect every aspect of the socio-economic-cultural life of the country. Such a system, which moves between the loose meshes of the law, favors the infiltration of criminal organizations. The actions of “Mafiacorruzione”, which is the intertwining between the mafia and the market (*latu sensu* understood), represent not only a serious problem of public order but also a factor that strongly affects the economy of countries, subtracting economic availability and correct allocation of resources from the community, services, public works and investments. Therefore, the common goal of every institution, both national and international, is to counter the corruption phenomenon through differently extended, oriented, and calibrated strategies and public policies.

In Italy, the “emergency” season that characterizes the reform interventions on corruption, starting from Law n. 190 of 6 November 2012, strongly influenced in 2015 by Law n. 69 and, most recently, amended by so-called “Spazza-corrotti” Law n. 3/2019, cannot yet be said to be over. The reform of corruption crimes never seems to be ready to work “at full capacity”, even though the numerous gaps in the 2012 reform have been filled over the years. Wanting to draw up a preliminary balance [1], it seems clear that the path taken in the field of anticorruption, reflecting current trends in the Italian criminal system with continuous tightening of sanctions on the one hand, as in the law named “Spazzacorrotti” [2], and the so-called “legislative nomorrhoea”² on the other, is not very effective in the fight against this phenomenon considering that Italy is still under special surveillance by European institutions due to its connotation as a “highly corrupt country”³. More in line with the objective is the trend promoted by the National Anti-Corruption Authority (ANAC) involving various stakeholders, aimed at developing preventive actions and policies that act “upstream” of the problem and not just repressive actions that come into play “downstream”

² That is, the tendency to adopt new reforms for raising institutional quality which, however, are substantially unsuitable for modifying a certain *modus agendi* and which, rather than containing the phenomenon, have the opposite effect of providing fertile ground for corrupting plots.

³ See the 2019 Report from Transparency International. Although, in fact, there has been a slight improvement in the world ranking, at European level Italy is the sixth most corrupt state since, even today, there is talk of organized crime dominating from North to South and of the “White Collar Mafia” who prefers the use of corruption.

when the phenomenon has already occurred. However, the fight against corruption, a phenomenon intrinsically multidimensional, cannot be achieved through instruments revolving around exclusive punishment and sanctioning, but must be carried out, on the one hand, through a more widespread cure of civic conscience, and on the other, by means of greater transparency and better organization of the public administration. Indeed, despite the action of the ANAC and the intense professed simplification, legislative interventions are moving in the opposite direction. Although formally these are all based on prevention and have transparency and simplification as their basic philosophy, since 2014 the problems have remained unchanged as, in substance, these regulatory interventions have not affected the underlying mechanisms that guarantee the production of corruptive agreements.

Some aspects represent the *fil rouge* in the study of the corruption phenomenon: is there a relationship between corruption and *policy-making*, and what is it? This point is linked to the persistently debated problem of the tools for measuring corruption to reduce the gap between actual and perceived corruption. The frontier in measurement techniques is represented by a multiangular approach that combines micro and macro data on corruption, in a two-faceted perspective, both preventive and repressive. In this sense, the centrality assumed by ANAC needs to be highlighted, also with reference to the selection and promotion of methodologies for analyzing and measuring the phenomenon, in line with the tasks entrusted to this agency of implementing prevention policies [3]. A further aspect concerns the so-called “Geography of corruption”, with the phenomenon of the so-called “Mafias in motion” posing the question about the possibility of identifying a greater concentration of corruption in the South rather than in the North. That is, whether the phenomenon of the delocalization of mafias operating in new nontraditional geographical contexts impacts corrupt circles in a different way. Finally, another point of the debate revolves around the question of whether, following the SARS-CoV2 virus epidemic and the financial instruments made available by the European Commission, we might expect an increase in the strategic use of corruption by the various criminal organizations and *lobbies*, to intercept large sums of money. The problem is that alongside the economic need to restart, there is a risk that these funds will be diverted or misallocated due to the infiltration of organized crime into the legal economy through the alliance with the so-called “gray area” of society.

These aspects will be the subject of this contribution whose intent, moreover, is also to outline—with respect to the interpretations of the phenomenon present in the literature—a different explanation that reconciles micro and macro dimensions, or the reasons underlying both great and small corruption.

2. The relationship between corruption and policy-making

Except for a few rare cases, the analysis of public policies has only recently shown interest in the system that is created between dishonesty and collusion of politicians, administrators, and private participants in *policy-making*. Illegal or even illicit behavior and corruption have only to a marginal extent been considered as essential variables in the planning and evaluation of public policies aimed at preventing and combating the phenomenon [4, 5]. This is especially true for corruption, which although considered on paper a factor of deviance and disturbance with respect to the implementation of the regulatory program, is treated as a marginal constant or as a residual or contingent explanatory factor. Indeed, when evaluating the processes

and results of a public policy, the possibility of illegitimate pressures and transactions is rarely taken into consideration, and attention is focused on more visible and “controllable” aspects of the governance process. The analysis of public policies has taken on the issue of corruption and the markets of authority in weak forms, paying attention in discontinuous ways to the illicit use of influence and discretion in public administrative systems which, on the other hand, are often a great source of abuse of power and collusion. We do not know, for example, if the codes of ethics or conduct, which should include the degenerations coinciding with corruption and bad administrative behavior, effectively represent tools for guiding and controlling the behavior of public officials. Codes of ethics, in fact, define a system of moral and reputational incentives, in addition to criminal and administrative sanctions, and are aimed at increasing the ethical capital of administrations whilst guarding against “gray areas” that are not adequately regulated by contracts. These codes should foster “responsible discretion” and their proper implementation and fair application should be supported by independent bodies. In any case, their integration should be part of a more general strategy of administrative reform based on positive incentives and sanctions.

It is now clear that in *policy-making* there are opportunities and incentives to systematically break the rules through the illicit use of influence. All theories centered on *crony capitalism*, or the degenerate inextricable interweaving of business and politics that favors *rent-seeking* countries and sectors, such as those significantly dependent on political regulation (i.e., mining, oil and gas, banking, and gambling), underlined how this intertwining stifles dynamic businesses, competition and the drive for innovation whilst resulting in poor regulation, the formation of trusts, and false myths about long-term growth [6, 7]. Many corrupt situations, for example, are traced back, by the public agent, to *maladministration* (political and administrative malpractice) which is certainly associated with corruption but does not completely overlap with it, since maladministration (a sort of “cobweb legislation” that does not facilitate transparency) is very often also the result of poor work organization. That is, a bad organization is not the result of someone abusing public power for private purposes, but it is an intrinsic factor, and this disorganization offers the perfect excuse for the pursuit of self-interest.

The analysis of the relationship between corruption and policy-making cannot overlook the fundamental aspect stemming from the role of local and territorial bodies and from the services they must provide in the area of local welfare (above all health and social assistance services). The *policy-community* now revolves around a *cluster* of services that has transformed local welfare and made local administrators and politicians the main players in the diversified supply of services and redistribution of local wealth (local public services, the water sector, waste, public transport, etc.), as well as responsible for curbing public spending through compliance with the internal stability Pact. Very often the network of relationships associated with this *cluster* is transformed where corruption is widespread. Poor management of functions within the responsibility of the local authority and a nonexistent or inadequate *governance* (an aspect of which is managerial control) or consolidated *accountability* of the subjects called to manage and direct the administrative machine, exposes the body or services offered to perverse opportunities of corruption. Or at least to satisfy some exclusive categories of interests or lobbies.

Insisting on transparency and the simplification of administrative procedures is important but these alone are not sufficient as a solution to the degeneration that lobbying activities of various stakeholders produce toward the interception of public resources. The results of a research carried out in Campania in 2009 on 29 municipalities in the province of Naples and Caserta show that an important game is being played on the administrative and governance grounds of local authorities to hinder

or facilitate corrupt exchanges [8]. If the concrete activity of the public administration is not based on a separation between the levels of planning, management, and control in order to avoid what in the literature is called “*State capture*”—that condition of systemic corruption connected to bad management of old and new functions of the local authority, from the consolidation of particularisms, clientelisms and a low transparency of public action [9, 10]⁴—there happens to be an underground and incisive influence of interest groups or people who end up seizing control of sectors and services by “*Capturing*”, through bribery, the regulation and the regulator itself to the benefit of individuals or groups. When this process of enslavement of the rules, of subordination to the interests of influential circumscribed networks or people (be they private beneficiaries, external companies, or criminal groups), reaches regulations, decrees, and procedures, bending them to generate nontransparent private benefits in exchange for advantages for public officials, then it means that control and power subordinated to the private interests of individuals, groups or organizations have taken root (as in the case of waste management in Campania; or of the “*tavolino*”⁵ in the regulation of procurement contracts in the Casalesi syndicate).

An antidote, then, must be not only the efficiency of the levels indicated with the aim of averting state capture, but the “*systemic complementarity between politics and bureaucracy because it permits, instead of unequivocally distinguishing, to separate the functions of direction and control from those of management, inducing each one to carry out their own role with clarity, competence, professionalism and above all responsibility for one's actions*” [8]. Furthermore, all the organizational components, including the political one, must rest their foundations on solid *accountability* systems, understood as “*the duty to give an account of one's work by a subject towards another subject in order to define responsibly and credibly the existing relationships between planning - decision - action - control*” [8], that is to give adequate account of one's actions as a moral and social obligation towards the various *stakeholders* to generate trust, institutional credibility and build consensus on a continuous evaluation of the positive *outcomes* actually produced to meet the interests of the community. If all this is not affirmed as an operational and cultural principle, the likelihood that corruption will continue to spread remains very high.

Only recently have data on the interactions between corruption and public policies come to the attention of *policy analysis*. This lack of attention has not prevented much information from being presented in studies carried out on corruption itself and not from those on policy formulation and implementation. Failure to integrate these variables, the role of corruption and illicit behavior in the formulation and implementation of public policies, risks making the possibility of designing policies capable of dealing with the spread of the collusive phenomenon between corruption and mafias ineffective. Nevertheless, it must be reiterated, corruption is not linked to the exclusive presence of the mafias, because there is direct corruption governed by the mafias, but there is corruption independent of the leading role of the mafias. This implies that factors originating corruption are also independent of the pressure and interests of the mafias.

⁴ When private organizations, lobbies, restricted networks of businessmen, private actors create corrupt exchanges or collude with public officials or politicians to obtain a mutual private benefit, a “*capture of the state*” occurs, in the sense that the various powers are subject to the pursuit of private interests. Many authors interpret modern corruption precisely as a consequence of managerial degenerations related to procurement, to the management of local public services, to the cultivation of bad practices.

⁵ This is an illegal form of pact guaranteed by the syndicate whereby procurement contracts are only given to firms chosen periodically from a certain set.

The Councilor of State Pajno has repeatedly stressed that without a strong civic spirit (and here the reference is to article 11 of Legislative Decree n. 33/2013) it is difficult for transparency to take root. He also added that the fight against administrative corruption must be based on a more systemic approach by lawmakers to the issue of transparency which includes incentives and sanctions, indicates timings in the implementation of a reform process and does not transform the reformed institutions of transparency (for example, the obligations of drafting-publication of both general and specific information) in “an increase in that ‘opacity due to confusion’ which is typical of the excess of forecasts and information”, the paradox of which would come about because rather than a reorganization of the provisions on transparency obligations aimed at generating simplification, there would be a “publicity system which, being based on a meticulous series of related obligations, creates a real regulatory inflation, thus increasing the complication rate of the legal system” [11].

To date, it is possible to state that the “ethical question”, which is the plethora of problems linked to the deviation from legal and moral standards of market players (whether they are public officials, politicians or administrators, and their social interlocutors), having great resonance in the agendas of various governments, represents a strategic node for public and private organizations. Therefore, in all democratic countries, there is the development of anticorruption strategies and policies to limit the negative impact of collusive, criminal or illegal practices on economies and institutions, which damage the state economy and inevitably increase popular distrust of public action and the integrity of the system [4].

3. Models of corruption

Awareness of the multifaceted and systemic nature of the corruption phenomenon has led Italian lawmakers to prepare not only repressive but also preventive instruments, not only of a criminal but also of an administrative nature, in the knowledge that legal instruments can only be truly effective if they tackle the problem upstream before the seeds of corruption take root in the social *humus*. In terms of the prevention and repression of corruption, as a result of the thrust of international conventions aimed at combating this phenomenon, as suggested by the various international organizations involved in the fight against corruption, the path has been undertaken based on a necessary integrated strategy aimed not only at repression but above all at prevention, hindering the problem in the bud, thus avoiding facing it only at the pathological moment, or when an offense has already been committed but at the physiological moment, *ante* corruptive agreement.

Italian laws, which are too detailed, unclear and poorly coordinated with each other, often lead to a mere bureaucratic fulfillment of the legislation that inevitably lacks effectiveness; therefore, it is necessary to promote a culture open to transparency, simplification, information and collaboration in a synergistic way between citizens, public officials, entrepreneurs, governmental and nongovernmental institutions to combat the complex corruption phenomenon. However, to do this, it is necessary to consider the impossibility of analyzing and studying the phenomenon without considering the various ways in which it manifests itself.

The hidden exchange, in fact, is no longer only bilateral but can take different forms, especially that of the cartel. Furthermore, corruption increasingly assumes a systemic form, that is, it reaches such a level of diffusion that the guarantee of success is given by the unitary agreement. The so-called socialization of connivance, among

many people whose reputation is not undermined by leveraging the *cliché* of “everyone does this” which is concretized in the so-called social circle of recognition where the identity of the participant is built on the mutual strengthening of a sense of solidarity and mandatory responsibility towards existing ties and coverage obligations [12].

The moral faculty to deceive the state comes from the norm of moral recognition shared within the circle. Corruption is systemic because it is not only “organized”, or because does not only belong to a specific group, or has a criminal group as its protagonist, but because it is based on a plurality of “government centers”, fixers, facilitators, officials, professional politicians and other players, who “ensure the stability of equilibria that have taken root over time, with respect to which any reform runs the risk of turning into nothing, due to strategies of adaptation, avoidance and learning of the protagonists” [13].

Furthermore, the illicit pact can see the setting up of real “business committees” made up of professionals, public officials or politicians, and administrative agents. This organization shows the ability to direct the interactions between the variety of players involved (public and private) towards increasingly new opportunities for illicit gain in different fields of public intervention [14].

Taking into consideration what has been said with respect to the forms of corruption, it is possible to hypothesize distinct relational types and regulatory mechanisms which, based on their combination, generate the profile of the exchange by configuring the relationship. By way of example, without claiming to be exhaustive, it is possible to identify: (a) the condition corresponding to the presence of one or more political subjects directly supported by and colluding with a criminal organization; (b) the condition corresponding to the presence of one or more officials/bureaucrats of the public administration directly colluding or affiliated with the criminal organization; (c) the condition corresponding to the presence of one or more entrepreneurial subjects active as referents of the criminal organization; (d) the condition corresponding to the presence of criminal organizations that produces and regulates the corruption pact also through agreements between groups operating in different territorial articulations; (e) the condition corresponding to the presence of active entrepreneurs who bribe officials and criminal organizations that intercept or ask for the collection of untitled amounts of money as a commission for subsequent procurements. This typification is useful to understand if the *modus operandi* is different in relation to elements such as the type of organization, the territory where the opportunity falls, the sector in which the opportunity is created, the condition that determines the opportunity and whether the criminal organization is a player, promoter or regulator, if all the actors (PA, business owner, and third parties) are present in the exchange or if the relationship is direct between the criminal organization and the PA, or if it is configured in a given way regardless of the presence or co-presence of one or more factors [15]. This analysis is not insignificant, as it helps to study the *modus agendi* of criminal organizations and therefore contributes to not only contrasting but above all preventing mafia infiltration into the PA and the legal economy.

4. The case of Italy

4.1 Estimated size of the corruption phenomenon: Perception indices

The phenomenon of corruption in Italy is constantly growing and its presence permeates all areas of life, including daily life, so pervasively that it is accepted and tolerated by society almost as a consubstantial element with it.

An important contribution for the purpose of carrying out significant research activities aimed at comparing and evaluating the legislation of the various countries to provide data on the phenomenon and promote increasingly suitable law enforcement and transparency measures and increasingly efficient controls, is that provided by governmental and nongovernmental international organizations. Among nongovernmental organizations, of particular importance is the contribution offered by *Transparency International* which publishes studies, global and regional annual reports, and a global barometer on corruption. Their *Source Book* on the fight against corruption is also of great interest. Through the latter, in fact, a new methodological investigation tool was developed based on the concept of “National Integrity” aimed at analyzing all the sectors that affect the socioeconomic life of the country and the relationships between them. The results that emerge depict a reality in which the high rate of corruption affecting political life, society, the economy and the culture, combined with the total or partial absence of transparency and integrity of the institutions (represented by a heterogeneous range of areas of public and private life), leads to a worsening of the general system. Due to the dynamics of intersection between the various sectors, anti-corruption reforms should be at the macro-systemic level of a general and all-encompassing nature and then become specialists in nature once they have passed on to the micro-systemic level.

In *Transparency International's Corruption Perception Index 2021* [16], which reports the assessments of international observers on the level of corruption in 180 countries

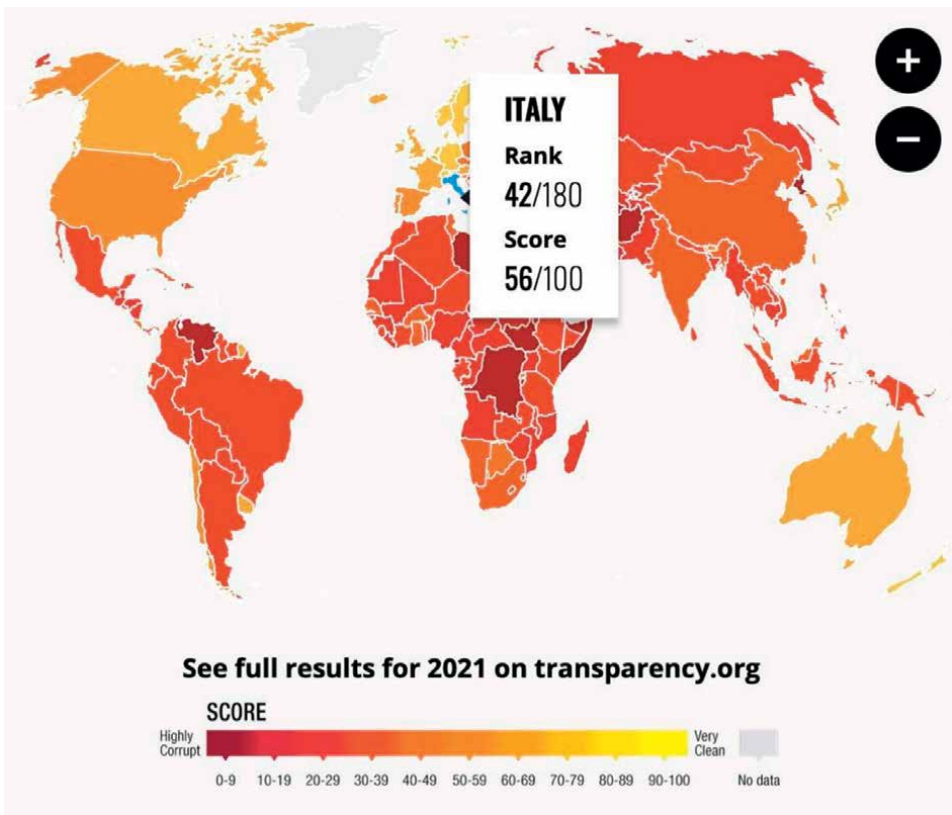


Figure 1.
Transparency International, Corruption Perception Index 2021.



Figure 2.
Trend in the Corruption Perception Index (CPI) from 2012 to 2021.

around the world, Italy recorded a perceived corruption index in the public sector of 56 (on a scale from 0 to 100, where 0 is highly corrupt and 100 is maximum transparency) holding the 42nd position (**Figure 1**).

Over a period that goes from 2012 to 2021, Italy, despite having arrested its disastrous descent in the ranking, nevertheless remains behind the Western states in terms of position and perceived level of corruption in the public sector compared to other countries in the index. In fact, to date, its score of 56 (despite the trend of slight but constant improvement recorded over the years, with 14 points gained since 2012) remains above the world average (42); nevertheless, this figure is still significantly lower than the European average of 66 (**Figure 2**).

The corruption phenomenon is not only difficult to define but, due to its pervasiveness, it is even more difficult to measure given the huge number of manifestations of this phenomenon which cannot be counted in the judicial quota. The modern mechanisms for measuring corruption, which use data and tools from the experiences of the various States, permit, though with the awareness of a margin of imprecision of the results achieved, to analyze the phenomenon of emerged corruption dynamics to then discover the submerged ones too. A decreasing number of cases of criminally prosecuted and convicted corruption is contrasted by an increase in the perception of this phenomenon at a macro and micro systemic level. The result of this mismatch is, of course, a strengthened expectation of impunity of the subjects involved in the corruption mechanism and, as a counterpart, the growth of mistrust towards the judiciary involving a decrease in police reports which, too often, are resolved in inconclusive manner.

However, the perception of the phenomenon on a collective level tends to strengthen around the so-called gray areas of administrative activity in which “friendships, acquaintances and help” prevail over the rights and duties enshrined in the Constitution and in the laws or regulations of the sector.

In 2019, Eurispes⁶ conducted research based on the “econometrics” of corruption in Italy. This study focuses on the relationship between the real size of the corruption phenomenon and its representation, and how the value attributed to this relationship can alter the reputation of a country.⁷ In fact, labeling a country as corrupt or more

⁶ Eurispes, Institute of Political, Economic and Social Studies is a private entity that has been operating in the field of political, economic and social research since 1982.

⁷ This research, curated by G.T. Polcini for Eurispes, has set itself the goal of verifying the validity of the opinion expressed towards Italy by the most common perceptual indicators at global level.

corrupt than it really is, can have effects on the economy. For this reason, to control, prevent and counter the corruption phenomenon, it is necessary to represent it in its various aspects having a multiform nature. According to the World Bank, corruption is the main obstacle to the economic and social development of countries. The Organization for Economic Cooperation and Development (OECD) itself, based on the above-mentioned *Corruption Perception Index* developed by *Transparency International*, wanted to study the consequences of the corruption phenomenon on the economy. A low index, that is, closer to the value indicating a high degree of corruption, corresponds to lower attractiveness for investments, lower reliability, higher interest rates, damage to image and reputation.

Within the OECD, Italy is the country with the highest perceived corruption, even though trust in institutions is much higher than in other countries where, on the other hand, little or almost no trust in institutions corresponds to a much lower perception of corruption. The same happens in international indices, where Italy ranks much lower than it would as a democratic country and one of the top 10 countries in the world by per-capita GDP.⁸ The mismatch between the actual existence of the corruption phenomenon and its perception can be seen in the comparison between data from the latest ranking of *Transparency International* highlighting a high degree of perception of the corruption phenomenon and the results of a sample survey carried out by Eurispes which depict a very different reality regarding the actual existence of the phenomenon, in line with other developed nations.

Given the full autonomy of the ANAC, to effectively combat the corruption phenomenon, both preventive and repressive measures are taken. This intervention, however, generates a distorting effect that has been defined as the so-called “Trocaero paradox”: the more corruption phenomena are pursued in terms of prevention and repression, the greater the perception of the phenomenon. Therefore, a legal system like the Italian one, which is sensitive to the fight against corruption, is more affected by this distorting effect. To carry out an analysis of this type and avoid the mistake of comparing completely inhomogeneous systems, it is necessary to use homogeneous measurement indices of an objective and subjective nature. Therefore, to be able to use data at a European and international level, it is necessary to redefine the indicators used up to now in favor of a single composite indicator. Indeed, the real problem that emerges from this research is that of the poor reliability of perception indices as these, in fact, measure the impression one has of this phenomenon, but not the phenomenon itself. This statement is serious, and even more so when keeping in mind that the corruption rate of a nation affects not only the credibility of its institutions, both internally and externally, but above all the economic aspect.

4.2 The “geography of corruption” of criminal organizations in Italian regions: the result of a research on the analysis of judicial records of the National Anti-Mafia Prosecutor’s office (DNA)

In contrast to what has been stated in recent years with respect to the data reporting almost total impunity for real corruption, a study was conducted and reported in the recent *Report on Criminality and security in Naples* [15], dedicated in its third and fourth parts to the issue of corruption, demonstrating that corruption cases are

⁸ This effect is the so-called phenomenon of the Botswana syndrome, that is, the tendency to compare Italy to states that are quite different from Italy in terms of well-being and wealth.

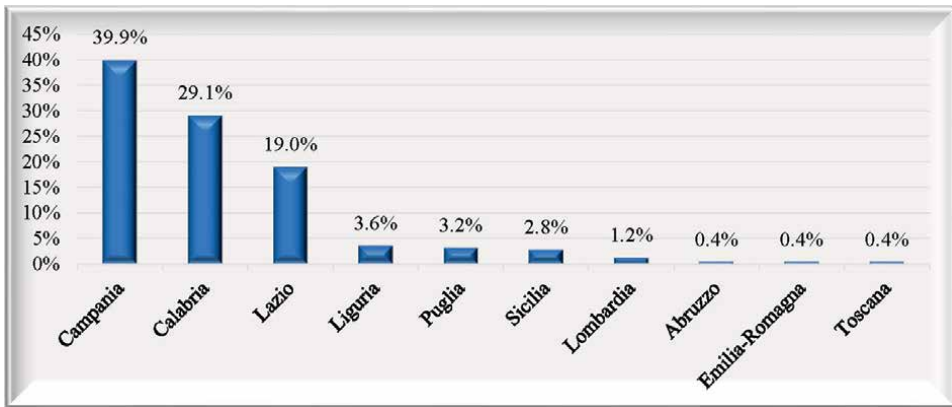


Figure 3. Geographical distribution of the events analyzed. Percentage values. Years 2013–2020. Source: DNA data processing of the research group “Crime and security in Naples”, Third report.

not only identified but also punished. Starting from the analysis of judicial cases,⁹ it has been concluded that the use of corruption by mafia organizations is massive and spread throughout the country. Regarding the so-called “Geography of corruption”, the highest concentration of events is recorded only in some of the regions traditionally associated with the presence of mafia-type organizations, especially Campania and Calabria, with 39.9% and 29.1% of cases respectively, while the weight of Sicily and Puglia is marginal, as these two regions taken together barely reach 6% of the total. As regards those territories where mafia infiltration is more recent, the data show a significant presence in Lazio with 19.0% of cases, mainly for events related to the so-called “Mafia Capitale”. The other regions of the center-north have a negligible weight, with percentages of less than 5% (**Figure 3**).

In 44.3% of cases, it is corruption for acts contrary to official duties and in 8.3% corruption due to the exercise of the function, while the induction to corruption has reached values of less than 5%. The presence of a mafia-type network directly coincides with those crimes that presuppose the identification of an opportunity that the associates manage directly, or as guarantors of agreements, or as middlemen enabling the hidden exchange to always produce a positive result for all stakeholders. The breakdown of events by mafia-type organization provides some clear information: a comparison between regional area and type of criminal organization tells us that the difference between the Camorra and the 'Ndrangheta is equal to 8.3%, a lower figure than that found between Campania and Calabria, equal to 10.3% (**Figure 4**). This data suggests, based on the documents acquired, that the territorial extension of the Camorra and the 'Ndrangheta does not end in the territories of origin but, as many investigations have already shown, according to the so-called phenomenon of “mafias on the move”, the penetration of the 'ndrine in central-northern territories has been growing for years—through their use of corruption to make the process of expansion towards new areas latent and invisible—and, for many aspects, more effective, since they gather around themselves local administrators and politicians, entrepreneurs,

⁹ The study was conducted by analyzing: (a) the rulings of the Court of Cassation; (b) those relating to six districts of the Court of Appeal; (c) the judicial material of the SIDNA database; (d) the judicial acts of the DNA; (e) the rulings of the Court of Auditors.

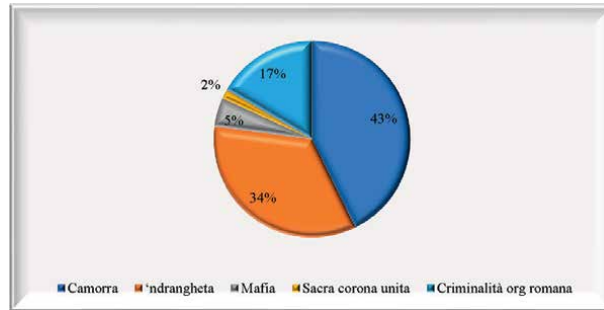


Figure 4. Percentage of incidents by criminal organization. Years 2013–2020. Source: DNA data processing of the research group “Crime and security in Naples”, Third report.

public officials, professionals, intermediaries, precisely by corrupting other subjects engaged in illegality [17].¹⁰

As regards the relationship between the territory and corruption events, this is even more interesting if the data on the distribution of corruption events in the sectors of activity is crossed with that of specific mafia-type criminal organizations. Given the confirmation of the hypothesis that the southern regions where mafia organizations are traditionally rooted are those with a dense corrupt activity, the expansion of mafia organizations towards newly settled areas is worrying. In fact, many investigations have revealed a strong presence of Camorra, 'ndrangheta and Sicilian mafia groups in Central and Northern areas, whose expansion has often been determined either by criminal migration chains or by the phenomenon of forced displacement. These two factors explain the establishment of mafia networks and illegitimate powers in territorial realities other than the Mezzogiorno. From expansion, we are now faced with a genuinely new territorial entrenchment where tacit agreements are generated between mafia structures favored by recourse to corrupt activity rather than the use of violence [18]. The results that emerge depict a reality where the high rate of corruption affecting political life, society, the economy and culture, combined with the total or partial absence of transparency and integrity of the institutions and the strong relocation of the mafias, leads to a worsening of the general system. In light of this, in a country like Italy, where mafia criminal organizations are strongly rooted in local areas, it can be said that corruption has an endemic character as it is now an operational tool preferred by the mafias. Yet it should be noted that not all corruption is attributable to the presence of the mafias. Nevertheless, since not all corruption is of mafia origin, the dynamics of intersection between the various economic sectors and the public administration (not to mention corruption between private individuals), requires that anti-corruption reforms are geared towards two types of contrast: (a) at a macrosystemic level, i.e., of a general and all-encompassing nature, coinciding with effectiveness of the sentence, the reduction of subcontracting, greater simplification of competitive administrative procedures, rationalization of the existing regulatory system, etc.; (b) at the microsystem level, coinciding with the

¹⁰ This strategy enhances and consolidates the different types of social capital that are endowed to and produced by mafia organizations.

strengthening of the *Stand Still* clause,¹¹ the implementation of gradual interventions aimed at restoring the legality of entrepreneurs' action, more effective protection nets for *whistleblowers*. This two-pronged approach is decisive because corruption intrinsically has a double meaning: it is a modality that allows the exercise of power and at the same time it benefits the corrupt materially and immaterially.

Confirming the strong micro and macro character of the corruptive dimension present in the country, based on judicial materials and documents pertaining to the database of the National Anti-Mafia Prosecutor (DNA), the Court of Auditors and a limited number of documents coming from three Courts of Appeal (Lombardia, Lazio, and Campania), the research cited quantified the amount of diverted public resources representing the “loot” of the various corruption pacts. Overall, from the examination of 536 judicial documents, 673 corruption events were found, totaling almost €260 million stolen from the community over the period 2005-2017 [15].¹²

The situation that emerges offers an account of the action of the mafias and of entrepreneurs, politicians, administrators and *civil servants* who, in cohesive units, individually, or in specific relationships with some of the agents, plunder public resources by diverting significant shares that could, conversely, benefit the community because deviating from government practices is the exercise of power and not necessarily the result of administrative dysfunctions [19].

The criminal tools used by the mafias must be fought with *ad hoc* regulatory instruments, with a special repression reserved for these forms of crime. Although Italy is preparing all possible tools to make the fight against corruption effective—from the innovations introduced by law 3/2019 to the strengthening of the sphere of intervention of ANAC in favor of promoting a culture of prevention of corruption, while maintaining its function of supervision and regulation of public contracts—there are still several obstacles to overcome. For instance, the failure to adopt a general law on *lobbying* and the rules on conflict of interest has been repeatedly highlighted as fundamental elements in the fight against corruption by *Transparency International Italy*. Furthermore, repressive measures tend to be hampered by the excessive length of criminal proceedings.

4.3 How to interpret micro and macro corruption

That multidimensional character of corruption recalled precisely because it is the object of analysis by various sciences, undergoes interpretations that emphasize one

¹¹ With this instrument, governed by Article 32 of Legislative Decree 50/2016, a temporary impediment to the conclusion of the contract is determined after the definitive award. In this way, minimum standards of substantive and procedural protection are guaranteed to the economic operators involved in the procurement process, to prevent their reasons from being frustrated by the signing of a contract resulting from an allegedly flawed award.

¹² As can be understood, the sources of the survey were different and each made it possible, based on the total of the rulings examined, to extract the number of events characterized by exchange of money. The other utilities have not been examined for the purposes of the total calculation. The SIDNA database (of the National Anti-Mafia Prosecutor's Office) showed for the years 2013-2020 a total of 102 judicial acts including 253 events of mafia corruption. From the examination of the acts of the Courts of Appeal (217 rulings) for the period 2002-2019, 348 events of corruption can be found and finally, from the database of the Court of Auditors for the period 2015-2018, out of 217 second instance rulings, there were 72 cases of corruption where the exchange is characterized exclusively by money. Besides these, 96 other cases must be added (whose usefulness was material but not in money) and 49 whose usefulness was found to be immaterial.

aspect or another. Quite a few authors point out that the most appropriate explanation is linked to profound subjective immorality, while others consider the malpractice of corruption originating from administrative inefficiencies and deficits of public organizations (of which crimes against the public administration are an indicator), or coinciding with the capacity of particular circuits of actors (political, economic, administrative, criminal) who, using “illegal skills” and sophisticated regulatory mechanisms, intercept shares of public resources to exclusively pursue private interests [12]. In addition, others see in corruption a degree of circulation of resources functional to oiling the procedures of the public system and necessary to balance differences in status and reputational imbalances due to the different roles of *civil servants*.

Indeed, the corruption market is considered as such by virtue of the perverse effect, especially in Italy, that slow justice produces in rendering criminal proceedings ineffective, without final convictions or with weak criminal effects. This reinforces the sense of impunity and encourages the entry of entrepreneurs, politicians and bureaucrats into the networks of corruption [20]. Although the central aspect, from a criminal law standpoint, is the deviation from official duties that the public role entrusts to the person, whether elected or appointed, it is the pursuit of the private interest (even if it extends to family, kinship or subjects with which you have specific relationships) or of some form of utility, that represents the trait characterizing it subjectively. This angle, however, fades or becomes integrated if we observe corruption as a violation of a collective interest versus the private one, where the public interest becomes connotative of the phenomenon.

Nevertheless, moving on to interpreting the reaction of the public opinion, the corruptive fact is condemned to the extent that the affair arises public indignation; although there is a risk that corruption ends up being associated with acts that have nothing to do with it (i.e., clientelism, favoritism, forms of *ex post* authorization, familisms, particularisms, etc.). Therefore, considering corruption—even if it runs through the history of many countries—as a constitutive phenomenon of the political class and a propensity for entrepreneurial action characterized by a weak or absent sense of the state and *civicness* raises the problem of how these ethical principles are produced and preserved and who is the actor from which they originate.

Interpretations that move along the more culturalist or institutional axis [21] explain some correlations and consequences (in this case the civic deficit) that stem from the spread of corruption, but they tell us nothing about their genesis. The *path-dependent* explanation of the inherited culture (i.e., the historical rooting of a cultural connotation) is itself the harbinger of an explanatory circularity that ends up ignoring where it originated [22]. Given the whole debate on the measurement of interinstitutional trust and the construction of social trust, the culturalist and institutional interpretation promotes the rank of widespread experience that instead belongs to restricted circles or elites that mutually reinforce each other. This approach does not depart from the idea already expressed by Sutherland and from the concept of “differential association”, indicating a set of agents who give themselves their own rules and sanctions while sharing a symbolic repertoire strengthened by the “closed” structure, characterized by a veil of silence, as well as by the various utilities distributed, which holds this submerged world together [23, 24]. Indeed, recent integrative criminological theories [25, 26] have repeatedly stressed that socialization with illegitimate opportunities generates a subcultural climate of sharing dishonesty, fraudulent behavior and self-absolution that especially if exempt from social reprobation and stigmatization, which is connected to the perception of social shame, feeds the subjective willingness to use illegitimate means to achieve one's ends and build a

social position while generating a conformity to transgressive action by increasing deviant behavior, especially if the groups or social circles of reference tend to separate the negativity of the act from the personality of the criminal.

Since corruption has historically always been present everywhere in the world, the question is whether it has really increased over time and why. In fact, corruption has been a regulatory tool of the ruling classes precisely because it has allowed either their consolidation or access to power. The contemporary process of globalization, which increased inequality, has in fact reduced the initial capital of resources (monetary, intellectual, technical) with which those belonging to the lower and middle classes begin their careers. The social elevator has stopped, the expectations of improvement and social ascent have been betrayed and the gaze toward the use of illegal opportunities has become broader and more concrete. Moral barriers to corruption have disintegrated. The constant internal crises of economic cycles (three recessions in the last decade) have made it more difficult to support growth, full employment and the production of a sense of social identity in people revolving around a common regulatory structure. The financialization of global markets and the “absolute power” they exert through returns and the introduction of new mechanisms that increase global inequalities of income, opportunity and wealth [27, 28], are putting meritocracy values under pressure, alongside individualism and even cynicism, to the point of producing ideological barriers against the principles of justice on which modern democratic societies are founded.

Economic action from within the capitalist market vision has been annihilated by the financialization of the economy. Entrepreneurs bypass the inefficiencies of the state bureaucracy and the inability to find the right balance in company management between the pursuit of short and long-term objectives and give excessive attention to maximizing their own objective functions exclusively in the short-term [29–31]. This short-term pressure pushes shareholders to make immediate rather than deferred gains, influencing the strategic action of management and thus supporting the entrepreneurial culture and business performance on *short-term* results. This pressure, search for absolute and immediate profit, and sovereignty of the venture market have eradicated the interest of entrepreneurial action in pursuing self-esteem by acting within a territory and perceiving one's role as highly responsible for growth and diffusion of economic development. As a result, the corruptive exchange is consolidated and recognized as the most advantageous and immediate way to profitability, entrusting to it, and to rent-seeking actions, the results and the success of economic activity, thus feeding a vicious circle. Political action geared towards short-term results - in a vicious circle fueled by government instability, the reduction in the growth rate, the high level of public debt and inflationary dynamics - tends to maximize earnings. Crony capitalism has expanded because the condition of weak growth and political fibrillation makes political-administrative positions and statuses precarious. This condition is associated with the global networks of parasitic finance not at all interested in extracting value from the real economy but seeking to transfer wealth from low and middle classes to high-income individuals. A short circuit has occurred and in this perverse vicious circle a willingness to corrupt negotiation agreements matures that is transversal to class segments, professional middle class, economic agents and entrepreneurs, social groups, white-collar workers and individuals for whom the secret corruption pact and hidden exchange configures that utility or advantage whose benefit transforms a condition, allowing the achievement of an objective that would otherwise not be possible, or which would require high subjective costs and a long-term vision.

The complicated thread of corruption seen in hidden exchanges, i.e., in large and small corruption, the solution undertaken by an increasingly large number of people and groups who grab public resources, acquire different advantages or utilities to reach or safeguard private interests, defend themselves from processes that appear ineluctable, or maintain social positions, acting with drug addiction rhythms and consolidating the *pitfall of corruption*.

4.4 Corruption and Covid-19

It is now known that the mafias are increasingly making use of corruption to penetrate the legal market and that, among other things, it is the emergency conditions following disasters that revive that “disaster capitalism” recently coinciding with Covid-19 [32].

Based on the premise that the *modus agendi* of criminal organizations adapts to the historical moment in which they find themselves operating and to the economic-social context of reference, starting from the lockdown and throughout the subsequent period of emergency, the activities of the mafias also changed. They continued to act under the radar, abandoning the so-called first-level criminal activities (drug trafficking, extortion, receiving stolen goods, robberies), and promoting money laundering and corruption.¹³ The large availability of money, from the European financial instruments launched to face the crisis and aimed at reinvestment in legitimate activities, becomes a tool for laundering and re-using illicit capital. For decades now the mafia has been increasingly morphing into a business, showing a fervent ability to operate in an entrepreneurial manner in the medium-long term, without sector or geographical boundaries, especially in relations with Public Administrations. The *permanent monitoring and analysis body on the risk of infiltration into the economy by mafia-type organized crime*,¹⁴ when examining the phenomenon of mafia contamination in the economic and social system, outlined the existence of “potential risks, identifying the economic sectors that have always been of interest to the mafias and the new areas connected to the production chains or services linked to the pandemic”, the so-called *Covid economy* [33].

The trend of the corruption phenomenon is constantly on the rise, with criminal organizations increasingly resorting to corrupt systems to achieve their goals and taking advantage of emergency situations to a great extent. It is no coincidence that the devastating effects of the recent economic crisis and of the pandemic on the economic system and on healthy businesses, have mobilized the mafias in the support of families and businesses through the offer of money at low interest rates, competitive to the banking system, or with an offer of illicit credit made exclusively to launder and make profits from emergency situations that represent an extraordinary opportunity.

¹³ The 2020 Corruption Perceptions Index (CPI) prepared by Transparency International highlights how corruption affects the ability of states to effectively deal with emergencies. In a context such as that caused by the SARS-COV-2 pandemic, which brought about a double crisis, health and economic, corruption has diverted funds from essential services leaving countries unprepared to respond promptly to the public health crisis. Furthermore, it has generated a distorted allocation of resources which has led to a general violation of the minimum standards of protection of human rights in the management of the pandemic.

¹⁴ Established in April 2020, set up at the Central Directorate of the Criminal Police, of a joint nature, composed of representatives of the State Police, the Carabinieri, the Finance Police, the Penitentiary Police, the DIA, the Central Directorate for the anti-drug services and the Postal Police Service.

The issue is even more topical as the most suitable tool to overcome the Covid-related crisis was found in the massive operation of public investments aimed at public works, infrastructures, and digital modernization through what has been called an “infrastructural shock”, that envisages fast times to face the post-pandemic economic slowdown. To carry out work quickly, the “Decreto Semplicifazioni” n. 76/2020 was issued and then converted into law 120/2020, which provides for a series of “Simplifications in the field of public contracts” of a two-faced nature: extraordinary and transitory. The problem lies in failing to consider the corruptive matrix that has affected and still affects our country, which could draw new life from such a system.

At the international level, too, the problem of the diversion of public funds is a cause for concern. In a speech to the European Parliament, the President of the European Commission Ursula von der Leyen said that “*we will ensure that money from our budget and NextGenerationEU is protected against any kind of fraud, corruption and conflict of interest*”. Again, Europol raises the alarm on the risk of infiltration by syndicates: “*The mafias are aiming for the money from the Recovery Fund, we need to watch out for the funds arriving*”. Finally, the Council of Europe's Group of States against Corruption (GRECO) has published guidelines aimed at its 50 member states for preventing corruption in the context of the health emergency caused by the Covid-19 pandemic. “*As countries face undeniable emergencies, the concentration of power, the waiver of rights and freedoms, and as large amounts of money are infused into the economy to alleviate the crisis, the risks of corruption should not be underestimated*” said the president of the GRECO [34].

To date, it is undisputed that if on the one hand the emergency required the need to identify tools for accelerating and simplifying procedures, on the other the legislator is obliged to provide for measures that strengthen legality.

Based on the premise that the corruption phenomenon is assuming an increasingly expansive trend, it is necessary to act on a double front, in the common perspective of transparency: on the one hand, it is necessary to strengthen transparency in procedures and simplify them, by accurately tracing the responsibility of acts, the digital sequence of the process and the decision-making locations in organizational procedures; on the other hand, we need transparency in the field of corruption prevention strategies. This means *accountability* and participation of the various *stakeholders* must be integrated and pursued in all anti-Covid-19 plans and *policies*.¹⁵ The pandemic has shown, once again, how important the prevention of corruption is even before the fight against it, and that the instrument of derogation from the regulations set up precisely to contrast and significantly reduce the risk of corruption, would generate a laceration in and of the law with a very strong risk of infiltration by criminal organizations.

5. Conclusion

This contribution invariably emphasizes the serial character assumed by corruption which has infected a large part of the public sphere and private companies and

¹⁵ According to GRECO, transparency, control and responsibility must be better implemented, given the delicacy of a situation in which large sums of money are quickly made available to the sectors most in trouble, such as the health sector, where there are critical issues related to large-scale public procurement, an insufficient number of vaccines and a vaccination passport, see Council of Europe, GRECO, Corruption Risks and Useful Legal References in the context of COVID-19, Strasbourg, 15 April 2020, available at: www.coe.int/greco.

anesthetized the collective conscience, generating a general addiction and a sense of resignation towards the phenomenon. This resignation is a symptom of a profound crisis affecting the field of legal certainty that characterizes our age and the life of every citizen.

This crisis derives from the problem that has been affecting our legal system for a long time, namely that of the legislative nomorrhoea: in fact, our regulatory system is characterized by an over-production of easily circumventable norms, by legislation rich in precepts where it is difficult to describe into more and more specific rules certain nuances that a multifaceted and chameleonic phenomenon like corruption can take on, therefore unable in reality to really tackle the problem. Moreover, it has now become common practice for jurisprudence to fill the legislative gaps. As a matter of fact, the actors of corruption exploit to their advantage this gap between the incompleteness of the laws and the interpretation of jurisprudence. This generates constant “updating” of the criminal rules hand in hand with the strategies prepared to counter the corruption phenomenon, relying above all on the silence of the actors who participate in the *pactum sceleris*, on the silence of the socio-cultural context in which they operate and exploiting the greater impunity guaranteed by invisibility in the eyes of society.

The sense of distrust engendered by this mechanism in the population leads to a victory for corruption over legality. Therefore, the new challenges that international and national organizations are facing must be fought by using not only the weapon of criminal sanctions but also of administrative tools which, used in a coordinated and synergistic way, can give an effective response to the fight against corruption by attacking the system upstream through preventive action and downstream through prosecution when prevention was not effective.

It is now a widespread mentality to answer the question about the reasons for getting involved in certain corrupt mechanisms with the phrase “because everyone does it”. This statement is only partially true, as it is not fair to say “everyone does it” but “many do it”. However, until those “many corrupt” do not become “all corrupt” it means that there is still a part of public officials, entrepreneurs or private citizens who are fighting this silent war against corruption and suitable tools must be guaranteed so that, in the opposite sense, “many not corrupt” become “all not corrupt”.

It should be emphasized that anti-mafia measures need to be implemented. It would be appropriate, like we do when referring to mafias in the plural, to speak of “anti-mafias” [35]. Therefore, in order to fight this system and break the link between the mafias and the economy, it is advisable to know more about the different organizational dynamics, to use existing tools while avoiding burdening a system that already possesses a gargantuan normative production, and to use differentiated instruments of action of a repressive, preventive and “curative” type for the social fabric, so that this does not act as a breeding ground for the proliferation of such practices harmful to the national economy, thus decreasing the real risk of corruption and infiltration of criminal organizations, especially in *subiecta materia* [36].


We hope that, both in terms of *de iure condito*, and *de iure condendo*, a reform is carried out to reconcile the tools provided by the current regulatory system with a legal system that quickly restores dignity and trust in justice. Corruption damages the community but those who pay the highest price are always the most disadvantaged groups who use services that become increasingly poor. The effect is the exclusion and nonrecognition of rights, as well as the mortification of the dignity of those who cannot afford to resort to private services delivered by private professionals.

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Addressing the Endemic Consequences of Corruption in the South African Local Government Public Sector

David Fourie and Cornel Malan

Abstract

Corruption is a broad concept involving various acts perceived to be illegal or unethical at the very least. Corruption is informally defined as any act which unfairly or illegally influenced a decision-making process, through giving or receiving of a benefit (monetary or otherwise) to the decision-maker or another party connected to the decision-maker. South Africa (SA) is known for its well-developed framework to promote sound public administration, consisting of the Constitution, supportive legislative instruments including the Public Finance Management Act, Municipal Finance Management Act and various National Treasury Regulations and Notices. Sadly, SA is also known for high levels of fraud, corruption and collusion amongst public officials with apparently very little consequence management to date. Corporate governance was institutionalised in South Africa (SA) through the four King Reports, which have since 1994 served as cornerstones with a Code of Good Practices and Conduct to promote ethical standards and curbing corruption in corporate governance. The article aims to draw conclusions from an in-depth comparative qualitative literature review of national legislative documents, reports and recent articles to determine the extent of corruption and how effective the current SA Public sector corporate governance framework measures at local government level are implemented.

Keywords: corruption, corporate governance, accountability, consequence management, local government

1. Introduction

Accountability refers to ‘being answerable for one’s behaviour or actions’ [1, 2]. Financial accountability describes the process accounting by officials of the manner in which public funds, in this case, at local government or municipal level, have been used to implement municipal policies as approved by its council [2, 3]. In a 2019 media release by the Auditor-General South Africa (AGSA), the lack of accountability was flagged as the major cause of poor local government audit results in South Africa [4].

The AGSA reports on municipal performance have consistently over the years highlighted governance issues affecting municipalities; however, analysis of the audit result trends over the period 2015/16–2021/22 demonstrated limited action on recommendations by the AGSA to address the identified shortcomings. According to AGSA, widespread monitoring and control breakdowns were found at a significant number of the 257 municipalities within South African local government environment [5], resulting in fiscal resources either misused or misappropriated or not appropriately accounted for as required by South African public finance management laws. 'Evidence of these is largely incomplete projects, unsupervised projects, lack of maintenance of significant service delivery infrastructure and haphazard road maintenance projects and infrastructure' [4].

2. Corruption contextualised

The Prevention and Combating of Corrupt Activities Act 12, 2004 (PCCAA) criminalises corruption in South Africa [6]. The PCCAA, as cited by Bernstein and Shaw, defines corruption as 'where an individual either directly or indirectly receiving or giving an intention to receive a form of gratitude from another individual or offers or approve to provide a gratitude to some other individual for his or her benefit or for another, and the offering or acceptance is conducted in order to influence the other party to perform in an inappropriate way, in the functioning of that individual's duties [7]'.

As a member state to the New Partnership for Africa's Development (NEPAD), South Africa prescribes to its strategic priorities, which amongst others require adherence to good governance values including but not limited to political, economic and corporate governance [8]. Poor levels of corporate governance, resulting in corruption without apparent and decisive consequence management, are currently some of the issues dominating the news and public discourse in South Africa and beyond its borders.

The Constitution of the Republic of South Africa, 1996, with specific reference to Section 195, prescribes public administration governance in line with democratic values and principles, being '(i) the promotion of a high standard of professional ethics; (ii) the promotion of efficient, economic, and effective use of resources; (iii) transparency must be fostered by providing the public with timely, accessible and accurate information; and (iv) public administration must be accountable [9]'. These values and principles embody the aspirations of sound corporate governance.

Corporate governance embodies processes and systems by which corporate enterprises are directed, controlled and held to account. The Institute of Directors of South Africa [10] defines corporate governance as 'the exercise of ethical and effective leadership by the governing body towards the achievement of ethical culture, good performance, effective control and legitimacy'.

3. Methodology

This chapter is based on an exploratory desktop literature review of numerous publications, such as academic journals, official South African public sector reports and publications, legislation and policies, newspaper articles, as well as documentation obtained from various official websites in the field of public governance and accountability. Comprehensive insight was gained from the analysis of the documents into the current governance frameworks versus the situation pertaining to

the prevention and/or addressing of corruption within the South African Local Government Public Sector.

Analysis of the literature reveals numerous intricate and well-designed frameworks, mechanisms and public institutions in place to firstly prevent acts of corruption and mismanagement of resources and secondarily to deal with such acts, should they occur. As revealed by the various AGSA municipal audit reports, a lack of consequence for mismanagement of resources evidenced by the failure to investigate findings and/or failure to act on findings resulted in deterioration of the financial health of municipalities and in the delivery and maintenance of municipal infrastructure.

A qualitative research approach using unobtrusive methods was used as it was viewed as being the most suitable approach towards understanding and unpacking public sector corruption and consequence management practices in South Africa. As stated by Auriacombe [11], 'a theoretical framework is essential to gain a clear understanding of the relationships manifested between the various elements and issues of an identified phenomenon', which in the case of this study is the public sector and public financial management and accountability.

All the documentary sources used in this study are available in the public domain and easily accessible, which allowed for a detailed contextual and content analysis. The focus was on official publications which would ensure validity and trustworthiness, such as the Auditor General's reports and peer-reviewed journals pertaining to the subject matter at hand. A process of analysis of the phenomenon (public corruption and consequence management), reflection and synthesis to make meaningful deductions was followed towards creating the information and positioned in the article. After analysis of the trustworthy sources [12], the authors were able to gain an understanding of the phenomenon under investigation, to make relevant recommendations towards improved consequence management aimed at addressing corruption within the South African Local Government Public Sector and to develop various recommendations to improve public sector accountability and consequence management.

4. Discussion

4.1 Legislation for good governance

According to the White Paper on Local Government [13], 'a developmental municipality should play a strategic policy-making and visionary role and seek to mobilise a range of resources to meet basic needs and achieve developmental goals'. The developmental duties of local government are set out in Section 153 of the Constitution, namely that a municipality must structure and manage its administration, budgeting and planning processes to prioritise the basic needs of the community and to promote its social and economic development [9]. In addition, Sections 152, 153 and 154 of the Constitution indicate that local government must promote social and economic development, a safe and healthy environment, and encourage the involvement of communities and community organisations in the matters of local government [9]. Section 152 of the Constitution determines that local government is responsible for:

- The provision of a democratic and answerable local government for the community it serves.
- The delivery of services to community it serves and to be in a sustainable mode.

- The promotion of relevant economic and social development.
- The promotion of a safe and healthy environment.
- To encourage the participation of communities and community organisations in work of local government [9].

Section 195 stipulates that public administration must be governed by the democratic values and principles enshrined in the Constitution, including that a high standard of professional ethics must be promoted and maintained. According to the section, all three levels of the state, including public enterprises and state-owned entities, are subjected to the principles and values of a democracy [9]:

- ‘Promote and maintain a high standard of professional ethics [9, 14]’;
- ‘Promote economy of scale towards efficient and effective resource utilisation [9, 14]’;
- ‘Encourage developmental public administration and the principles of public participation and fairness, equity and accountability [9, 14]’;
- ‘Be transparent by providing for accurate and timely information, accessible to all [9, 14]’;
- ‘Maximise human resource utilisation through sound human resource development practices [14]’; and
- ‘Ensure a public sector which is representative of all our people, providing employment based on merit, competency and objectivity [14]’.

The following legislative frameworks and guidelines as per the National Treasury Guideline for Accounting Officers underpin corporate governance in the public sector [15]:

- Public Finance Management Act (PFMA), Act 1 of 1999, as amended;
- Municipal Finance Management Act (MFMA) Act 53 of 2003, as amended;
- The Code of Conduct applicable to all public servants in Chapter 2 of Public Service Regulations, 2001 as amended;
- *Batho Pele* (People First) principles as defined in the White Paper on Transforming Public Service Delivery, 1997; and
- The Companies Act 71 of 2008 as amended in 2011 together with the accompanying Companies Regulations of 2011 further strengthen and entrench corporate governance principles [15, 16].

4.2 The kind reports on corporate governance

The King Reports on Corporate Governance, which represent South Africa’s corporate governance framework, have undergone some changes over time. The King

Committee on Corporate Governance in South Africa, under the chairmanship of the former Judge Mervin King, was formed in 1992 at the instance of the Institute of Directors in South Africa to consider and address corporate governance for South Africa. The purpose of the King Report is to promote the highest standards of corporate governance in South Africa. The first King Report was released in 1994 followed by several updates (i) the King Code of 2002 (King II Report), (ii) King Report III of 2009 and (iii) King Report IV of 2016 [10].

- i. King Report I—The first King Report focused on the need for a good system of corporate governance in companies where ownership and management were separate. The report defines a good corporate governance system as one which attempts to meet the needs of different stakeholder groups, while still ensuring that the best interests of the company and its shareholders are prioritised.
- ii. King Report II—It served as an improved and updated version of King I by moving from single, bottom-line reporting (profit-focused reporting) to triple bottom-line reporting, which takes into account the economic, social and environmental aspects of a company's activities. The King II Report was applicable only to JSE listed companies, banks, financial and insurance entities and certain public-sector enterprises.
- iii. King Report III—The King III Report focused on the Companies Act of 2008, as amended on 1 May 2011 [17]. The Companies Act makes certain governance mechanisms legally compulsory, with failure to comply having legal ramifications for a business.
- iv. King Report IV—King Report IV focused on ensuring sustainable development, fostering integrated thinking, enforcing corporate citizen culture, ensuring stakeholder inclusivity and elevating the company's role within the broader society. In addition to these King Reports, several guidelines were issued such as The King Code of Corporate Practices and Conduct and the Protocol on Corporate Governance in the Public Sector, among others [16].

The King Code of Corporate Practices and Conduct and the Protocol on Corporate Governance in the public sector concentrate on the following broad areas [16]:

- people who qualify to be on the board of directors and setting up of board committees;
- overall role and functions of the board and how the board is evaluated;
- separation of powers between the chairperson of the board and the chief executive officer; and
- publication of annual reports and holding of general meetings.
- In the public sector, corporate governance principles apply to the following entities:
 - enterprises and agencies that are subject to the PFMA, as amended;

- entities subject to the MFMA; and
- any state entity or department on all three levels of state, who is performing a function based on a Constitutional obligation, excluding a court or judicial officer appointed according to Section 239 of the Constitution [9].

4.3 Oversight and reporting

The responsibilities and duties of municipal managers as expressed in the MFMA are emphasised by the basic values and principles governing public administration as set out in Section 195 of the Constitution. Section 32 of the MFMA, and the supporting regulations, requires management interventions aimed at investigating any 'unauthorised, irregular and fruitless and wasteful expenditure, the possible abuse of the SCM system (including fraud and improper conduct), and allegations of financial misconduct and possible fraud [18]'. A municipal manager is to start an investigation into any misuse of funds, and appropriate actions should be taken based on the outcomes of these investigations. The municipal manager has the responsibility to prevent irregularities and take action when they occur.

The Consolidated General Report on the Local Government Audit Outcomes for a financial year as published by the Auditor-General of South Africa provides an account of municipal financial expenditure and performance during the review period [18, 19]. The findings and recommendations of the report aim towards 'empowering oversight structures within municipalities but also oversight structures external to the municipality such as the Select Committee on Finance and the Select Committee on Appropriations' [18]. The AGSA report recommendations provides for planning of areas in need of oversight focus and support as well as processes and activities in need of possible investigation and management interventions [18].

4.4 South African municipal performance

A so-called 'disclaimed opinion' is the worst possible AGSA audit opinion for a municipality to receive, as it signifies the inability of that municipality to provide AGSA with evidence for most of the amounts and disclosures in its financial statements [20]. Analysis of the AGSA reports on municipal financial performance for the periods 2015/16–2020/21 indicates that there has been no improvement in the number of municipalities that have received a disclaimer of audit opinion, as illustrated in **Figure 1**.

Various authors as well as the AGSA in its 2019 report of municipal performance for the period 2019/20 [4] stated that the poor audit outcomes over the years are mainly attributable to three factors, namely:

- 'Sluggish response by local government to implement recommendation made in the various AGSA report, in particular pertaining to leadership and improved internal control deficiencies. The slow response to improve the key internal controls by management for not achieving a clean audit was cited as one of the main reasons. In this case it showed the following: 85.7% (6) of the metros, 77.2% (122) of the local municipalities and 68.6% (24) of the district municipalities [18]'. 'Local government leaders, including senior management and supporting officials, are failing to ensure effective monitoring and evaluation processes, effective internal control measures and sadly also fail at instilling consequence management and corrective actions [21]';

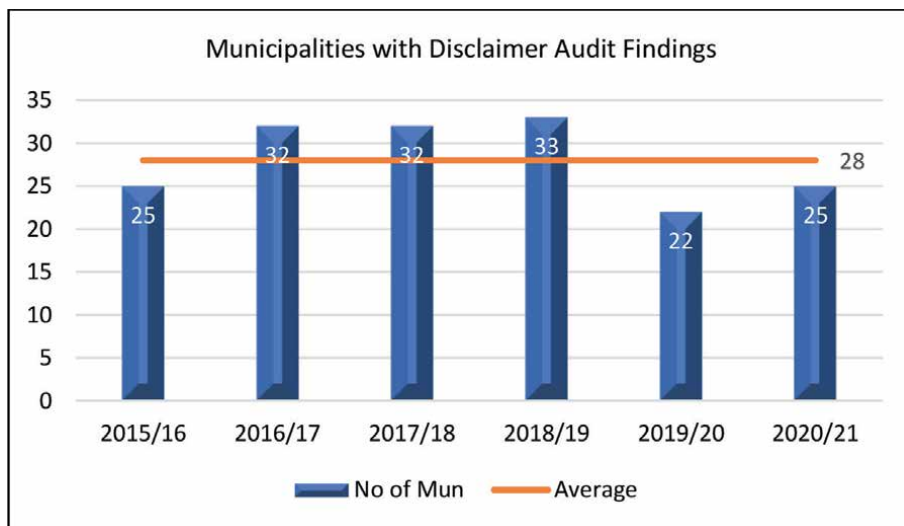


Figure 1. Municipalities with Disclaimer Audit Findings 2015/16–2020/21. Source: Authors' own compilation based on AGSA report for period 2015/16–2020/21.

- Vacancies and instability in key positions also contributed significantly to the poor audit outcomes of municipalities [2, 22]. The average number of months that municipal managers and chief financial officers stay in their position is 42 months [18]. The tendency to leave key positions vacant for prolonged periods of time results in delayed improvement of fiscal discipline and enforcement of accountability. Of concern is the lack of appropriate skills and competencies in financial reporting [23], resulting in a dependency on external consultants, with a resultant negative impact on financial planning, record keeping and reporting [4]; and
- Lack of consequence management, particularly in respect of non-compliance with legislation [2]. The most common findings related to lack of investigation into allegations of financial and supply chain management misconduct and fraud, as well as investigations into unauthorised, irregular and fruitless and wasteful expenditure [18, 24]. Inadequate or a lack of will to implement the review and monitoring processes as well as officials not being held accountable for poor performance [25]. Leadership and municipal officials deliberately or negligently ignore their duties and disobey legislation. This is not decisively dealt with through mechanisms for enforcing consequences for transgressions [4].

The AGSA has identified numerous failures to implement consequence management, this created an environment where staff continued to transgress without any consequence due to inefficient and ineffective oversight structures. As reported by AGSA in 2022, a staggering 60% of municipalities did not comply with legislation on effecting consequences. At 54% of municipalities, the non-compliance was material. The most common findings involved irregular, unauthorised and fruitless and wasteful expenditure not being investigated. Taking irregular expenditure as an example, by 2020–2021 year-end, 51% of municipalities failed to investigate their findings included in the 2019–2020 irregular expenditure year-end balance of R110,18 billion and 41% of municipalities failed to investigate fruitless and wasteful expenditure [5].

4.5 Consequence management for corrupt actions

Introducing consequences against officials responsible for non-compliance will assist municipalities to recoup financial losses as a result of corrupt actions by such officials and also serve as a deterrent for others to contravening legislation. This will also serve as an indication of municipal commitment to prudent financial management practices [5].

Consistent and deliberate actions against corrupt officials who ‘intentionally fail to comply with legislation or who are guilty of fraud or misconduct’ [26] will further improve accountability for government spending. In line with the PFMA, MFMA and supporting regulations, contraventions resulting in unauthorised, irregular and fruitless and wasteful expenditure, as SCM system abuse and/or manipulation, should be investigated for all and any signs of improper conduct or fraud. It is also important that these investigations, where unlawful actions become evident, should result in appropriate actions and sanctions [26].

According to AGSA, auditees at 13% of municipalities were not equipped with the requisite policies, processes and means of investigation and reporting possible transgressions or fraudulent activities, including poor record keeping [26]. ‘Although 87% had the required mechanisms, these had not necessarily been successfully implemented [27]’.

AGSA, in agreement with the principles set out in King IV, concludes that ‘the leadership sets the tone at the top at any organisation [4]’. Strong internal audit and oversight to ensure financial accountability will ultimately result in clean financial audits [28]. The AGSA report clearly states that ‘... when the leaders of an organisation’s are operating in an unethical manner, have a carelessness for the principles of good governance, applying sound compliance and control systems; and are not obligated to transparent practices and accountability, it could filter down to the lower levels of the organisation and thus impact negatively on service delivery [4]’.

4.5.1 Municipal council

In terms of Section 4(2) of the Local Government: Municipal Systems Act 32 of 2000 (MSA), the municipal council as the executive and legislative authority of the municipality is the highest authority in the municipality and has substantial ‘powers of approval and oversight responsibilities’ [2, 29]. MSA 2000, Section 6(2) provides that municipal administrations ‘are to be receptive to the progressive needs of the respective communities it serves; to stimulate an ethos of accountable service delivery among the municipal officials; to conduct the approved practices to avoid corrupt undertakings; to encourage co-operation and interaction with local communities; to give the local community clear and reliable information regarding the level and pre-determined standard of service delivery; and to ensure that the local communities and respective organisations are well informed in the affairs of local government [30]’.

4.5.2 The speaker

The Speaker of a municipal council provides a political oversight function to monitor the conduct of municipal councillors and its committees [31]. Including in such powers, is effective consequence management of reporting of offences against councillors, by making sure that such reports are addressed in an appropriate manner and resolved [32].

4.5.3 Executive mayor

In line with the requirements for good corporate governance outlined in the King IV Report, the executive mayor is accountable to Council, the community and other stakeholders at a strategic level for:

- Risk management inclusive of consequence management process aimed at reducing exposure to advert risks and strengthened controls [10, 33].
- Restricting the potential of losses incurred as a result of incidents and red flags [10, 33].
- Instilling and sustaining a culture within the council based on principals of service excellence, where councillors can be trusted be transparent and act with integrity and accountability, towards prevention of maladministration resulting in fraud, corruption and other criminal activities and/or negligence and financial misconduct [10, 33].
- Developing and implementing consequence management strategies towards preventing or limiting the potential negative impact of misconduct and corrupt activities [10, 16, 33].
- Regular monitoring, evaluating and reviewing consequence management strategies, policies and action plans to ensure relevance and successful application thereof [10, 16, 32]; and
- Ensuring transparency and accountability by making appropriate disclosures of financial misconduct to the relevant authorities including the Minister for Local Government in the oversight Province, as well as to National and Provincial Treasury entities [10, 16, 32, 33].

4.5.4 Municipal manager

In terms of Section 62 of the MFMA, the municipal manager has statutory responsibilities with regard to the general financial management of the municipality [24, 34]. This includes the responsibility for managing the financial administration of the municipality by taking all reasonable steps to ensure that the resources of the municipality are used effectively, efficiently and economically and ensuring that the municipality has and maintains effective, efficient and transparent systems of financial and risk management and internal control to prevent unauthorised, irregular or fruitless and wasteful expenditure. The MFMA, Section 32 in particular, and its regulations clearly stipulate that management should investigate matters such as 'incurring unauthorised, irregular and fruitless and wasteful expenditure, the possible abuse of the procurement system (including fraud and improper conduct), and allegations of financial misconduct and possible fraud' [35]. A municipal manager is to institute an investigation into any misuse of funds, and appropriate actions should be taken based on the outcomes of these investigations. The municipal manager has the responsibility to prevent irregularities and take action when they occur [2, 34, 35].

In addition, the Municipal Manager has the responsibility to ensure that disciplinary or, when appropriate, criminal proceedings are instituted against any official of

the municipality who has allegedly committed an act of financial misconduct or an offence. In this regard, it is important to take note that Section 14(a) of Schedule 1 of the Municipal Systems Amendment Act, 2011 [34] provides that any breach of the Code of Conduct for Municipal Officials is grounds for dismissal.

4.6 Auditor-general expanded mandate

Over the years, AGSA has been reporting on audit findings at municipal level pertaining to fruitless, wasteful and irregular expenditure, highlighting the limited or even total lack of action to address the financial mismanagement identified or to hold those who contravene the legislation to account. The failure of municipalities to use the existing accountability mechanisms in local government gave way to the Portfolio Committee on COGTA support for the amendment of the Public Audit Act 25 of 2004 to provide the AGSA with more power to improve accountability in the public sector. AGSA mandate was expanded by amendments which became effective on 1 April 2019, to go beyond audit and reporting to strengthen accountability mechanisms [36].

AGSA's expanded role is focused on addressing material irregularity. Material irregularity is articulated as an deed of any non-compliance with or infringement of the respective legislation, theft, fraud or the abuse of an assigned duty as identified during an audit as executed in terms of the Public Audit Act that stemmed in or is likely to effect in any form of material financial loss, the misuse or the loss of any material public resource or a significant damage to a public sector institution or the general public [37].

AGSA's role is to detect material irregularities and to assist the municipal managers to bring it to their attention that the identified irregularities could bring an impact on the finances, other resources and the delivery of services. But also, to empower the municipal managers to undertake the applicable steps in terms of legislation to correct the irregularities. This approach is an effort to minimise the adverse outcome of the irregularities on municipalities by setting the correct attitude towards accountability, the significance of the need for consequence management, and to inspire a behavioural change at all levels [37].

AGSA report recommendations are no longer the type of recommendations resulting from their audits, but rather focus on providing municipal managers with actions to deal with a specific Material Irregularity (MI), including steps to be taken to recoup financial losses or to recover from substantial harm [37], reinforce internal control measures towards prevention of further losses and harm [37, 38] as well as consequence management actions. The recommended actions are inclusive of utilisation of internal disciplinary processes and/or handing over the matter to a law-enforcement agency for further investigation and possible prosecution [5, 37].

It is positive to note that the 2022 AGSA Report on the MFMA states that there has been a change at municipalities to pay at a more progressive manner attention to the findings and recommendations made. Increasingly, there has been a noticeable change in the behaviour from indecisiveness to action by municipal managers [5].

5. Provincial government intervention—Section 139 of the constitution

Section 139(4) and (5) of the SA Constitution, along with MFMA Chapter 13, regulates interventions aimed at a consistent and foreseeable municipal response to prevent severe financial challenges as well as operational issues from threatening

prudent financial management and services delivery [25, 39]. The section aims at promoting sound financial management, failing which allows for a municipal council to be dissolved by the relevant provincial government or by national government. Section 139 therefore aims to ensure that local government entities remain committed to their constitutional obligation towards serving the people of South Africa and their Constitutional rights [40].

In 2021, the Department of Cooperative Governance and Traditional Affairs (COGTA) reported that 64 municipalities were 'dysfunctional' [41]. These municipalities had become dysfunctional to such an extent (with very poor governance practices in place, weak institutional capacity, poor financial management and the resultant corruption and political volatility), that national and/or provincial government had to step in towards restoring the requisite levels of financial management, good governance and service delivery. In such cases, administrators are then appointed to manage and oversee the day-to-day running of these dysfunctional municipalities [5].

It is important to note however that, apart from the guidelines in Section 139 itself, there are no other administrative practices or guidelines or policies which should be followed which covers the entire Section 139 framework. Even though for example the MFMA provides for the compiling of a financial recovery plan in the instance of a Section 139(5) intervention along with some guidance towards evaluating financial difficulties in a municipality, these are only guidelines. There is no formal regulation in respect of Section 139(1) interventions, leaving a serious interpretation gap for these interventions to succeed as intended [40].

Although the majority of the dysfunctional municipalities were in a general dire state, in most cases a single event or so-called specific 'trigger' gave rise to a Section 139, such as a series of violent community service-delivery protests or an Eskom threat to cut off electricity supply to the municipality. Often Section 139 is not instituted even when municipal wrongdoing is identified, but this trigger or singular event is often the real spark needed for the Section 139 intervention. 'Without that trigger, it is not clear that all of the interventions would actually have taken place' [40].

In their 2018 study, the Public Affairs Research Institute [39, 40] reported three factors as being indicative of sustained success of a Section 139 intervention: 'the state of the affected municipality's affairs prior to the Section 139 intervention, the ability of the appointed Section 139 administrator to successfully resolve the address the root causes and challenges, and the performance of the municipality once the Section 139 process is terminated [40]'.

The worse the levels of financial mismanagement, collapse of infrastructure and breakdown of local government structures and processes, the less likely the municipal council will be able to return to financial and operational stability. Research reveals that interventions initiated before the total collapse point was reached were much more successful in aiding the municipality to return to stability after the Section 139 intervention [40].

Research also reveals that the administrator is incapable of bringing about the desired changes, in fact in many cases the administrator actually added to the woes and made the situation worse (by accident or by design). Ledger and Rampedi [39] are of the opinion that the undertaking is unassumingly beyond an individual person who now has the responsibility to manage seven or eight senior managers and then put in a determined effort to tackle years of mismanagement and corruption. This often to be conducted in a significant hostile environment and the perceived non-cooperation from those managers [39].

Correct application of the MFMA in Section 139(5) interventions would provide powerful tools to address mismanagement and provide a disincentive to future mismanagement [39]. These tools are not being taken advantage of in fact, ‘there is need to do things differently [41]’.

6. Way forward—recommendations to successfully curb the scourge

Analysis of recent news reports and media releases does however provide a glimmer of hope. In recent times, there have been reports of sentencing of officials found guilty of corruption [42], fraud [43] and theft [44], as well as recovery of funds [45]. According to Mondli Gungubele, Minister in The Presidency, the sentences handed down, ‘... will serve as a deterrent to any persons involved in any form of corruption’ [46]. There does appear to be an increase in the number of arrests and successful prosecution of corrupt officials and their accomplices. However, ‘prevention is always better than finding a cure’ and the following recommendations have been noted in this regard:

- Adopt and implement efficient policies and processes to investigate allegations of misconduct and disciplinary procedures [26].
- Proper, consistent, appropriate and swift investigate all allegations with the requisite action based on the results of the investigation—the best practice in this regard is three months [26].
- Leadership should aspire to and demonstrate ethical leadership, service orientation, good governance and accountability [47]. ‘Governance should aim towards empowering people instead of simply yielding its authority’ [48].
- Enable and insist on a strong control environment with practical, automated and routinely executed internal controls that prevent financial loss, wastage and transgressions and significantly improve financial and performance management and reporting [47].
- Ensure that the appointed authority is able to correctly identify the correct intervention required and is able to correctly apply the appropriate legislation [40].
- Internal control processes for the identification of possible financial misconduct and financial offences should be improved, including oversight systems and processes, financial reporting and monitoring and evaluating capacities [28, 49].
- Risk management processes to identify and mitigate financial risks relating to unauthorised, irregular and fruitless and wasteful expenditure should be strengthened [50].

7. Conclusion

Even though some progress has been made towards improving the prevention of corruption and mismanagement at municipal level, the pace is disappointingly slow. Until such time as accountability for indiscretions and offences does not take centre

stage, acts of misconduct including irregular, unauthorised and fruitless and wasteful expenditure, as well as outright instances of theft and corruption, will continue to plague municipal finances and service delivery levels [26]. Even in the presence of all the requisite legislation, policies, processes and skills, with a culture of performance, accountability, transparency and integrity [5], addressing the endemic consequences of corruption in the South African Local Government arena will remain elusive and unresolved.

Conflict of interest


The authors declare no conflict of interest.

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Corruption Dynamics and Economic Growth in Nigeria

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Abstract

Corruption is as old as man's existence. It manifests in various places, ways, extent and sphere to impede economic growth, including Nigeria. This chapter presents corruption dynamics and its impact on economic growth in Nigeria. Among other things, the chapter reviewed the Nigerian economy in context, with focus on cases and forms (embezzlement, favoritism, bribery, and extortion) of corruption in Nigeria. Other matters discussed are anti-corruption agencies and channels of corruption in Nigeria. Following the review and discussions therein, the chapter concludes that corruption occurs in diverse forms and it is an act that deviates from the extant law. The study further concludes that the persistence of corruption in an economy impedes economic growth. The Nigerian case has proven that the grease-the-wheel assumption cannot hold because the growth of Nigeria has been affected drastically through the existence of corruption. Considering the dimensions that corruption has taken in Nigeria, it has become difficult or even impossible to eradicate corruption in the country, but curbing this cancer worm and reducing it to the barest minimum are of great importance to achieve the level of growth needed and make Nigeria restore sustainable economic growth path.

Keywords: corruption, grease-the-wheel, dynamics, economic growth, embezzlement, Nigeria

1. Introduction

Corruption is global, not excluding Nigeria. It is inimical to economic growth, which serves as a bane to economic growth and development in Nigeria. It undermines government efforts and policies advanced to secure meaningful well-being for the citizenry. Undeniably, corruption is becoming a life pattern in Nigeria. It is prominent among public officers and private establishments. Indeed, several efforts by successive regimes to understand the dynamics of development in corruption and its challenges to economic growth in Nigeria have been confronted with various odds. As a result, it is necessary to understand corruption and why it has remained inflexibly endemic and intractable in the Nigerian economic fiber and fortitude. This study provides insights to this challenge by conceptualizing the concept, corruption, evaluating its evolution, causes and forms, and its impacts on the Nigerian economy.

The rest of this chapter is divided into nine sections. Section two explains overview of the Nigerian economy. Cases of corruption in Nigeria were presented in section three. While section four presents the forms of corruption, sections five, six, and seven respectively present causes, anti-corruption agencies, and disadvantages of corruption in Nigeria. In section eight, corruption and its consequences on economic growth were discussed, and section nine presents channels of corruption in Nigeria and finally, the conclusions were drawn in section ten.

2. Overview of the Nigerian economy

Recognized as one of the largest economies in Africa, Nigeria has been on the part of growth since the discovery of oil in commercial quantity. Nigeria has an abundance of crude oil and gas, which generates most of the revenue of the economy [1]. The oil sector averagely contributes, annually, about 10, 65, and 85% to gross domestic product (GDP), revenue and foreign exchange earnings, respectively [2]. Unfortunately, Nigeria has paid less attention to other important sectors of the economy such as the mining industry and agricultural industries among others since oil was discovered in commercial quantity. On the other hand, proceeds from crude oil sales have been characterized with corruption, diversion, and reckless spending.

In 2018, OPEC reports estimated the oil reserve of Nigeria to be 37.06 million barrels. With such reserve, the ability of the Nigerian economy to grow, moving on the wheels of crude oil remains very high. This report further stated that Nigeria still has the potential to discover and explore oil that indicates the possibility of an increase in the reserve of oil and also an increase in the exportation of oil. It is impossible to discuss the growth of the Nigerian economy without talking about the oil sector, which is the major source of the revenue of Nigeria. Nigeria is the largest oil producer in Africa, producing about 2.4 million barrel per day (mbd) [1].

Nigeria is also rich in human resources, and other mineral and natural resources, and has a population of over 180 million people [1]. The country is endowed with other resources such as gold, iron ore, limestone, coal, rich soils among several other resources upon which it can survive. Harnessing the oil resources and the natural resources that Nigeria possess will make Nigerian not just the Giant in Africa but a place of reference in the global village. Unfortunately, the sector has been characterized with corrupt practices.

3. Cases of corruption in Nigeria

Defined by the World Bank and Transparency International, corruption is an unlawful use of public offices for personal gain and it has been a problem that has hampered the growth of the Nigerian economy over the years [3]. According to Organization of Petroleum Exporting [4] and Raimi et al. [5], corruption is as old as the creation of man. Man by its selfish nature struggles to meet his selfish desires and in the process engage in corrupt activities. Corruption exists in the public sector as well as the private sector of every economy be it a developed economy or a developing economy [6]. The evidence of the existence of corruption in Nigeria can be traced to the investigation on oil petroleum subsidy fraud, misuse of pension funds, and the recycling of items in previous budgets as a strategy to loot funds [6].

The history and existence of corruption in Nigeria dates back to the period before, during, and after colonization. Nigerian leaders and merchants during the

pre-colonial period collected foreign products and gave able bodied men to the whites in exchange. As far back as that time, Nigerians preferred personal gains over life and so they could easily trade humans for foreign goods. Corruption has lived in Nigeria for this long because checking and curbing corruption is only possible through the use of corruption a situation that further destroys the system [6].

Another scenario that has been attributed to corruption in Nigeria was the forceful taking over of power by the military government [7]. Although the military-sized power with the cover-up story of maintaining peace and order, arguments have come up to fault this story as many believe that the military came into government for the sake of their own selfish interest. The military through the suspension of the constitution and the neglect of the rule of law looted public funds that were meant to facilitate the growth of Nigeria [3]. Consequently, corruption is strongly rooted in the military regime [7].

Considering the level at which corruption had grown in Nigeria, the return of Nigeria to civilian rule could not reduce the level of corruption but rather, it grew and became a thorn to the growth of the Nigerian economy. As at 2011, Transparency International ranked Nigeria as the 143th out of the 182 nations of the world experiencing corruption [3]. In 2018, Nigeria ranked 144th out of 180th with Somalia topping the list with the rank of 180th and in 2019, Nigeria ranked 146th out of 180 [1].

4. Forms of corruption in Nigeria

More precisely, corruption can be seen to be a deviation from the norms of the society. This definition goes beyond looting of funds but rather encompasses all activities that are against the rules that uphold a nation. Corruption therefore manifests in various forms which [8–10] pointed out the following:

- i. *Embezzlement*: Most of the public office holders in Nigeria have been linked with embezzlement of funds. The term embezzlements refer to the diversion of public funds for personal and private gains.
- ii. *Favoritism*: Another form of corruption in Nigeria is selecting people that may not have the required qualification for a position, simply because, they have offered gifts to the officer in charge or because they have been introduced by top-ranking personalities/politicians. This singular act affects a nation's growth adversely. Public office holders in Nigeria have in a way or the other distributed funds in ways that are not justifiable because they choose to favor friends, families, well-wishers among other, justifying it on flimsy reasons.
- iii. *Bribery*: This has become the other of the day in Nigeria. Bribery has affected all the sectors of the economy. It is the act of giving physical cash or gifts to people in positions to facilitate certain gains. Rotimi et al. [6] defined bribery as the act of giving money in cash or kind to cause public office holders to act in ways that are different from their oath of office.
- iv. *Extortion*: It is no longer news that some public officers and law enforcement agents (Police, Customs, and Road Safety among others) are found of extorting money from citizens by force. They stand on high ways and stop vehicles with incomplete documents. Rather than taking the appropriate steps, they make

these motorists pay meager amounts and then allow them to go. This system has become a part of the society.

- v. Another form of corruption that is popular in Nigeria is usually carried out by bureaucrats and politicians. They collaborate with international organizations to defraud the government in business transactions, for the purpose of personal gains and self-ratifications. This type of corruption according to Tanzi and Davoodi [3] is referred to as grand corruption.

5. Causes of corruption

A lot of factors can contribute to the level of corruption in a country. The human nature is selfish and at all times pursues personal gain [3]. But most precisely, the factors that can fuel corruption are, but not limited to:

- a. *Greed*: Human wants are insatiable [3]. Man's wants are always above what he earns and as a result, he begins to find alternative means to augment what he has. This factor has pushed lots of Nigerians into corruption of different forms. The inability of some office holders and citizens of the nation to be contented with their earnings has pushed several thousand of these people into corrupt practices such as embezzlement, extortions, among others [5, 8]. This is in line the Kpakpin model of Rotimi et al. [6].
- b. *Sentiments*: Lots of corrupt practices are associated with sentiments. When opportunities arrive, people tend to think of their family members, friends, well-wishers, and ethnic group rather than other people irrespective of the qualification. Ethnic sentiment has become the order of the day in Nigeria. Since Nigeria is an economy with diverse ethnic groups, people are concerned about the needs of their ethnic groups and less or outrightly unconcerned with that of other ethnic groups. Public office holders and even law makers lobby to ensure that important facilities such as good road networks, schools, portable water among others are established in their own regions without any form of consideration for the other regions of the same country [3].
- c. *Poor incentives*: Incentives can be in form of cash (wages and salaries) or kinds. Public and office holders in Nigeria tend toward corrupt practices in order to meet up with their needs. This is evident in the salaries that they earn. The salaries are meager and cannot sustain these people. In order to augment, these people begin to accept bribes, loot public funds, and engage in unlawful practices [5, 8].
- d. *Influence of Godfathers*: This is common among politicians in Nigeria. Tanzi and Davoodi [3] attributed the corruption in the Nigerian society to the influence of godfathers within the political circle. Having political godfathers who will pave the way for political success has become the norm in the political circle. Through the help of these political fathers, the political sons become victorious and, in most cases, become slaves to these political fathers. At the request of these political godfathers, they loot public funds and engage in favoritism.

6. Anti-corruption agencies in Nigeria

Following the history, the dynamism and manifestation of corruption in Nigeria, and the understanding that it is long-age phenomenon that requires systematic means to curb it, the government has put in place diverse machineries to achieve this goal. The establishment of certain agencies such as the Economic and Financial Crime Commission (EFCC), the Independent Corrupt Practices and other Related Offences Commission (ICPC), Code of Conduct Bureau (CCB), Nigeria Extractive Industries Transparency Initiative (NEITI), Budget Monitoring and Price Intelligence Unit (BMPIU) and Nigerian Investment Promotion Commission (NIPC) [6] were meant to curb the problem of corruption in Nigeria.

6.1 Economic and financial crime commission (EFCC)

This agency was created in 2003 during the administration of President Olusegun Obasanjo to curb all forms of financial and economic crimes in Nigeria. The Economic and Financial Act of 2004 backed the operations of the body [6]. The body has been charged with investigation and prosecution of people linked with financial and economic crimes in Nigeria such as advanced fee Fraud (419) and money laundering.

6.1.1 Functions of EFCC

The EFCC mission it to deploy necessary legal means to free Nigerians from greed, vestiges, and all avarice of corrupt practices, and does promote accountability, integrity, and transparency in both private and public sectors in Nigeria. Consequently, among others, the agency is charged with the underlisted functions following its establishment in 2003 by the President Olusegun Obasanjo led administration.

- a. Investigate financial and economic crime. Specifically, it investigates individuals in all sectors who believed to be living above their means.
- b. Persecute criminals linked with advance fee fraud/laundry or who appear to live above their earnings.
- c. Combat counter terrorism
- d. Ensure healthy economic governance

6.1.2 Achievements of EFCC

The EFCC after its establishment has recorded success. For instance, it was able to persecute and investigate the issues of corruption in Nigeria and recovered the sum of 2.2 billion dollars after two years of its establishment [3]. In 2013, a recovery of more than 11 billion naira, 2 million dollars, and 45 thousand pounds sterling from corrupt-related crimes are found [3, 5]. The agency was also reported to have conducted more than 2,000 investigations and persecuted 485 in 2013. In that very year, 117 of the persecuted were convicted [6].

6.2 The independent corrupt practices and other related offences commission (ICPC)

ICPC was inaugurated in September 2000 after the recommendation of the ex-president of Nigeria, President Olusegun Obasanjo. The agency was to investigate reports connected to corrupt practices in Nigeria. The corrupt practices and other related offences Act 2000 back the operation of the agency (ICPC, 2009). The agency was created with the aim of reducing or completely eradicating corruption in Nigeria.

6.2.1 Relationship with EFCC

The establishment of the Economic and Financial Crime Commission in 2003 which was a law enforcement body meant to investigate financial crimes. The goal of ICPC is to target corruption in the public sector such as bribery, misuse of power, diversion of public funds, among others. While the operation of the EFCC covers everybody suspected to be involved in illegal activities, that is people seen to be living above their earnings, people are linked to Internet fraud or advance fee fraud (419). ICPC only takes care of the corrupt practices in the public sector. Although there has been reasonable tension between both agencies because, it is believed that the creation of EFCC, an agency that performs similar functions with the already established ICPC, is nothing but a duplication of roles. The fact remains that both bodies have important roles to play judging from the wide spread of corruption in Nigeria.

6.2.2 Achievements of ICPC

Compared with the achievements of the EFCC, the ICPC has recorded little.

6.3 Code of Conduct Bureau and Tribunal Act

This was established to handle complaints of corruption by public servants. The aim and objective of the bureau is to maintain a high standard of morality in the conduct of government activities and to ensure that the actions and mode of conduct of public officers are in line with the highest standards of public morality and accountability (ccb.gov.ng).

6.3.1 Functions of the Bureau

- a. Collect assets declarations by public officers in accordance with the provisions of the Act;
- b. Examine the assets declarations and make sure that they comply with the requirements of this Act, and of any law for the time being in force;
- c. Take and retain custody of such asset's declaration;
- d. Collect complaints about non-compliance with or breach of this Act and where the Bureau considers it necessary to do so, refer such complaints to the Code of Conduct Tribunal (CCT) established by section 20 of this Act in accordance with the provisions of sections 20 to 25 of this Act stating that, "*where the fellow concerned makes a written of such breach or non-compliance, no reference to the Tribunal shall be necessary*".

6.3.2 Advantage of corruption

Corruption is believed to be destructive by nature [3]. It affects the growth of every nation negatively [1]. As bad as corruption may be, studies have proven that it also has its advantages [1, 4, 11]. Their argument is situated within the context of “grease-the-wheel” theory. According to these studies, corruption especially in the area of bribery could enhance the performance of an economy based on the theory. Buttressing this argument, [3], using panel data of 54 developing nations examined the impact of corruption on the growth of these nations. The study revealed that, in countries with weak institutions, corruption plays a vital role in the growth of such nations. As such, corruption can be seen to be advantageous to such nations. Given a nation that is faced with political instability, inefficient government, and weak institutions that hinder growth, corruption especially bribery greases the wheels of growth through the creation of funds, which is termed as “speed money.” This “speed money” lubricates the economy and enhances growth.

In another view, giving a religious coloration, the holy book states in the book of Proverbs 18:16 that, “*our gift will make room for us,*” and in another version, “*your gift will make room for you, to be happy, healthy and prosperous.*” In this context, gift offers at any level could be positively infectious. This buttresses the grease-the-wheel theory or rubs the palm hypothesis that corruption helps things to go smoothly.

Nonetheless, the positive possible influence that corruption may have on other economies, it could be safe to conclude that corruption has affected the growth of the Nigerian economy overtime. Since Nigeria is a developing nation with weak institutions, and high rate of bribery, it therefore means that the existence of speed money has contributed to the growth that Nigeria has experienced over the years. Nonetheless, there could be to examine the economic gains and pains of corruption.

7. Disadvantage of corruption

Regardless of the benefits of corruption to a nation, the net outcome according to grease the wheels theory is negative [3]. The work of [12] established a negative relationship between corruption and investment, which results in a reduced level of growth in nations with the high rates of corruption. This by extension implies that, as corruption continues to increase, the GDP of such nations continues to fall resulting in a decreased level of growth. An argument that can be put forward against the grease the wheel theory is that, bribery can only affect the growth of a nation positively in the short run but may have a negative effect on growth in the long run. When public officials have opportunities to receive bribe, they may be tempted to change and twist rules in the ways that can continue to bring forth these bribes or “speed money” and by implication causing the inefficiency of the government to continue [6].

This also describes the Nigerian case of prolonged government inefficiency, weak institutions, political, economic and academic instabilities among other factors hindering the growth of the Nigerian economy. Corruption can be found in most of the sectors in the Nigerian economy [3]. Bribery has become the order of the day. Indeed, the existence of bribery has created speed money, which has enhanced growth in the face of weak institutions, and the truth also remains that it has made it easy for both public and private officials to boycott rules and regulations in order to create rooms to favor those who must have offered bribes. By doing that, the institution continues

to be weaker, and the government continues to be inefficient and, on the whole, the general effect on the economy remains negative.

8. Corruption and its consequences on economic growth

Economic growth may simply be referred to as process by which a nation's productive capability increases or an expansion in the gross nation products. A rise in the GDP signifies growth. Given the potential of Nigeria, achieving significant economic growth is feasible. Studies have attempted to understand the effect of corruption on economic growth. While some studies believe that corruption greases the wheels of growth [3], others believe that corruption sands the wheels of growth [3]. Lemke [13] asserts that corruption has a negative impact on economic growth and development of nations at the macro-level.

9. Channels through which corruption affects the growth of a nation

Based on the works of Lemke [13] and Tanzi and Davoodi [3], corruption can affect the growth of any nation through the following ways:

- a. It hinders incentives and market forces causing wrong allocation of resources
- b. It re-directs resources (including human resources) into other activities such as rent-seeking activities rather than productive activities.
- c. It acts as an ineffective tax on business and lowers the profitability of businesses
- d. There is the possibility of a decrease in the profitability of investments through the reduction in the quality of resources
- e. Rent-seeking behavior can result in inefficiencies, fueling waste resources, and undermines the efficiency of public expenditure.

Furthermore, cross-country data indicate that corruption is at all times negatively associated with the growth of countries, GDP per capita, economic equality and encourages lower human capital development [6, 14].

In Nigeria, several studies such as [1, 3, 6] and the report of Nevin of Partner West Market Area [1] have described the relationship between corruption and the economic growth of Nigeria to be negative. This means that as corruption continues to increase in Nigeria, the growth of the Nigerian economy will be affected negatively. Particularly, Rotimi et al. [1] in his report said that Nigeria may lose about 37% of GDP by 2030 if the level of corruption in Nigeria is not dealt with. This loss is equated to 1000 USD per person in 2014 and nearly 2000 USD per person by 2030.

Corruption is a serious issue in Nigeria and has affected public finances, business investment as well as the people's standard of living. Corruption according to the report of Rotimi et al. [1] had great effects on the economy of Nigeria. Corruption was said to have effects on government effectiveness through smaller tax base and inefficient government expenditure. Corruption also has effects on the human capital of Nigeria. According to the report of Organization of Petroleum Exporting [4],

most people who have no means of bribing their way through find it difficult to access the basic necessities of life-like education, sound health care, and portable water and other important social amenities. Corruption is always and everywhere a bad thing [3]. Take for instance, to go to school, people need to sponsor them or get a scholarship. The poor cannot sponsor themselves, hence, the need to access the available scholarships. But because they do not have the needed finance to bribe the government officials in charge of government scholarships, they lose these scholarships and end up as illiterate who may fail to give back to their nations in the future. Corruption also weakens the institutions of a nation and lead to inefficiency. To this end, the assumption of Tanzi and Davoodi [3] that, corruption is always and everywhere a bad thing cannot be over looked.

Looking at the effect the high level of corruption has had on the Nigerian economy, the study of Organization of Petroleum Exporting [4] and Raimi et al. [5] revealed that the relationship between economic growth and corruption is negative and this relationship extends beyond the short run. The negative association between the economic growth of Nigeria and corruption based on the study also holds in the long run. The study was conducted using the Solo-swan model that asserts that economic growth is achieved when the level of corruption is minimal.

10. Conclusions

Corruption has been seen to occur globally and manifesting in diverse forms such as bribery, favouritism, extortion, embezzlement, and other forms of acts that deviate from the law. With the persistent existence of corruption in an economy, growth will be difficult to achieve. The Nigerian case has proven that the grease-the-wheel assumption cannot hold because the growth of Nigeria has been affected drastically through the existence of corruption as studies like [1, 3, 6] have proven that corruption affects the growth of the Nigerian economy negatively. Considering the dimensions that corruption has taken in Nigeria, it has become difficult or even impossible to eradicate corruption in the country, but curbing this cancer worm and reducing it to the barest minimum are of great importance in order to achieve the level of growth needed and make Nigeria remain the giant of Africa and self-sufficient.

Classification

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Curbing Corruptions in Government Sectors: The Role of Anti-Corruption Commission (ACC) in Bangladesh

Masudur Rahman and Azizur Rahman

Abstract

This book chapter attempts to investigate the major prevailing corruptions in government sectors of Bangladesh and explore the roles of Anti-Corruption Commissions (ACC), Bangladesh, to combat these corruptions. Bangladesh has multidisciplinary development projects, and it also witnesses some corruption in both private and government sectors. This study could contribute with regard to make a small insight about the corruption in Bangladesh. This is a qualitative study which has basically been made the secondary sources of data which has been collected from the recent publications, reports, articles, and annual reports of Anti-Corruption Commission (ACC), Bangladesh, as well as other secondary sources of information. The research ethics has been maintained properly in this study. This study will be helped to the policy-makers of Bangladesh to understand the trends and factors associated with corruption as well as the role of the ACC in Bangladesh to a large scale. Researchers would also find the scope of further study through this chapter.

Keywords: corruption, governance, Anti-Corruption Commission, Bangladesh, corruption prevention

1. Introduction

“Corruption has seeped into all levels of society. No government can prevent such corruption. The masses and students will put an end to corruption; the young people and peasants must take action to prevent corruption. Otherwise, we have to wage a war against corruption.”

-On 17 February 1974, at the reunion of the Bangladesh Chhatra League in Dhaka, [1] (Bangladesh Betar).

Bangladesh is a developing country (with a GDP of over \$409 billion) that has the world's 37th largest economy and forecasts suggest that the scale of the economy could double by 2030 [2]. It has distorted itself from an economic “basket case” into one among the world's fastest-growing economies. In spite of development in

Bangladesh, corruption also exist in all aspects. Despite efforts, corruption is pervasive in Bangladesh. Despite the administration's rhetoric condemning corruption at all levels, reports continue to surface of prominent political figures being implicated in a wide range of scandals involving allegations of wrongdoing. Given the preexisting state of corruption and poor management in Bangladesh's health care system, the COVID-19 pandemic has only increased the pressure on this sector [3]. However, public sector departments in Bangladesh are the most corrupt due to bribery, rent-seeking, misuse of public funds, excessive lobbying, delays in service delivery, theft, recklessness on the part of government officials, and bureaucratic excess [4, 5].

To combat the corruption, Anti-Corruption Commission (ACC) plays vital role investigating the cases all over the country. The ACC is a constitutional independent body. Currently, according to ACC [6], this government organization employs a total of 978 people. There are a total of 248 officials, including deputy directors, assistant directors, and sub-assistant directors, who are involved in the investigation process. Also, 230 of the 248 officials are employed directly by the ACC. The remaining 18 ACC employees are deputized from other government agencies, such as the White House. The ACC received 21,371 allegations in 2019 but only recommended 1710 for investigation. The remaining 19,661 allegations were not forwarded. Of the 16,606 allegations submitted to the ACC in 2018, only 1265 were approved for investigations. In 2017, the commission accepted 937 allegations into cognizance out of a whopping total of 17,983 [6]. In 2020 and 2021, the ACC received a combined total of 113,773 calls to its Hotline-106, of which 2449 were found to be credible allegations requiring further investigation. Additionally, the commission received 232 graft allegations from the media via email and social media, and 213 from the media via electronic and print outlets. There were a total of 732 anti-graft drives conducted by the commission, 487 in 2020, and 245 in 2021 [7, 8]. However, in 2019, the percentage of ACC cases where punishment was handed down rose to 63%, from 37% in 2015.

Nonetheless, the corruption and ACC are the two opposite entities in society. Where there is corruption, there is ACC to take action against it. Bangladesh is witnessed some cases of corruption in recent days, but the role of ACC is also proactive though it has some limitations. This study would focus on the recent scenarios of corruption and the role of ACC as a whole.

2. Theoretical framework

Corruption can be analyzed by different theories in sociological perspectives. Different factors are responsible for the prevailing corruption in Bangladesh. $\text{Corruption} = (\text{Monopoly} + \text{Discretion}) - (\text{Accountability} + \text{Transparency} + \text{Integrity})$. This suggests that corruption arises when ATI is lacking (as a result of poor governance), in addition to monopoly and discretion. From now on, corrupt behavior is usually the result of poor leadership. Some aspects of government activity, as mentioned by Vito Tanzi, provide a favorable environment for corruption [9]. Corruption, he argues, has both direct and indirect causes. Direct causes include things like complicated regulations and authorizations, taxation, spending decisions, and party financing, while indirect causes include things like the quality of the bureaucracy, the level of public sector wages, the severity of penalties, institutional controls, and the transparency of rules, laws, and processes. However, this study is concentrated on two theoretical perspectives to relate the scenarios of corruption in Bangladesh, which are illustrated below.

2.1 Organizational culture theory and corruption

Edgar Schein's [10] framework for analyzing organizational culture is the most popular of its kind. He takes a functionalist stance, defining culture as a set of shared beliefs and practices that a society creates as it finds solutions to the challenges of integrating its members and adapting to their environment. Because of its success, it is now being taught to new members as the only valid way of looking at, and reacting to, these issues [11]. In this theory, if the culture of bribery exists in any organization, the corruption cannot be stopped. In addition, public officials are motivated to engage in corrupt behavior due to flaws in the "proper machinery" of government rather than in their own character. Schein [10, 12] proposes a model of culture with three tiers:

- a. Artifacts: Artifacts are difficult to quantify because they involve intangible organizational characteristics that one can see, touch, and hear upon first encountering a new society.
- b. Values: Questionnaires are a common tool for gauging this level, which is concerned with the embraced values, ideals, norms, standards, and moral principles.
- c. Underlying assumptions: The phenomena addressed at this level are those that baffle insiders when they are questioned about the norms and standards that govern the culture of an organization. At this stage, data are gathered by carefully observing behavior in order to collect underlying assumptions, which are often overlooked because they are taken for granted. According to Schein, this is where a company's culture can be found at its most fundamental.

Nevertheless, the lack of the proper norms and values among the officials in any institution, they can act corruptly. This theory is relevant to this study in the context of Bangladesh, because corruption prevail in the institutions due to the culture of the particular institutions.

2.2 Good governance theory and corruption

United Nations Development Program (UNDP) defined good governance as "to governing systems which are capable, responsive, inclusive, and transparent. All countries, developed and developing, need to work continuously toward better governance" [13]. The United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) is a source of concern for R. M. Gisselquist [13], who argues that governance—defined as the act of making decisions and the means by which they are implemented or, alternatively, not implemented—raises legitimate questions [14]. Good governance theory focused on transparency, accountability, and reducing corruption in the context of Bangladesh. If the accountability and transparency is ensured, the corruption can be reduced in any institutions.

In 1946, the UN General Assembly determined: "freedom of information is a fundamental human right and the touchstone for all freedoms to which the United Nations is consecrated." According to UN, good governance has eight significant characteristics. It has to be (1) consensus-oriented, (2) participatory, (3) follow the Rule of Law, (4) be effective and efficient, (5) accountable, (6) transparent, (7) responsive, and (8) equitable and inclusive. All the components are important to describe good governance. For a sustainable development in any country, good governance is a

must and for good governance all of the prerequisites are needed. This theory is completely related to this study because if the good governance fails, the every institution and the state also can be corrupted.

3. Major corruptions in different government sectors in Bangladesh

Bangladesh is a developing country in the world and the economic growth is jumping up gradually. Different mega-projects are going on to the development in every sectors in Bangladesh. In this context, Bangladesh has witnessed some incidents of corruptions in several sectors. According to Transparency International's 2021 Corruption Perceptions Index, Bangladesh ranks 147th on the list of 180 least corrupt countries [15]. Bribery and other corrupt practices in vital service delivery sectors continue to have a major negative effect on people's day-to-day lives. According to the National Household Survey on Corruption in service delivery published in June 2018 by Transparency International Bangladesh (TIB), roughly 66.5% of households were victims of corruption in some form or another. To add insult to injury, the study found that nearly nine in 10 (89%) bribe payers felt they had no choice but to do so because bribes were the only way to obtain public services [16].

Some have speculated that dwindling support for democratic norms may have an impact on corruption rates. The Economist Intelligence Unit recorded Bangladesh's lowest Democracy Index score ever in 2017. Overall, the country scored 5.43 out of 10, ranking it at 92nd place among the 165 countries studied [17]. Some analysts estimate that the country's annual GDP growth could have been at least 2–3% higher if corruption had been effectively managed behind the scenes. According to the Open Budget Index maintained by the International Budget Partnership (IBP), Bangladesh currently has a score of 41 out of 100. According to IBP's analysis, countries with an Open Budget Index score of 60 or higher are providing enough budget information for the public to participate in budget discussions with knowledge and expertise. Bangladesh, like many other countries with pervasive corruption, suffers most from a lack of unwavering political commitment, which allows corruption to flourish under the radar and is often protected by those in power [18]. It has been argued by some domestic experts that the country's corruption rates may have been affected by the apparent weakening of commitment to democratic norms. The Economist Intelligence Unit recorded Bangladesh's lowest Democracy Index score ever in 2017. Overall, the country scored 5.43 out of 10, ranking it at 92nd place among the 165 countries studied [17].

There is a substantial possibility of corruption in the courts in Bangladesh at the present time. The lower courts have a reputation for rampant corruption. Some magistrates, lawyers, and other court officials routinely ask for bribes from defendants or make decisions based on loyalty to patronage networks. For businesses, the indeterminacy, length (on average 1442 days), and high cost of enforcing a legally binding contract presents a significant obstacle [19]. While primary school in Bangladesh is technically free for all children aged 5–13 years, a 2009 survey of Bangladeshi families revealed that 66 percent of those families had to pay bribes to get their kids into the first grade (ages 5–7 years) [20]. Besides, it is mostly common, though it is not the only way, guardians has to pay extra if they wants to admit their children in better school. According to data collected by the Power and Participation Research Centre (PPRC) in 2015 as part of their Trust Index evaluation of various institutions in Bangladesh, only 14.2% of respondents in Dhaka and 13.2% in rural areas have faith

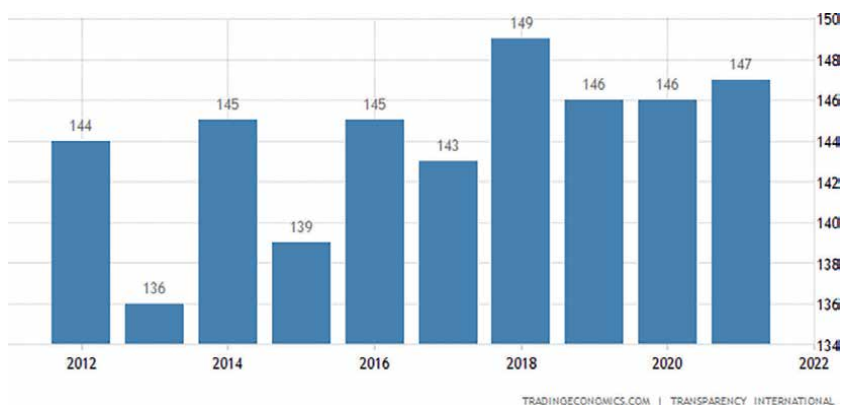


Figure 1.
Corruption rank in Bangladesh (Trading [23]).

in the police, while this number rises to 20.0% in other urban areas [21]. There is a rumored 10–20% bribe paid to the ruling party leader, 15–20% to the mayor, engineers, and civil managers, and 2–3% to other officials just to get the work order for an infrastructure project [22].

Nonetheless, Bangladesh ranked 147th in the corruption rank among the 180 countries in the world in 2021, while it was one position better (146th) in 2019 and 2020 (**Figure 1**). But it scored highest (149th) in the year of 2018 since 2012, while it was only 143th in 2017. The corruption level was so high in 2012 (144th) but in the next year, in 2013, it was developed from corruption (136th position). In keeping with Trading Economics data [23], this ranking is fluctuated in every year. But last 3 years, it was remaining almost same (146th–147th position).

Nevertheless, there are plenty of examples of corruption in Bangladesh. In almost every sector, corruption is prevailing for some dishonest officials and the customers. This study focused on four cases of corruption recently recorded in Bangladesh.

CASE 1: a big money embezzlement

Proshanta Kumar Halder (PK Halder), a former head of NRB Global Bank, is facing multiple charges of embezzlement in Bangladesh [24–27]. The Anti-Corruption Commission found that he had transferred around Tk 80 crore to Canada via money laundering. The investigation conducted by ACC Investigation Officer Md Salahuddin found that PK Halder had amassed approximately Tk 426 crore beyond his known sources of income. Halder gained prominence in 2019 as a leader in the movement against gambling establishments. In the years 2009–2019, he and his cohorts stole approximately Tk 1000 crore from four different banks [24–27]. Prashanta Kumar Halder, a former managing director of NRB Global Bank and Reliance Finance Limited, and 11 others were charged with embezzling Tk44 crore by the Anti-Corruption Commission (ACC) in 2020 [28, 29]. According to the complaint, the accused stole Tk 44 crore from FAS Finance and Investment Limited using fraudulent means while posing as Diya Shipping Limited, a fictitious company. The ACC claims that between 2009 and 2019, PK Halder stole and laundered approximately Tk 6500 crore from four leasing companies. After that, on May 14, 2022, PK Halder and his attorney Sukumar were taken into custody in Ashoknagar, West Bengal, India [24–27]. Government of the people's republic of Bangladesh recently has requested to government of India for giving him back to Bangladesh to bring him by the book/to bring him under law.

CASE 2: dishonest/immoral hospital business during COVID-19 pandemic

After the Rapid Action Battalion (RAB) raided the Uttara and Mirpur locations of Regent Hospital (a private hospital) over fraud hospital business, Chairman Mohammad Shahed (Shahed Karim) went into hiding. According to RAB's investigation, he was providing fake COVID-19 certificates and stealing from patients. Two cases involving the alleged theft of Tk3.68 crore were filed in a Dhaka court, and the bench warrant for Shahed's arrest was issued on the second day [30]. In the trial, it was claimed that between 2017 and 2020, Shahed stole around Tk 12 crore [31]. In addition, between 2017 and 2020, he stole Tk 7.9 crore from 10 to 12 different individuals and organizations. Shahed also forged the COVID-19 test, which cost him about Tk 3 crore, in the early part of that year. It is believed that Shahed laundered the funds through a network of 43 bank accounts he set up in the names of fictional businesses such as Regent Hospital, Regent KCS Limited, and 12 others. After the Anti-Corruption Commission (ACC) filed charges in a Dhaka court alleging that Mr. Shahed stole money and property illegally, the court ordered the trial to officially begin [24–27].

CASE 3: big cheating with customers

Mohammad Rassel, Evaly's founder, graduated from Dhaka University's Institute of Business Administration with an MBA (IBA). Initially in his career, he worked for Dhaka Bank. Upon leaving the bank, he went into business for himself, importing diapers under the "Kids" brand. When he was finished, he had Evaly all ready to go [32]. Evaly provides customers with a wide variety of attractive discounts, including "cash back" offers of up to 150%. Customers are drawn in by the discounts and make prepayments to Evaly for the merchandise. However, after waiting for a very long time and being repeatedly denied their request for a refund, they finally complained. Evaly received thousands of complaints because it took months for customers to receive their orders or their money back after the company took their money in advance for delivery within 45 days [7, 8, 33]. Allegedly, Tk 7–8 billion (700–800 crore) was stolen from the Evaly company [34]. Nearly Tk339 crore, or about \$70 million, was reported stolen from the e-commerce company's customers. The Ministry of Commerce has requested an investigation into allegations that the online marketplace Evaly stole Tk338.62 crore in prepayments for deals and discounts from its customers. Mohammad Rassel, MD, and Shamima Nasrin, Chairman and CEO of Evaly, were arrested by RAB on September 16, 2021 [35]. The company's liability was estimated to be around BDT 1 trillion at the time of the arrest, and there were 44 lakh customers registered with Evaly, according to a press briefing given by RAB the day after the arrest. Right now, the government is keeping an eye on Evaly's situation. Protests from angry customers demanding refunds began as soon as the couple was arrested from their shop, Evaly.

Besides these cases, there are uncounted number of incidents of corruption. Among them, Monir Hossain alias Golden Monir is significant to mention who was arrested along with a huge amount of money, arms, gold, and liquor worth of Tk 1050 Crore. In addition, Dr. Sabrina Arif Chowdhury, chairman of JKG Health Care and a NICVD registrar, was arrested for her alleged role in a COVID-19 testing scam (The Financial Express [36]. Additionally, the casino Samrat was also the talk of the town recently. Nonetheless, all the incidents are the examples of prevailing corruption in Bangladesh in which the Anti-Corruption Commission works to combat it.

4. How Anti-Corruption Commission (ACC) operates in Bangladesh?

The Anti-Corruption Commission Act of 2004 establishes an independent Anti-Corruption Commission with the mandate to investigate and inquire into allegations of corruption as well as other specific offenses, and to take such other actions as may be necessary to prevent corruption and other corrupt practices within the country [37]. An Act was issued on 23 February 2004 that established the Anti-Corruption Commission, and it went into effect on 9 May 2004. Despite initially failing to have the desired effect, the ACC began its work with renewed vigor and impetus immediately following its reconstitution in February 2007, when it acceded to the United Nations' convention against corruption, which had been adopted by the General Assembly on 31 October 2003. The Anti-Corruption Commission Act of 2004 provides the legal foundation and mandate for the organization.

The government shall, as soon as practicable after the enactment of this Act, by notification in the official Gazette, establish a Commission to be known as the Anti-Corruption Commission for the purposes of this Act (Article 3/1). Article 32 establishes that the Commission shall function independently and without bias. The Commission shall have perpetual succession, a common seal, and the authority to acquire, hold, and dispose of property, both movable and immovable, and may sue and be sued in its own name in accordance with the provisions of this Act and the rules promulgated thereunder (Article 3/3). **Figure 2** spectacles the administrative body of the ACC by which it operates smoothly.

Based on the Article 17, the Commission may perform all or any of the following functions, namely:

- a. in order to inquire into and investigate the crimes listed in the Schedule;
- b. to bring charges under this Act based on the results of the inquiry and investigation performed under clause (a);

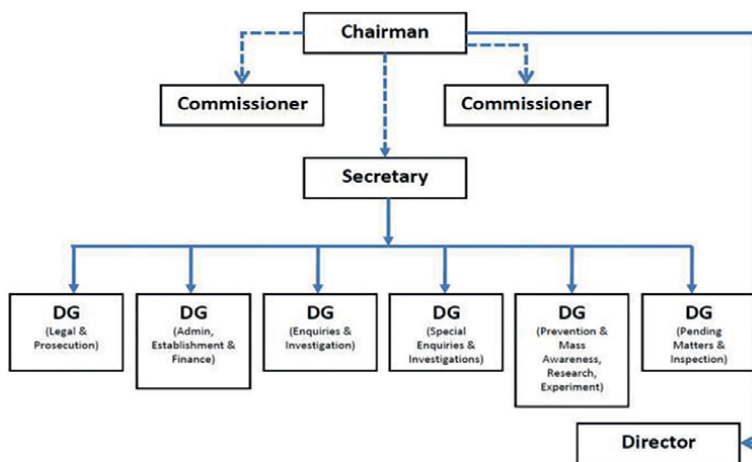


Figure 2. Administrative structure of anti-corruption commission [38].

- c. to investigate allegations of corruption either on its own initiative or in response to an application filed by a victim or his representative;
- d. to carry out any anti-corruption-related duty imposed on the Commission by applicable law;
- e. reviewing existing anti-corruption measures and making suggestions for improving their efficacy to the President;
- f. to make a plan for investigating how to cut down on graft and then advise the President on what he should do with the information gleaned from those investigations;
- g. to create a culture of trust by devising a strategy to examine how to reduce graft and subsequently advising the President on how to proceed with the information gleaned from those studies, and honesty to curb corruption and raise public awareness, we must take preventative measures and educate the public;
- h. to host meetings, gatherings, and events on topics within the Commission's purview;
- i. to analyze the social and economic conditions in Bangladesh in order to pinpoint the root causes of corruption and make policy recommendations to the president;
- j. to investigate allegations of wrongdoing, to file formal charges against those responsible, and to establish Commission procedures for approving those actions; and
- k. as deemed necessary for the elimination of corruption, to carry out additional tasks [37].

The time frame for the investigation is laid out in Article 20A as follows:

1. Regardless of any other law, the Investigating Officer has 120 working days from the date he or she is given authority under Section 20 to complete the investigation of the offenses listed in this Act and the Schedule;
2. If the investigation cannot be concluded within the allotted time for any reason, the investigating officer may grant additional time for the investigation to be concluded.

Besides, ACC Act, 2004 has special power to in respect of inquiry or investigation (Article 19), power of arrest (Article 21), and also has penalty system for giving false information (28C).

The commission has defined some forms of corruption in Bangladesh so that people can learn about them, make sense of them, and get ready to fight corruption head-on [39].

- a. **Bribery:** Bribery consists of offering a person money, services, or other valuables in exchange for a favor.

- b. **Embezzlement:** It is the illegal use of someone else's trust fund, property, or other valuables for one's own gain.
- c. **Extortion:** The term refers to the illegal seizing of something of value by means of force or threat of force. Extortion occurs in unusual situations, such as when armed police or military men demand money to allow you to pass through a roadblock.
- d. **Abuse of discretion:** Using one's position of authority for one's own financial gain, without any outside pressure or bribery. Such abuses are more common in bureaucracies where individuals are given wide latitude to make decisions, where there are few checks and balances, and where the decision-making rules are so complex that they nullify the effectiveness of those that do exist.
- e. **Improper political contributions:** Spending money to unduly sway an in-office political party or its members' actions in the here-and-now or in the future.

Moreover, the Anti-Corruption Commission established, in every district of Bangladesh, committees consisting of 10 individuals [24–27]. The Commission is responsible for:

- inquiry and investigation of the scheduled offenses on any allegation of corruption on own initiative, upon a person who has been wronged or by anyone on his or her behalf;
- filing and investigating cases based on investigation and evidence;
- encourage moral principles like transparency and fairness to curb corruption, and work to raise public consciousness about the issue; and
- Determine, in light of Bangladesh's socioeconomic context, the origins of the various forms of corruption that exist there, and propose solutions.

The ACC is authorized to conduct investigations and inquiries, including but not limited to the following: (a) issuing notices to witnesses, ensuring their appearance and interrogating them; discovering and presenting any document; (b) taking evidence; (c) requesting public records or certified copies of such records from any court office; (d) issuing notices for the interrogation of witnesses and the examination of documents; and (e) taking any other action necessary to realize and fulfill the purposes of this law [40].

5. The role of ACC minimizing corruptions in Bangladesh

The ACC's vision is "to ensure creating a strong anti-corruption culture that permeates throughout the whole society," and its mission is "to combat, control, prevent corruption relentlessly and promote good practices" [41]. To preclude corruption and the misdeeds linked with corruption in compliance with the [37], the tasks are to conduct inquiries, inspect corruption and other specified offenses, and discharge duties as a prosecuting agency ([42], p. 13). Correspondingly, in 2018, the commission made 57 arrests, while in 2019, the number rose to 123, which was about 116 percent higher

Year	Number of complaints received	Number of enquiry initiated	Sent to various ministries for action	Number of cases filled in the years
2017	17,983	937	377	273
2018	16,606	1265	1404	216
2019	21,371	1710	3627	363
2020	18,489	822	2469	348
2021	14,789	533	2889	347

Source: [6].

Table 1.

Comparative data of complaints received by the commission in last 5 years.

than that of the preceding year [43]. However, ACC is playing a vital role to combat corruption from every sector in Bangladesh, especially from the government sectors.

According to [6], ACC played most significant role to take initiative against corruption. In **Table 1**, it spectacles the comparative scenarios of complaints received by ACC and their actions. In 2019, the highest numbers of complaints were submitted to the Commission. At the same time, the maximum number of complaints were forwarded to relevant ministries or departments for necessary action or for sending reports to the ACC after departmental enquiry. However, the present Commission has taken special initiatives to monitor responses from the relevant ministries or departments in taking administrative actions against the allegations. Regular follow-up meetings with the relevant departments are organized to get feedback about the actions taken on the complaints sent to them.

ACC has been convicted total 108 cases in inside Dhaka and 65 cases in outside of Dhaka in 2020. ACC also fine Tk 621,974,181 in inside of Dhaka and Tk 102,908,949 in outside of Dhaka in 2020. Besides, ACC has been convicted total 50 cases in Dhaka and 69 in outside of Dhaka. And with regard to the fine, ACC fine Tk 653,767,876 in Dhaka and Tk 98,067,441 in outside of Dhaka in the year of 2021.

5.1 Immediate action against corruption

The Anti-Corruption Commission launched a toll-free Hotline number (106) on 27 July 2017 to receive public complaints and prevent corruption instantly. In the very first week of the launch, about 75,000 phone calls were received. The AFP, The France24, the BBC, The Mail Online, The Deutsche Welle, The Qatar Post, The Herald, and many other media outlets worldwide published news pieces on this in different languages. This trend of reporting complaints to the Hotline continues as a routine activity. About 42 lakh (4.2 million) phone calls have been received since the inception of the Complaint Centre. Hotline services are conducted every working day from 9 am to 5 pm divided into four shifts. Five trained technicians of the Commission are providing this service. Activities of the Complaints Centre are digitally monitored. The ACC Complaints Centre (106) is being run under the close supervision of the Commission's senior officials. As a result, the quality and transparency of the campaign were increased. Due to the prima facie evidence of the allegations, formal enquiries were started into 203 allegations in the last 2 years. Moreover, eight cases were filed directly under the powers given by the latest amended Rule 10(f)(1) of the Anti-Corruption Commission. According to Rule 16 of the ACC Rules, 2007, with the approval of the Commission, criminals were arrested in four cases of bribery through Trap operation.

6. Limitations of Anti-Corruption Commission (ACC) in Bangladesh

Despite the Anti-Corruption Commission's (ACC) best efforts, corruption remains a problem in Bangladesh. ACC's investigations frequently get off to a good start but then head down the wrong path. The ACC has received numerous reports of corruption by public and commercial sector officials, but no adequate action has been taken to address these allegations. Given the substantial obstacles standing in the way of the Anti-Corruption Commission's efforts to become an effective entity in reducing corruption in Bangladesh.

6.1 Lack of coordination

As a single entity, ACC is not sufficient. It is an integral aspect of the whole system of government. There are a number of organizations working together to combat corruption, and their efforts are bolstered by open lines of communication and cooperative strategies. There has been no actual cooperation between government agencies.

6.2 Zero-sum game of politics and corruption

To many people in Bangladesh, politics has become a zero-sum game in which the victor receives complete power and all of the associated benefits. Many people view the government representative business and profit relationship as politically acceptable. Businesses, investors, recruiters, public contractors, land grabbers, extortionists, and the like might potentially run amok with such a massive majority. Low efficiency and purposeful delays in execution may continue to cost Bangladesh several times more than in other nations due to corruption in the planning, design, and budgeting of infrastructure projects, as well as contracting that is driven by conflicts of interest. In a sector where accountability mechanisms are poor, unethical business practices are uncommon, and self-regulation is a rarity, the challenge for ACC is much more daunting now that the kingpins of loan default and banking fraud are well situated in crucial positions.

6.3 Challenges ahead

For the foreseeable future, the ACC should be ready to face the repercussions of some of the most serious problems posed by a government founded on the basis of astonishing election results, where almost all of the political space has become institutionally monopolized by the ruling party. Lacking practically all traditional institutions of accountability and checks and balances, those in power often use their majorities to enrich themselves personally and financially by seizing control of all facets of government. The misuse of authority has quickly become the norm in today's society, and ACC is failing to go against them regarding inspection and jurisdiction of corruption.

6.4 Managing conflict of interest

Frequently blurring the lines between public and private matters is a major contributor to corruption in Bangladesh, which is inextricably linked to the country's highly intertwined political and economic systems. Almost no elected or appointed public officials seem to understand the importance of avoiding conflicts of interest. To safeguard and advance the public interest, decision-makers must be held accountable for basing their votes solely on the merits of the issue at hand, rather than on

their allegiance to any particular interest group or special interest. Opportunities for corruption is leading to turf wars between different parts of segments of the power structure and their minions, keeping the ACC busier than ever before but ACC is not doing up to the mark to control this situation.

6.5 Small-scale preventive activities

However, the Commission's spectrum of preventative efforts is limited and fragmented, meaning that its awareness message is not reaching a sizable population. When compared to the size of the population and the available funds, the current staffing and funding levels fall far short.

6.6 Lack of political commitment

An important factor in determining ACC's autonomy is political will. Organizational effectiveness depends on cooperation from the ruling political party. It is common practice for the dominant political parties in Bangladesh to use this institution as a tool to silence the opposition.

6.7 Accountability and oversight

Inasmuch as the ACC's monitoring and evaluation unit is not open to public participation, it lacks internal accountability and external supervision mechanisms. Not a single scholarly or parliamentary debate has been held on its findings.

6.8 Legal constraints

The ACC is legally reliant on the government for funding according to the Act of 2004, which mandates that the government must annually approve the ACC's budget. Because of this, the commission's ability to function independently is compromised.

6.9 Lack of transparency

The commission's information system is poorly managed. Information has been leaking out of the office on a regular basis. The main site lacks recent and relevant content and is poorly equipped.

6.10 Resources

When put next to the size of the country's population and its overall budget, the commission's allocation falls far short (only 0.025 percent of the budget). There is an insufficiency of personnel and regional representation due to cuts made during the caretaker government's term (2007–2008).

6.11 Insufficient manpower

At least at its headquarters, the ACC has hired several former BAC employees. However, in the field, under-staffing continues to be an issue, in addition to problems with credibility and knowledge. Offices of the ACC found in the field often suffer from inadequate facilities, sluggish logistics, and a shortage of personnel.

6.12 Lack of infrastructure

The anti-corruption effort has been hampered by the decision to cut the number of district offices from 66 to 22. ACC's 22 consolidated offices confront difficulties providing service to all districts. People in areas without an ACC office cannot get those services since it is inconvenient for them to travel long distances to lodge complaints.

6.13 Lack of skill

Professionally competent professionals are in short supply. Staff turnover makes investigations less effective, while more experienced members of staff are not up to speed on the most recent methods of money laundering and technological advancements.

6.14 Failure to involve people

The Anti-Corruption Commission (ACC) has not effectively engaged key stakeholders in the fight against corruption. Where there was once a surge of interest and activity, it has since died down. An outstanding instance of this occurred in 2007 during the interim government. The Jessore (one of the district) CPC presented the best CPC program ever in Jessore on March 23 with a rally. Participants came from all throughout the district and represented a wide range of demographics and socio-economic statuses. More individuals could be seen praying outside on the grounds of the eidgah (a mosque used during the Muslim holiday of Eid). People today are not becoming involved, and as a result, the CPCs have lost their zeal for their task. There have been recent protests held under the guise of CPCs, but a large majority of them have actually been coordinated by the ACC or another government agency. Extremely few average people take part in these kinds of initiatives. To file a complaint, for instance, you can fill out a form provided by the ACC; nevertheless, only one charge has ever been submitted at a CPC event.

6.15 External and internal predicaments

Overall, the history of ACC's use demonstrates that both internal and external issues have limited the program's efficacy. ACC has always been subject to political and administrative influence and control from the outside, while internally it has been far from capable of fulfilling its purpose to take action against corruption without regard to the identity or standing of the individual involved. A lack of boldness and professional competence befitting their prominent position of public interest appears to be the result of a belief that they have much to lose if they ignore and reject external influences.

7. Conclusion and recommendations

Corruption is not uncommon in public and private sectors in Bangladesh, and Anti-Corruption Commission (ACC) is always ready to take initiative against the corrupted persons and institutions. In spite of proactive role of ACC, corruption still prevail in the government sectors in Bangladesh in some extent. There is the power

of ACC to take direct and indirect actions against the perpetrators. Though the ACC's role taking actions against corruption is appreciable, they have some limitations to overcome. While political will is lacking, the legal, political, and practical hurdles to establishing an independent and effective ACC are eroding. Multiple constraints have plagued ACC from the start. Below are some suggestions for reducing the impact of bottlenecks:

- Reorganizing the ACC's jurisdiction and authority to meet modern needs is essential.
- ACC should be called in only when the stakes involve government interests and assets.
- The officials at the ACC must have the requisite knowledge, experience, and capacity to effectively manage the court and its operations.
- To deal with the most recent kind of corruption, substantial technical integration is required.
- Institutional digitalization, speedy investigation, and an easily available information system are necessary for this.
- If employees engage in any form of misconduct, a culture of zero tolerance must be fostered.
- It is necessary to have political dedication and comprehensiveness in order to have independence and effectiveness.
- All institutions, but especially the police, the NBR, the tax authority, and the judiciary, need to have good governance in place.
- People should be able to easily get information as much as they want to about both public and private institutions; hence, it is important that they be placed under a system of strong accountability and transparency.
- The Chairman and Commissioners must be objective, charismatic, and fearless in their pursuit of the truth. With their voices, members of a free and fair society can exert influence.
- To improve access, openness, and accountability, the Right to Information (RTI) Act should be fully and extensively implemented in all corporate and governmental institutions.
- TIB, SUJAN, and other civil society organizations should keep pushing until they win significant reforms in governance, such as a more robust ACC.
- The Anti-Corruption Commission (ACC) is a part of a larger system called the National Integrity System (NIS), which works to combat corruption through strengthening the country's institutions. The Anti-Corruption Commission (ACC) is insufficient for achieving thorough anti-corruption results on its own.

- The ACC is most effective when all relevant institutions, including the judiciary, police, and other law enforcement agencies, the public service, the private sector, the public procurement system, and the media, uphold the highest standards of integrity, efficiency, and professionalism.
- Further research study is necessary to explore more gap and limitation of the ACC with regard to ensure the accountability and transparency.

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Perspective Chapter: From Ancient Times to Modern World – Corruptus

Damla Kuru

Abstract

From ancient times to modern times, corruption has been ingrained in human society and is still a powerful issue in the contemporary world. According to The Oxford Dictionary, corruption is defined as “dishonest or fraudulent conduct by those in power, typically involving bribery.” However, this word comes from a Latin word: corruptus, and it means “man, bribe, and destroy.” As mentioned, the act of corruption is as old as ancient human history and still ingrained in human history. Because the global economy expanded significantly during the twentieth century, it is far from a problem that cannot be solved. It is difficult to estimate the global magnitude and extent of corruption, since these activities are carried out in secret. This paper is a summary of the modern world and searches the impact of the globe.

Keywords: corruption, the old myths about corruption, corruption around globe, corruption in developing countries, the impacts

1. Introduction

Corruption has been ingrained in human society from ancient times to the present and still it continues to be a significant problem in the world. “Corruption” is defined by the Oxford Dictionaries as “dishonest or fraudulent conduct by those in power, typically involving bribery.” This word, however, is derived from the Latin word “Corruptus,” which means “to corrupt and destroy man” [1]. The difficulty faced with the meaning of this word is to define and analyze it. The problem has caused by different people interpret it differently and there is no direct definition. It is typically defined as the use of public office for private gain. However, defining corruption is a social and political process, despite the universal condemnation of certain lines and behaviors. The World Bank defines corruption as the misuse of public authority for private gain. This is the most common and straightforward form of this word.

As previously stated, corruption is as ancient as human history itself and remains deeply ingrained in human history. Between 3100 and 2600 B.C., the first dynasty of ancient Egypt was notorious for corruption in its judiciary. The ancient Greeks gave the term “corruption” multiple connotations. Corruption is associated with the loss of physical form, integrity, or moral virtue. The ancient Greeks gave “corruption” a

variety of interpretations. It also refers to a loss of physical form, integrity, or moral excellence. However, there is a significant conceptual gap, for example, between Aristophanes' emphasis on the corruption of words in the context of the need for language purity and attacks on Socrates as corrupting the young. However, Polybius¹, a Greek historian, defined corruption as the natural transition from one form of government to another.

From ancient times to the present, corruption has been an insurmountable obstacle. The accusations of conflict of interest and dishonesty leveled against the price matter a great deal, but it is not simply a matter of morality and virtue. Corruption that was prevalent in the Greek civilization of the fifth century was the cradle of democracy. The greatest Greek poets appear to teach in the *Odyssey* that one should never appear at a royal or aristocratic court without a gift, and that it is imprudent to refuse a gift. There were laws in Athens that punished those who accepted earnings for private interests at the expense of the collective interest, but it is important to remember that these private interests included slavery and clientelism, as well as a political system that required unpaid public office, which did little to encourage proper officer conduct.

2. Brief History of Corruption and Analysis

In ancient Rome, the term “corruption” first appeared on the scene. The term derives from the Latin “*corrumpere*,” which means, in legal terms, the manumission of a judicial document in exchange for compensation and, in a broader sense, an unsavory action, a system in decline and deterioration.

In the political life of ancient Rome, corruption had already reached a significant level by that time. However, the structures of the Roman state remained stable for centuries until they were weakened. Julius Caesar, who lived from 100 to 44 B.C., is notorious for employing any means, including violence and money, to obtain the consulate, eliminate the corrupt Senate, and found a new Rome. During the Middle Ages, no specific notions of political corruption were established. The altered social conditions contributed to the transformation of corruption into a more complex configuration of man's moral, spiritual, and corporeal vices, which Adam's original sin unleashed upon the world. In the Early Middle Ages, between the fifth and tenth centuries, an economic system is based on exchange corresponding to social bonds “legalized in the custom if not in public documents.” The period of the Protestant Reformation, with its explicit condemnation of corruption at the heart of the Roman Catholic Church, contributed to the separation of simony from the civil buying and selling of the favors of public officials. It was a transition that would not be completed until the commercial revolution and the beginning of the industrial age, a time when conflicts of interest between rulers and entrepreneurs increased. Consequently, it became evident that greater regulation of business, trade, and free enterprise endeavors was necessary. When individuals in positions of public trust began to view corruption as a modern crime, corruption was considered a full-fledged offense.

Corruption is a global problem that is unrelated to culture and religion. According to the article written by Çoşgel et al. (2013), in Ottoman times, to prevent corruption, the personnel responsible for adjudicating criminals were not also responsible for punishing them, and periodically these public officials rotated between regions.

¹ Polybius, (born c. 200 BCE, Megalopolis, Arcadia, Greece—died c. 118), Greek statesman and historian who wrote of the rise of Rome to world prominence

Their compensation consisted of shares of criminal fines and local taxes. Insights from recent literature about law and economics reveal the details of how this system deployed fines to deter crime and how it served to control corruption. However, by the late seventh and eighteenth centuries, the system changes over time, and the collapse of the system caused to peter out of an Empire.

In the article *A Case of Corruption within the Ottoman Bureaucracy* written by Barkey [2] gives an example of how to corrupt Ottoman Empire in the sixteen century. The study indicates that around 1590, the issue of corruption in the relations between Ragusans² and Ottoman officials was not concealed at the time and was only revealed ex post in modern research. As in other instances, Ragusan documents contain multiple accounts of various forms of extortion employed by Ottoman officials, especially in trade-related matters. The issue of Ottoman officials' corruption and misuse of wealth was so prevalent in Ragusan society that it even appeared in contemporary drama-turgy. Ivan Gunduli's epic poem *Osman* is the most notable example in this regard. The story takes place after the battle of Chocim (1621), in which the Polish-Lithuanian Commonwealth decisively defeated the Ottoman army. Another research [3] shows that is similarly, the ancient Ottoman warriors are described with an emphasis on their uncomplaining disposition and Spartan way of life (I, 117–188). Gunduli portrays contemporary Ottoman officials as unfaithful, corrupt, spoiled, effeminate, lustful, and fearful (I, 189–252), passing a harsh moral judgment on their debauchery and venality. In short, they portrayed as having all the worst characteristics that a government official and a warrior could possess. In the plot, the young sultan accepts full historical responsibility for the situation (I, 269–272), stating, “We who, to increase our wealth, /Care for nothing else, /and what was once the hero's reward/is now the emperor's trade.”

Similar scenes has also depicted during the Elizabethan and Jacobean periods in history. Gunduli's notions of justice and good governance are intricately intertwined with procedural concepts, and the ruling class's unfaithfulness is an exclusive characteristic of the “other.”

Corruption is a challenging historical phenomenon to discuss. In the late 1980s and 1990s, after decades of relative neglect, it became an important subject in political science. In 1997, the guest editors of a special issue on corruption in the journal *Crime, Law, and Social Change* noted “the paradox of an inconclusive debate about definitions and a consensus on the severity of the phenomenon” – a statement that is still valid. There have been discussions about the pros and cons of many ways to define corruption, which cannot be exhaustively covered in this paper.

The initial collapse of the Soviet Union put an end to the political hypocrisy that had led the leaders of industrialized nations to ignore political corruption in certain nations. If they were in the correct political camp, evident instances of high-level corruption were frequently ignored. It is now widely acknowledged that centrally planned economies, such as the Soviet Union, or those that imitated them through highly regimented economic activities, such as Nicaragua and Tanzania, were rife with corruption. However, something has begun to change. Those who had already rejected this realpolitik development in the Old World on a commercial basis, with all the attendant cynicism, decided to sever ties with the past and establish a new order in the New World at this precise historical moment. Recent European history shows that the decline in corruption is frequently attributed to economic expansion.

² Late 16th century; earliest use found in Thomas Washington (fl. 1585). From Ragusa, a historical name (originally in Italian) of the city of Dubrovnik and the surrounding province on the east coast of the Adriatic + – an. Compare post-classical Latin *Ragusanus*.

The phenomenon known as corruption has drawn considerable attention, especially in the 1990s. Governments in developed and developing countries, large and small, market-oriented, or otherwise, have fallen because of corruption allegations; prominent politicians, including presidents and prime ministers, have lost their official positions; and in some instances, entire political classes have been replaced. The number, variety, and importance of countries experiencing scandals demonstrate the complexity and global significance of the phenomenon. When widespread and unchecked, corruption stifles economic development and undermines political legitimacy. Or less frequent variants of corruption are waste of resources, increase inequity in resource distribution, diminished political competition, and increased mistrust of the government. Teapot Dome Scandals is one of the best examples of how corruption stifles the economy. To cut a long story short, The Teapot Dome Scandal was the largest of scandals in the United States during Warren Harding's presidency. Teapot Dome is an oil field in Wyoming that the US Navy has reserved for emergency use. Oil companies and politicians claimed that the reserves were unnecessary and that the oil companies could supply the Navy on their own in the event of a shortage.

Considering the aforementioned information, the effects of corruption extend beyond the corrupt individuals, the innocent coworkers who are implicated, and the organizations for which they work.

In the twentieth century, as the global economy expanded significantly, corruption increased. Because these activities have conducted in secret, it is difficult to estimate the global magnitude and scope of corruption. Today, the World Bank estimates that international bribery exceeds US\$1.5 trillion per year, which is equivalent to 2% of the global GDP and 10 times the total global aid budget. Other estimates range from 2 to 5% of the global GDP. Corruption permeates all levels of society, from low-level government workers who accept bribes to national leaders who steal millions of dollars. Over \$1 trillion has paid annually in bribes across the globe, enriching the corrupt and robbing future generations of a future.

Corruption is a global phenomenon that leads to poverty, impedes development, and discourages investment. In addition, it undermines the political and judicial systems, which are supposed to serve the public interest. As the rule of law deteriorates and the people's voices have stifled, it is unsurprising that public confidence in government officials and national institutions declines. In contrast, corruption has fallen much more broadly and directly in developing nations. According to the transparency index of [transparency.org](https://www.transparency.org) (2022), South Sudan listed the most corrupted country in the world. Also, South Sudan, poverty is widespread, with at least 80% of the population classified as low income According to the data of World Bank between the years of 2009–2016, poverty headcount ratio is only 1.9 USD a day. In the line of World data Info In Turkey, the "Corruption Perceptions Index" for the public sector showed 62 points for 2021. The scale runs from 0 to 100, with the higher the number indicating greater corruption. Turkey was ranked 100th because of this result. As a result, it is slightly below average when compared to other countries. In 2021, the level of corruption increased slightly over the previous year. Long term, it has also increased moderately in recent years. Economic indicators in Turkey have also changed proportionally with the level of corruption.

According to the news of [4], President Dilma Rousseff has impeached following allegations of government account manipulation, drawing even more attention to Brazil because of a high-profile corruption scandal. The developing world faces numerous obstacles that the developed world does not, corruption being one of them.

The Panama Papers revealed how wealthy individuals around the world were able to avoid paying taxes by storing their funds in offshore accounts. By transferring

profits across borders and exploiting legal loopholes, multinational corporations such as Facebook, Google, and Starbucks have been able to keep more of their money out of the hands of their respective governments.

On the other hand, corruption must also be examined from an economic standpoint because macroeconomic impact of corruption is massive. In South Sudan case, people cannot meet their vital needs such as food and clean water. People in developed nations, which have historically spent a great deal of money to help other nations grow and acquire power, are increasingly critical of foreign aid. However, all these aids are unsuccessful to solve this matter. Because if the countries receiving aid continue to face corruption issues, it will continue to grow. By keeping the corrupt in power, foreign aid to corrupt governments harms rather than helps the population. Corruption has a disproportionate impact on the poor and the most vulnerable, increasing costs and restricting access to services such as health, education, and justice. The human cost of counterfeit drugs and vaccinations on health outcomes, as well as the long-term consequences for children, far exceed the financial costs. The poor can be particularly harmed by unofficial payments for services.

Moreover, numerous economists view corruption as a problem whenever a utility-maximizing agent is bribed to disobey the instructions of a principal. In this circumstance, the agent's utility is diminished. This strategy has led to the creation of policies that monitor behavior, criminalize bribery, and provide incentives for complying with instructions. But corruption is a problem between principals and agents? Individual agents may view corruption as undesirable and desire its eradication, but when corruption is pervasive, there are few incentives to behave honorably and avoid corrupt agreements. Because corruption is profitable, it is widespread. The entire system must be altered to reach a point where there is less corruption, moral standards are higher, and avoiding and condemning corruption is the norm.

This demonstrates how crucial it is for there to be shifts in the prevalent morality. The prevalence of utilitarian and incentive-based approaches has harmed both the notion that moral forces are required to combat corruption and the way corruption is treated as an ethical problem.

Unfortunately, corruption erodes public confidence and imperils the social contract. Moreover, corruption causes and maintains the inequality and discontent that lead to instability, violent extremism, and war throughout the world, but particularly in fragile and violent regions. Another negative impact is that it impedes economic growth and the creation of jobs. According to empirical studies, the poorest individuals pay the greatest proportion of their income in bribes. Again, in some studies, the poor may be preyed upon because they are perceived as being incapable of complaining. Each dollar, euro and all currencies that are misappropriated or stolen, deprives the poor of an equal opportunity in life and prevents governments from investing in their human resources.

Therefore, the question would be how can the world fight against the corruption or what can we (as the humanity) done to solve this matter? It turns out that education is the most effective means of mitigating the risks posed by graft. While many people in the developed world could identify corruption, this is not the case in other regions. Children in developing nations will view corruption as a threat that must be addressed immediately if more emphasis is placed on educating the youth about corrupt and noncorrupt conduct.

The paper written by [5] underlines a similar dynamic between historical levels of education (in 1870) and contemporary (2010) levels of corruption across 78 countries, and they focused on historical levels of education because:

1. Education has been one of the few factors that have been linked to lower levels of corruption;
2. Education leads to other factors that promote honesty, such as generalized trust and a sense of identity with the entire country rather than with specific sects or groups;
3. Higher levels of education lead to greater levels of wealth and equality for countries, both of which are linked to lower levels of corruption.

According to the study, more corrupt countries [6] are less likely to invest in higher education. However, investigating this is outside of our agenda—and data. It makes no sense to “predict” 1870 education levels based on current corruption perceptions, and there are no measures of corruption for the nineteenth century.

The article written by Dridi [7] underlined the relationship between the education and corruption with analyzing the cross-country regression analysis, and it shows that corruption strongly linked with education. This paper is also emphasized that increased poverty and income inequalities are another way that corruption can affect education.

On the other hand, achieving success in the fight against corruption requires concerted efforts to overcome entrenched interests. Transparency and open governance comprise a portion of the narrative in most cases, but rarely the entire narrative. When public outrage over cronyism and corruption reaches a tipping point, it may be more politically advantageous to address the issue than to offend special interests. Even if there are few efforts to change the system, it is still possible to make progress by implementing more effective and transparent procedures, implementing professional accountability systems, and utilizing the most recent and cutting-edge technologies to collect, analyze, and share data to identify and punish corrupt behavior.

Many of the world’s most costly forms of corruption would not be possible without the institutions in wealthy nations: the private sector companies that give large bribes, the financial institutions that accept corrupt proceeds, and the lawyers, bankers, and accountants who facilitate corrupt transactions. According to the findings of research on international financial flows, the transfer of funds from impoverished to wealthy nations is fundamentally detrimental to development. Countries that successfully combat corruption could make better use of their human and financial resources, attract more investment, and experience faster economic growth overall.

The World Bank estimates that the average annual income of individuals living in developing nations would quadruple over the course of many decades if these nations were able to successfully combat corruption and institutionalize the rule of law. On average, the commercial sector could expand by an additional 3% points. Foreign direct investments incur a de facto tax of approximately 20 percent when corruption is tolerated. Controlling corruption has the potential to improve several socioeconomic indicators, including a 75% reduction in infant mortality.

3. Conclusion

In conclusion, this paper tries to identify and discuss the definition of corruption with historical perspective. Also, this paper tries to emphasize the negative impact of corruption throughout the world with comparing different countries with giving examples. Because the problem of corruption has been ingrained the humanity since

the ancient times and it became unsolved global problem, and it would be a necessitate solution that can be implemented on a global scale. Corruption is easily spread and has no regard for geographical or professional boundaries. The impact is so harmful in many ways. However, people pay a great deal of attention to the global issue of corruption. It is impossible to quantify corruption, but it is possible to quantify how people feel about it. Several institutions have created many corruption indices, which have been utilized by numerous researchers. Even though there are things that can be done to reduce corruption, the fight against it cannot be separated from the need to reform the state's functions. This is since certain government actions almost always foster an environment conducive to corruption. Globalization, in all its manifestations, has brought people from countries with low levels of corruption into contact with those from countries where corruption is pervasive. Therefore, globalization has a great role to fight against corruption. In recent years, nongovernmental organizations such as Transparency International have played an increasingly vital role, and in recent years, international financial institutions and organizations have gained increasing significance in the fight against corruption. Yet, it is not enough... In 2019, Transparency International estimates that corruption will cost the developing nations of the world a total of \$1.26 trillion per year; however, the EMEA continues to view corruption as acceptable. Given the significant expansion of the global economy during the twentieth century, this is by no means an insurmountable obstacle. Because these kinds of operations are conducted in private, it is difficult to obtain an accurate estimate of the scale and scope of global corruption.


To sum up, this study provides an overview of the contemporary world and an analysis of the pursuit of global influence. Undoubtedly, public or state enterprises have been a significant source of corruption, particularly political corruption. Today, this problem remains unsolved, but people have become conscious to the impact of it. This gives a hope to create a better world.

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The Impact of Corruption on Economic Growth: A Nonlinear Evidence

Mohamed Ali Trabelsi

Abstract

On basis of the lubricating effect hypothesis of corruption (grease-the-wheels hypothesis), the impact of corruption on growth seems ambiguous. Therefore, the question that arises is to what extent corruption can be tolerated and at what threshold it has detrimental effect on an economy. This chapter investigates the impact of corruption on economic growth by testing the hypothesis that the relationship between these two variables is nonlinear, and we assess whether the belief that corruption has detrimental effects on the economy is always true. In this chapter, a panel data analysis has been used to examine 65 countries over the 1987–2021 period. Our findings are that corruption can have a positive effect on growth. The results indicate that beyond an optimal threshold, both high and low corruption levels can decrease economic growth. Under this optimal threshold, a moderate level of corruption, defined by the point of reversal of the curve of the marginal corruption effect on growth, could have advantages for economic growth.

Keywords: corruption, economic growth, panel data, PCSE estimator, impact of corruption

1. Introduction

Empirical literature in the field has consistently reported a negative correlation between economic growth and corruption. These studies have shown that developed countries are known by low corruption levels and a relatively high growth rate [1], and by contrast, most developing countries are known by high poverty and corruption levels [2, 3].

The novelty of the empirical contribution is that we estimate a nonlinear growth model that allows for threshold effects. To this end, we will use the method proposed by Beck and Katz [4], who suggested estimating linear models of time-series cross-section (TSCS) data by ordinary least squares (OLS). For this, they proposed the panel-corrected standard errors model (PCSE).

The chapter is structured as follows: Section 1 presents a review of both the theoretical and empirical literature; Section 2 presents the research methodology and the main results followed by a discussion of the findings in the final section.

2. Literature review

The theoretical and empirical literature on corruption has generated a rich debate over the last 40 years. This literature can be summarized in two opposing theories. The first assumes that corruption “lubricates the economic cycle” or “greases the economic wheel” and produces the most efficient economies [5–10]. In contrast, the second theory blames corruption and sees it as a factor that slows down economic activity [11–14].

Mauro [15] detects a weak statistical significance between corruption and economic growth. However, this significance disappears once investment rate is introduced in the model. Mo [13] finds that corruption negatively affects economic growth. However, the additional introduction of variables such as investment to GDP ratio, political stability, and human capital weakens or eliminates the significance of this negative impact.

Aidt et al. [16] show that the impact of corruption on economic growth depends on institutional quality. Moreover, they show that when political institutions are of low quality, corruption has little impact on growth. On the other hand, Méndez and Sepúlveda [17] find that high-quality political institutions result in corruption being harmful to growth. In accord with Méndez and Sepúlveda [17], Heckelman and Powell [8] find that at the lowest levels of democracy, corruption is harmful to growth but becomes less harmful and eventually beneficial as the level of democracy increases.

Méon and Weill [10] emphasize the hypothesis of the lubricating effect of corruption by studying the interaction between institutional quality, corruption, and production efficiency, thereby validating the hypothesis that corruption may have a positive effect on economic activities. In the same context, Kato and Sato [18] provide evidence supporting the “greasing the wheels” hypothesis and argue that corruption enhances economic growth.

Mushfiq [14] tests corruption-growth relationship in a nonlinear framework. He shows that corruption increases growth even at a higher level of corruption. In the same context, Allan and Roland [19] use linear and nonlinear panel methods over the period 1998–2009 for determining the causal relationship between economic growth and corruption in 42 developing countries. Moreover, Aghion et al. [20] show that corruption affects the marginal effect of taxation on growth.

Huang [21] examines the causal relationship between corruption and economic development in 13 Asia-Pacific countries and finds that South Korea and China are experiencing economic advancement despite high-corruption levels.

Trabelsi and Trabelsi [22] show that beyond an optimal threshold, both high and low corruption levels can decrease economic growth. Under this optimal threshold, a moderate level of corruption, defined by the point of reversal of the curve of the marginal corruption effect on growth, could have advantages for economic growth.

All these studies indicate that corruption may have either positive or negative effects on economic growth, making the issue ambiguous and confirming the non-linearity of the relationship between corruption and growth. However, one must ask to what extent can corruption be tolerated and from what threshold would it become destructive to the economy. The questioning is motivated by the fact that studies do not test whether there is a growth-enhancing or growth-reducing level of corruption, and not one study thoroughly identified the corruption level that will allow an optimal growth.

3. Research methodology

3.1 Description of data

Corruption is not the only factor that affects economic growth [23–25]. Other control variables are also relevant [26]. According to theory and on the basis of arguments cited in the literature, we propose economic growth depends mainly on investment, inflation, and trade openness.

The study is based on a panel data set over the period 1987–2021 for 65 countries taken from the World Development Indicators (Growth rate, Foreign direct investment, Inflation & Trade). The ICRG index has been obtained from the Quality of Government Institute, the Transparency International and International Country Risk Guide published by Political Risk Services group. It measures the risk involved in corruption rather than the perceived level of corruption.

The descriptive analysis for the full set of 65 countries appears in **Table 1**. It shows that average economic growth is 3.63% with an average corruption index of 3.35.

Where:

Growth: Annual growth rate of GDP per capita.

Fdi: Percent of Foreign direct investment per GDP.

Inf: Consumer price index inflation (annual %).

Trad: Exports plus imports as share of GDP.

Icrg: International Country Risk Guide index of corruption, scaled 0–6. Higher values indicate lower corruption.

These results do not specify the dependency relationship between growth and corruption. To further probe this dependency relationship, an econometric study of the relationship between growth and corruption is necessary.

3.2 Empirical model

Empirical studies generally opt for the nonlinear approach to study the impact of corruption on economic growth (Méon and Sekkat [11]; [14, 16, 17]; Allan and Roland [19]; [27–29]). This is a quadratic function based on the hypothesis that the impact of corruption on growth is not always negative and that a moderate corruption level could have advantages for economic growth.

In order to verify this, a cross-sectional framework is used in which growth rate and the ICRG index are observed only once for each country. The scatter plot (**Figure 1**), using the fitted Kernel curve, illustrates and confirms the hypothesis that the relationship between corruption and economic growth (fitted values) is nonlinear.

Variable	Obs	Mean	Std. Dev.	Min	Max
growth	2275	3.631514	3.694122	−17.14604	21.82889
Fdi	2275	2.792351	4.098536	−12.20843	33.56602
Inf	2275	5.787994	7.268143	−11.68611	59.46156
Trade	2275	81.67821	51.23418	10.74832	439.6567
Icrg	2275	3.351098	1.462316	0	6

Table 1.
 Descriptive statistics.

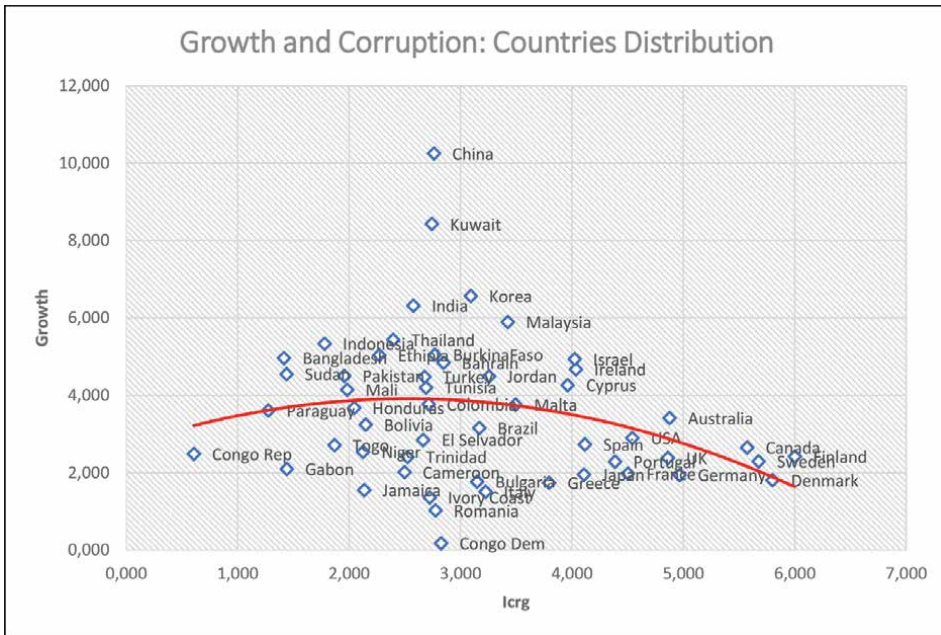


Figure 1.
Growth and corruption: countries distribution.

The curve is clearly increasing in the middle range of corruption and decreasing where corruption is least and most.

Therefore, we propose the following quadratic model. Subscripts i ($i = 1, \dots, 65$) and t ($t = 1987, \dots, 2021$) denote index country and time, respectively.

$$Growth_{it} = \alpha_i + \beta Inf_{it} + \gamma Trad_{it} + \mu Fdi_{it} + \delta Icrgr_{it} + \lambda Icrgr_{it}^2 + \varepsilon_{it} \quad (1)$$

Past studies have used a panel of 5-year averages and the system GMM estimator because this choice reduces, in general, short run fluctuations and resolves the endogeneity due to time invariant effects; but this method will not address endogeneity due to the possible interactions between higher growth rates and greater resources to combat corruption or other time-varying effects. Levin and Satarov [30] and Paldam [31] have presented evidence for the existence of both types of endogeneities.

Recently, the empirical studies characterized by having repeated observations over time on some countries are resolved by others' models. In this study, we will follow the Beck and Katz [4] methodology, who suggested estimating linear models of time-series cross-section (TSCS) data by ordinary least squares (OLS), and they proposed the panel-corrected standard errors (PCSE) estimator.

The results for GDP growth using the PCSE estimator are reported in **Table 2**.

It can be seen that corruption negatively affects (-1.0853466) economic growth unlike the square coefficient of corruption, which positively affects (0.1982614) economic growth. The significance of $Icrgr^2$ coefficient confirms the nonlinearity of this model and shows the presence of a threshold above which there will be a change of sign.

Growth	Coef.	Std. Err.	t	P > t	[95% Conf. Interval]	
Fdi	0.0618651	0.0238888	2.59*	0.008	0.0150430	0.1086871
Inf	-0.0392218	0.0128872	-3.04*	0.003	-0.0644807	-0.0139629
Trade	0.0112539	0.0022877	4.92*	0.000	0.0067700	0.0157378
Icrg	-1.0853466	0.3167777	-3.43*	0.001	-1.7062309	-0.4644623
Icrg2	0.1982614	0.0464706	4.27*	0.000	0.1071790	0.2893438
Cons	2.153168	0.5132159	4.19*	0.000	1.1472648	3.1590712

*test statistic is significant at the 1% level.

Table 2.
 Panels corrected standard errors (PCSE).

3.3 Determining the threshold

We will determine the governance level that allows for achieving maximum growth. The resulting model is:

$$\text{Growth} = 2.153 - 0.0391\text{Inf} + 0.011\text{Trad} - 1.08\text{Icrg} + 0.198\text{Icrg}^2 + 0.062\text{Fdi} \quad (2)$$

In deriving growth through governance, we get:

$$\frac{\partial \text{Grow}}{\partial \text{Icrg}} = -1.08 + 0.396\text{Icrg} = 0 \quad (3)$$

Relationship (3) shows that an optimum is achieved by $\text{Icrg} = 1.08/0.396 = 2.73$. This indicates that up to a corruption index of 2.73, the trend of the bell-shaped curve (**Figure 2**) increases showing that there is a positive relationship between corruption and economic growth.

This bell-shaped curve (**Figure 2**) is interpreted by the fact that corruption, through tax evasion, has two types of effects in economics.

First, it offers households a tax that can be consumed or invested, and therefore, it could improve growth up to a certain threshold. This optimal threshold represents the reversal point of the curve otherwise the country can be found in an underdevelopment trap like several countries that are immersed in corruption. This corruption, if significant, will reduce state resources because of productive public spending, which will lead to a loss in economic growth that sooner or later will lead to an uprising calling for establishing democratic principles and good governance.

These results indicate that low of corruption ($\text{Icrg} < 2$) negatively affects economic growth. This result disappears in the presence of corruption ($\text{Icrg} > 3$). However, for an average corruption of ($2 \leq \text{Icrg} \leq 3$), we will be at an optimum level of growth (**Figure 2**).

This result may surprise those who advocate lack corruption, but it can be explained by the fact that administrative delays resulting from absence of “bribes” paid in a corrupt economy may dampen economic growth and reduce economic development.

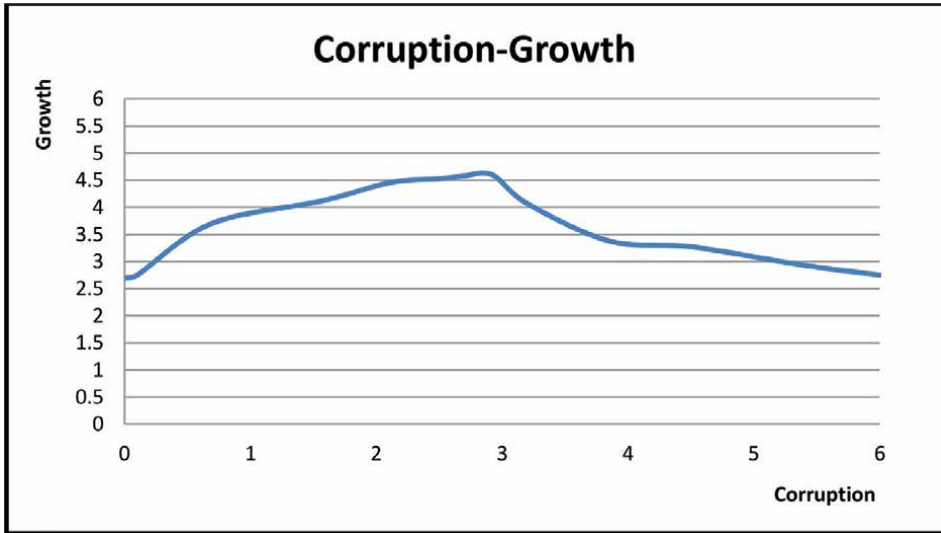


Figure 2.
Bell-shaped curve of growth through governance.

The results obtained are derived from static panel model, which has some shortcomings. One of the reasons is not to take into account growth’s lag operator. Indeed, economic growth is attributed to the results obtained a year earlier, and therefore, it is desirable to include this variable in the model. Therefore, a dynamic panel is needed.

3.4 The dynamic model

The dynamic panel model we propose is defined as follows:

$$Growth_{it} = \alpha_i + \rho Growth_{it-1} + \beta Inf_{it} + \gamma Trad_{it} + \mu Fdi_{it} + \delta Icr_{it} + \lambda Icr_{it}^2 + \varepsilon_{it} \quad (4)$$

Where $Growth_{it-1}$ represents per capita lagged GDP growth rate.

The results of the estimation are reported in **Table 3**, which shows that H_0 hypothesis of the validity of the instruments is not rejected (the probability of Sargan statistics exceeds 5%, which means that instruments are in all exogenous). Similarly, there is no order 2 serial autocorrelation (probability of Arellano & Bond AR test (2) is greater than 5%). This allows us to assert that the GMM system model is appropriate and specifies well the instruments, with no heteroscedasticity or autocorrelation problems.

This method is more robust than the previous one. **Table 3** confirms our hypothesis that corruption negatively affects growth (−1.86). However, square corruption positively affects growth (0.33). The results obtained by the two methods (static and dynamic) confirm the positive impact of investment on growth.

The estimated model is written as follows:

$$Growth = 2.885 + 0.0505Inf + 0.0419Trad - 1.865Icr + 0.332Icr^2 + 0.0213Fdi + 0.098Growth_{-1} \quad (5)$$

	Coef.	Std. Error	z	P > z	[95% Conf. Interval]	
Growth L1	0.0987477	0.0229037	4.31*	0.000	0.0538573	0.143638
Inf	0.0505543	0.0260105	1.94**	0.052	-0.0004253	0.1015339
Fdi	0.0212885	0.0311189	0.68**	0.049	-0.0397035	0.0822805
Trade	0.041935	0.0092438	4.54*	0.000	0.0238175	0.0600525
Icrg	-1.864927	0.5426194	-3.44*	0.001	-2.928442	-0.8014126
Icrg2	0.3316179	0.0813414	3.20*	0.001	0.1011917	0.4200442
_Cons	2.885563	1.041519	2.77*	0.006	0.844223	4.926903
AR(2)	Sargan Test					
(1.0000)***	(0.1428)***					

AR (2): Arellano and Bond test of null of zero second-order serial correlation, distributed $N(0, 1)$ under null. Sargan test: is a statistical test used to check for over-identifying restrictions in a statistical model. t-statistics are displayed in parentheses under the coefficient estimates. *test statistic is significant at the 1% level.
 **test statistic is significant at the 5% level and.
 ***the numbers in parentheses are p-values.

Table 3.
 Estimation of the model by GMM.

By analogy to Section 2.3, determining the threshold effect shows that an optimum is achieved by $Icrg = 1.865/0.664 = 2.81$. This value confirms our hypothesis on the relevance of moderate corruption to achieve an optimal growth value.

4. Results and discussion

The concave function (**Figures 1 and 2**) may be interpreted in the following way. Corruption, which facilitates tax evasion, has two types of effects in economics. It offers households an opportunity of tax savings that can be consumed or invested, as tax evasion leads to a transfer of public resources to private agents [32, 33]. This could improve growth up to a certain threshold. The optimal threshold represents the reversal point of the curve; otherwise, the country may suffer underdevelopment like several countries immersed in corruption.

This corruption, if significant, will reduce state resources because of productive public spending, which will lead to a loss in economic growth, which sooner or later will lead to an uprising calling for establishing democratic principles and good governance.

This result may surprise those who advocate the negative effects of corruption, but it can be explained by the fact that administrative delays resulting from absence of “bribes” paid in a corrupt economy may dampen economic growth and reduce economic development.

5. Conclusion

The aim of this paper is to examine the impact of corruption on economic growth. The empirical literature that reported a linear relationship between corruption

and economic development failed to differentiate between growth-enhancing and growth-reducing levels of corruption.

In our study, we have presented evidence that suggests the existence of hump-shaped relationship between corruption and growth, which shows the existence of a nonlinear relationship between these two variables. This nonlinear result shows that growth increases at middle-corruption and decreases as nations achieve higher level of governance (low corruption). In other words, the results indicate that higher or lower levels of corruption negatively affect growth. Minimum corruption can be beneficial to economic growth. This confirms some theories that assume that corruption “lubricates the economic cycle” and produces the most efficient economies. However, this lubricating effect has a threshold beyond which it becomes a threat to economic growth. Conversely, lack of corruption may be a mechanism that slows down growth.

Statements and declarations

On behalf of myself as the alone author, I state that there is no conflict of interest and I declare that no funds, grants, or other support was received during the preparation of manuscript. Data are available from the author on reasonable request.

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Promoting Ethics in the South African Public Sector: One Block of a Puzzle towards Curbing Corruption

Nomahlubi Mhlauli

Abstract

There is an increasing debate about ethics as they play a major role in governance in our days. The topic has become famous in all areas of governance. In South Africa, news is dominated by reports of unethical conduct in the public sector. This behaviour creates concerns about people who have an obligation towards safeguarding public funds and other resources. The citizens of a country place their trust in the people who are appointed to serve them, but if those they trust behave in a corrupt and unethical manner, they lose hope. It is, therefore, important to promote ethics in the public sector to restore citizens' trust and hope. Promoting ethics though alone cannot put an end to corruption can play a certain role in its combating. Encouraging public servants to behave ethically is a way of appealing to their consciousness in reminding themselves of what is wrong and what is right. This chapter through literature review seeks to examine the extent to which ethics can curb corruption and establish how best they can be promoted in an attempt to curb this pandemic of corruption.

Keywords: ethics, public sector, corruption, legislative framework, South African public sector

1. Introduction

Reports about scandals and moral lapse in South Africa has dominated the news in the recent times. This is due to corrupt activities that the public service officials and their leaders are involved in. These activities have resulted in the decline of living standards in South Africa. This corruption erodes the very same resources that the South African community depends on. As a result, South African citizens have lost trust and confidence in the people that run the public sector. Corruption brings harm to the country's economic growth and development as it is one of the most corrosive deeds. This pandemic act against the principles of democracy and has a negative impact on delivering services to the people. This is also an enemy of social economic and human development as it is impossible to promote economic growth when resources are directed to individual pockets. Problems in

economic growth follow problem of creating employment. When the people do not obtain what is due to them because of corruption as one of the forms of unethical conduct, they lose trust in government. If a country is dominated by corruption, investors will not be kin to invest as they would fear that their investments would be lost through the same channels of corruption. It should also be understood that corruption does not only occur in the public sector as it is also visible in the private sector and other sectors.

National Anti-Corruption Strategy 2020–2030, ‘corruption, having permeated key institutions in both the public and private sector, poses a threat to national security, undermines the rule of law and institutions vital to ensuring the centrality of the state as a protector and promoter of the rights of its citizens’. The country has quite a numerous policies that were developed to address issues of corruption but to this date, the country’s breakfast and dinner are about corrupt activities in the government institutions. If all policies, strategies and guidelines are ineffective, what is then left is an appeal to the conscience of the people who are serving the community. Promoting ethics is one block in this puzzle that can be utilised to curb and combat corruption.

2. Legislative framework

There is an extensive number of good legislative frameworks designed to address issues of corruption, ethics, maladministration, etc.

2.1 Constitution of the Republic of South Africa of 1996

Chapter 10, Section 195 of the constitution advocates for the following:

- a. a public sector that is characterised by promotion and maintenance of high standards of ethics;
- b. resources must be used efficiently, economically and effectively;
- c. a development-oriented public administration;
- d. there must be impartiality, fairness and equitability in the provision of services;
- e. services provided must respond to the needs of the people and the public must be encouraged to play an active role in policy-making processes;
- f. Accountable public administration
- g. information should be provided to the public on time and the information must be accessible to promote transparency;
- h. maximise human potential by cultivating good human resource management and career-development practices;
- i. employment and personnel management practices must be based on ability, objectivity and fairness.

2.2 Prevention and combating of corruption activities act 12 of 2004

This is the main legislative prescript developed to deal with corruption matters in South Africa. The Act makes provisions for the following:

- a. measures to prevent and combat corruption be strengthened;
- b. dealing with corruption offences and those offences relating to corrupt activities;
- c. measures to investigate corruption and related activities;
- d. registers to be established and endorsed to restrict people and businesses convicted of corrupt activities concerning tenders and contracts;
- e. people holding positions of authority be obliged to report corrupt transactions;
- f. extraterritorial jurisdiction in respect of the offence of corruption and those related to it; and
- g. any other matters connected with corruption.

2.3 The protected disclosures act 26 (2000)

This covers employees in both the public and private sectors. Employees are supposed to disclose unlawful and irregular misconduct involving their employer and fellow employees. This act also makes provision for the protection of employees, provides information and makes known the unlawful and irregular as indicated in the Act.

2.4 Whistleblower protection act (2014)

This act aims at the establishment of mechanisms with regards to receipt of complaints that relate to disclosure of allegations of corruption and wilful misuse of power or wilful misuse of discretion against any public servant. It also aims to enquire about such disclosure and guard against victimisation of whistleblowers and related matters and other incidents.

2.5 Public service code of conduct

The code of conduct was developed in order to support and bring practicality to the provisions of the constitution relating to the public services. All public service employees are expected to adhere to the code of conduct. The code provides guidelines for what is expected of the employees with regard to ethical conduct. This applies to employees' individual conduct and their relationship with others. In an attempt to enhance professionalism and ensure confidence, compliance with the code is important.

2.6 Public sector integrity management framework

The framework was introduced to strengthen measures and standards for managing integrity and promoting ethical conduct in the public sector. It entails measures for managing unethical conduct that may arise because of financial interests, gifts,

hospitality and other benefits, post-public employment and remunerative work outside the public sector. Further proposals have been made in respect of deployment of ethics officers in the public sector and minimum conduct requirements.

2.7 Public service regulations, 2016

Public Service Regulations, 13 (c) prohibits employees from conducting business with state institutions or directing a public or private company to do business with state institutions. As in the prevention and combating of corruption act, employees are obliged to make known with immediate effect to the relevant persons and any act of unethical conduct that comes to his or her knowledge while serving in public office.

2.8 Public administration management act 2014

Among others, the aim of this Act is to market the essential values and principles governing the general public administration brought up in Section 195(1) of the constitution; to determine the general public administration ethics, integrity and disciplinary technical assistance unit; to assist the Minister to determine minimum norms and standards for public administration and to institute the office of standards and compliance to confirm compliance with minimum norms and standards.

3. Public sector ethics

According to Hallunovi et al. [1], ‘ethics in the public sector is about the practical application of the moral standards in governance’. One needs to understand public sector ethics as the core values and behavioural standards that the public expects from employees, both in the public service and in elected public office bearers. Ethical behaviour is obligatory in public office, as non-adherence to ethical behaviour erodes public trust and brings public office into disrepute (Transparency International). Employees in the public service and office bearers are expected to conduct themselves in an ethical manner. If these officials and office bearers do not adhere to ethical standards, public trust will deteriorate and the public office will be brought to shame. In this manner, the government loses integrity and respect. Public officials make use of their positions to fulfil their selfish interests and greed and that is against any code of ethics. Public officials are the ones that should uphold professional ethics and integrity of government, but in South Africa, they are continually behaving unethically.

4. The state of integrity in the South African public sector

Integrity in the South African public sector is deteriorating every day as reports on maladministration, corruption, nepotism etc., have become breakfast and dinner in the news channels. This means that employees in the public sector have dishonoured their ethical responsibility by conducting themselves in an unacceptable manner. As a result, the public lost trust and confidence in the public sector.

Oosthuizen [2] identified the following as the imperatives that should be given attention:

- Strengthening the ethical foundation of society by building cultural familiarity with values, ethics and principles of common interest.
- Aligning and enhancing the codes, frameworks, systems and monitoring of public management to give expression to higher standards, as outlined in an agreed-upon national ethical foundation.
- Rectifying the collapse of adherence to the law, regulation and norms of good ethical and governance practices in formal institutions.
- Pursuing the first three imperatives within the framework of the constitution and in such a way as to give expression to the constitution's human rights and equality-orientated conception of society.

5. Corruption in the South African public sector

It is not a secret that corruption is endemic in South Africa. Corruption levels during COVID-19 escalated to their highest levels. Areas where South Africa experiences corruption is at procurement division. The article below forms part of many cases relating to COVID-19 corruption in South Africa.

5.1 COVID-19 and open access to corruption activities in South Africa

Corruption watch said it had received 4780 reports of graft in 2020 the second-highest tally since it was founded in 2012. Although the pandemic discouraged people from making in-person reports, an average of 11 cases were received each day online, the Johannesburg-based organisation said. Maladministration, procurement corruption and fraud topped the list, with the 'lucrative' health sector hardest hit. South Africa struggled to find protective gear for its health workers and other essential equipment for fighting Covid – a scarcity that drove up black-market value. Politicians and those close to them exploited 'already weak controls in procurement systems across all three spheres of government', corruption watch said in its report, entitled from crisis to action. "Whilst many were aware of the weakness of both the public and private health facilities, COVID-19 laid bare just how vulnerable the sector truly is". Africa's most industrialised economy was already struggling with a reputation for corruption before the onset of the pandemic, with numerous state officials accused or facing trial for presiding over wanton looting.

Corruption watch director David Lewis noted 'with anger and sadness' that the corrupt exploited the pandemic at the expense of lives and demanded tougher controls.

South Africa is the worst virus-hit country on the continent. (© AFP 25/32021).

6. Promoting ethics in the South African public sector

Promoting ethics in the South African public sector is 'one block of a puzzle' towards curbing corruption. The author understands that ethics alone cannot end corruption but can assist in curbing it. The following are some of the techniques for promoting ethics as identified by the author.

6.1 Provision of effective ethics training

Ethics training for public officials is one of the instruments for building integrity in state institutions and ensuring good quality public governance [3]. Ethics training is important for promoting and enhancing ethical decision making. Effective ethics training should indicate expected objectives that are to be achieved by the training. These objectives must be specific and clear. Watts et al. [4] state that “effective ethics training programs are those that demonstrate empirical success so that their objectives are being met”. There are two noteworthy components to this definition. The previous authors also indicated that ‘there are many different types of compliance and ethics training programs with varying objectives’. Differences in objectives may stem from differences in organisational standards, populations, industries or geographic settings [4]. Public sector leaders and employees have to be able to distinguish between the good and the bad and do good. If one is to strengthen ethics and prevent corruption in the public sector, ethics training works as a good tool though it must be utilised with other tools, as it cannot alone be able to produce sustainable results.

6.2 Leading by example or role modelling

Most people want to follow someone who has a strong sense of direction and follows a vision that identifies with them. Leading is not a simple task that one may think it is. People use the term without properly understanding the weight it carries. According to Cherry, ‘to be a leader one needs to incorporate certain attitudes and practices into his or her life, not just improving the life but start to demonstrate the kind of behaviour that people would want to follow and imitate, and that would be leading by example’. A good leader’s mark relies on his or her ability to ‘walk the talk’. This means that a leader should guide other people’s behaviour through his own behaviour instead of using words. Modelling an ethical behaviour will inspire others to do the same. No amount of training can totally lead to individuals behaving ethically in their position. Some behaviour is learned through observing others who display or conduct themselves in a particular manner. It is for this reason that the author of this chapter believes that leading by example or role modelling is one way of promoting ethical behaviour in the public sector. If South African public sector leaders behave in an ethical manner, the likely result is that their followers will follow suit. Manz and Sims among others recognise the importance of leading by example or role modelling as important in effective leadership (1980). In addressing corruption in the South African public sector, there is a need for leadership that leads by example and acts as role models of ethical behaviour.

6.3 Employee integrity testing

OECD [5] indicates that ‘for a state to function effectively, integrity in the public governance is most valuable, for ensuring public trust in the government and for creating conditions for sustainable social and economic development’. Integrity testing is a pre-employment test, which seeks to predict future misbehaviours in the workplace. An employer tries to minimise dishonesty in an organisation by administering integrity tests. This is the method commonly used in the private sector for pre-employment screenings. According to Transparency International [6], these tests aim at assessing attitudes and experiences related to a person’s honesty, trustworthiness, reliability and pro-social behaviour.

6.4 Reinforcing ethical behaviour

Employees in this case have to know that there are consequences for every behaviour they display. There is negative and positive reinforcement. Identified by Skinner and colleagues, reinforcement theory of motivation indicates that every individual's behaviour is a function of its consequences. The theory gives attention to what happens to an individual when he or she behaves in a certain manner [7]. South Africa needs a public sector that commits to ensuring that there are consequences to every behaviour. For example, if an individual employee behaves in an ethical manner and is rewarded or even praised for it, the possibility is the continuity of that behaviour. In this instance, reinforcement occurs after the behaviour. With negative reinforcement for instance, if the manager wants subordinates to behave in an ethical manner, he can indicate that all employees who behave in an undesired manner will lose their bonus. For example, employees may behave in a desired manner likely because no one would want to lose a bonus. Reinforcement is undoubtedly an important variable in determining behaviour and can be used to great effect both in and outside the workplace [8].

6.5 Provision of protective mechanism

The South African public sector requires soundproof protective mechanisms for those who wish to report or make known any unethical behaviour in the workplace. The whistle blower protection Act aims among other things at providing adequate safeguards against victimisation of the person making a such complaint and reporting unethical conduct. Despite the availability of this legislation, employees and citizens who report crime and unethical conduct are still victimised and killed. In keeping with Whitton [9], 'in the interests of improving accountability and fostering the fight against corruption, some countries have passed laws to establish a right whereby a person may make a protected public interest disclosure of any suspected or actual corruption, misconduct or maladministration by a civil servant or public official'. He further states that the main task of 'whistleblower' protection provisions, such as this is to maintain a reasonable and workable balance between encouraging the desirable disclosure of official wrongdoing (by protecting those who make disclosures against acts of reprisal or revenge).

7. The role of leadership in promoting ethics

Mihelič, Bogdan and Tekavčič define leadership as the ability of a follower to want to do the things and activities that the leader sets as goals (2010). Leaders should direct the follower in the direction that he or she wants the follower to go. Leaders have different leadership styles and this will depend on an individual leader's personality.

Kooskara [10] indicated that leadership is a holistic and value-laden process comprised of different activities that lead to learning, developing, influencing and changing the self and others. Integrity should be the core value that an ethical should uphold. It simply means that a leader should always choose and make the correct decision based on merit regardless of how popular the decision is. Kooskara also argues that ethics is about values and about values-based management, leadership is about a vision: having one and sharing one. Ethical leadership is a combination of

righteous goals and righteous behaviour, righteous ends and righteous means and righteous policy and righteous administration, taking a ‘helicopter view’ and developing followers (2012). Moreover, There are certain principles that leaders need to follow. It can be deduced that leadership should adopt ethical behaviour at personal and organisational placing integrity and doing right at the centre of it all. There are certain principles that leadership should follow and these are:

Fairness – Fair treatment is the most important force for effectiveness in the workplace. It creates harmonious relationships in the work environment. When treated fairly, employees will be encouraged to perform. With fairness, all subordinates will have confidence in their leaders, as there is a sense of equity among colleagues in an organisation. Leaders to earn respect of their subordinates should make fair and equitable decisions that are merit-based. Employees should not feel that the decisions made are unjust and unfair. This includes civil servants and public officials in general [9].

Accountability – This is the most important and key feature of good governance. Accountability cannot be separated from the person occupying a position of responsibility, nor of the context [11]. Every official in a position of accountability must take responsibility for his or her actions or inactions. Chapter 10, Section 195 (1) (f) of the constitution of the Republic of South Africa advocates for a public administration that is accountable. This means that those in the public sector should be accountable for their actions and inactions.

Trust – Trust in leadership is very important as those who look up to that leadership will have confidence in them. If a leader is trustworthy, then the follower will develop confidence towards that leader. South Africa needs trustworthy leadership that is committed to serving the community as against fulfilling their selfish needs.

Honesty – People expect honest leadership in running the affairs of the public. When led by dishonest people, the community develops mistrust and becomes hopeless. People lose faith in dishonest leadership and will not know whom to depend on or where to turn to.

Equality – Equality is one of the democratic and social value, which ensures that there is equal treatment in the workplace. South Africa is experiencing inequalities due to the imbalances that were created by the apartheid regime and it is important that those gaps must be closed. Equality is also important in ensuring that there is peace in the workplace. No employee should be discriminated against because of his or her race, gender, sexual preference, etc.

Respect – it is important for a leader to show respect to others. This enables other to see their value and their worth as individuals with uniqueness. A leader who respects will also be respected. Leaders need to acknowledge that their subordinates have opinions and views and they are also creative in their own right. As a result, they would be expecting their leaders to respect their individualism and independence. Employees should be given a chance to voice out their views and also be allowed to form a part of the decision-making processes.

Integrity – Integrity sustains the effectiveness and dignity of an organisation. It encompasses quite a number of other values, which include among others, honesty and trust. Leaders who promote integrity in their organisation build confidence in the community. It is without a doubt that employees that are led with integrity will uphold a high standard of professional ethics and a society that is served by ethical leadership will gain confidence in the leadership and the institution it runs. It is, therefore, very important that public sector leaders conduct themselves in an ethical manner and with integrity for the betterment of the society.

8. Conclusion

It is not a secret that the South African public sector is discoloured by corruption. Corruption is one element of unethical conduct that eats away public resources. South Africa has a good legislative framework that is developed to assist in addressing issues of unethical conduct in the country. These prescripts are all good on paper but implementing them becomes a major problem. Promoting ethics is one block that can assist in this whole puzzle of trying to address corruption. Suggestions are made of how ethics can be promoted in order to create a trustworthy, fair, honest and respectful public sector that has integrity. It is important that the leadership in government institutions and entities model an ethical behaviour so that their subordinates can follow. This may result in citizens gaining confidence and trust towards government.


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Corruption and New Insights in Lebanon

Josiane Fahed-Sreih

Abstract

This research study aims to provide new insights into the issue of corruption in Lebanon by examining its impact on various sectors of the country, the role of the government in tackling corruption, and the effectiveness of current anti-corruption measures. Lebanon is ranked 149th out of 180 countries in Transparency International's 2020 Corruption Perceptions Index, highlighting the widespread nature of the issue. To achieve the research objectives, we adopted a mixed-methods approach that involved both quantitative and qualitative data collection methods. Specifically, we conducted an online questionnaire that received responses from a diverse sample of Lebanese citizens, including government officials, business leaders, and the general public. We also conducted interviews with key stakeholders, including representatives from civil society organizations and government agencies. The study's findings reveal that corruption has a significant impact on the country's economy, businesses, electricity, and pollution levels. The study also highlights the challenges faced by the government in effectively addressing corruption and the limitations of current anti-corruption measures. Based on our analysis, we provide policy recommendations that can help improve the effectiveness of anti-corruption efforts in Lebanon.

Keywords: corruption, new insights, economic crisis, pollution, government, politics, electricity, inflation

1. Introduction

Located on the eastern shore of the Mediterranean Sea, covering 10,452 km² of the globe, Lebanon is an Arabic country, well known for its temperate temperature, huge diversity, natural wonders, and historical monuments.

But, unfortunately, nowadays Lebanon is among the most corrupted countries in the world, ranking (149) in 2022. To better understand what led Lebanon to this enormous crisis, we should first look at the country's recent history and political situation.

At the end of the First World War, Lebanon who was occupied by the Ottoman Empire, became mandated by France. The mandate ended in 1943, at the end of the Second World War as the independence of Lebanon was decelerated.

Following that, in 1975, a massive full-scale civil war broke out in Lebanon. This conflict that was mainly caused by the huge religious diversity in Lebanon destroyed

Lebanon over fifteen years causing a heavy loss of human life and devastated the country's economy. It ended in 1990 with what was called the Taif Agreement, officially known as the National Reconciliation Accord, which constitutes the constitution of Lebanon from 1990 until now. One of the items of this agreement was a time frame for withdrawal of Syrian military forces from Lebanon, which was 2 years, but Syria did not remove their forces until 2005.

The main aim of the Taif Agreement was to formulate the “mutual existence” between Lebanon's different religion and parties, and their political representation. However, this agreement was too fragile to constitute the basis of peace in the country, leading to several conflicts, as Lebanon became a vehicle for self-enrichment by the political class, which made the country nowadays one the most corrupted countries worldwide.

To maintain peace among the eighteen various religious communities, especially after a 15-year civil war, political power was split proportionally among these sects, resulting in a sectarian system.

As a result of this separation, several groups have made room for more political power, resulting in significant levels of corruption and a clientelist system. As a result of this separation, several groups have seized the opportunity to gain more political power, resulting in significant levels of corruption and a clientelist system.

In Lebanon, corruption is considered a pervasive problem. According to Transparency International [1], Lebanon is now rated 149th out of 180 nations in the 2020 Corruption Perceptions Index, with a score of 25 out of a possible one hundred. Indeed, according to the same organizations study [1], “Lebanon notably dropped on the CPI, dropping five points since 2012, with a score of 25.” Despite popular demonstrations, no substantial investigations or prosecutions of public officials have taken place.”

This chapter will have several sections namely an extensive literature review, research design and methodology, results, discussion, conclusion, and future research.

A research study was conducted for this literature. The methodology involved administering a questionnaire to study the history and effects of corruption in Lebanon, with a total of 60 collected responses, of which 58 are considered reliable and valid. The questionnaire had 22 questions in total, including demographic, polar, multiple-choice, and open-ended questions. The questions analyzed the perspective of Lebanese people on corruption based on facts and historical dates. The questionnaire was administered online to Lebanese residing in Lebanon, specifically university students. The data was collected and analyzed online. The study used quantitative and qualitative analysis to analyze the characteristics of corruption in Lebanon.

The main results of the study focus on corruption in Lebanon and categorize questions into four groups: government, economy and business, electricity, and pollution. The results show that corruption has a significant impact on the economy and business sector in Lebanon, with political instability and corruption being the main reasons for businesses refraining from investing. Corruption is also prevalent in the government, with respondents believing that all three branches are to be held responsible. Electricity and pollution are also major issues, with corruption being a significant factor in both. The study reveals that there is a high level of skepticism and distrust in political parties and government institutions in Lebanon.

2. Literature review

2.1 The Lebanese government

Because Lebanon was under French Mandate from 1920 to 1943, its legal system is influenced by French civil law [2, 3]. Due to religious and socio-historical influences, however, Canon law, Islamic law, and Ottoman law remain fundamental parts of the legal system (Mattar Law Firm nd; [4]). According to Salloukh [5], more than 30 years ago, the Taef agreement (the basis for the end of the civil war and the return to political normalcy in Lebanon) “established a more balanced consociational power-sharing system. However, Salloukh argues that this also led to the creation of a” larger, more clientelist, more corrupt public sector. “Therefore, Salloukh contends that the Taef accord (which laid the groundwork for the conclusion of the civil war and the restoration to normalcy) was flawed in its outcome. More than 30 years ago, political normalcy in Lebanon” established a more balanced consociational power-sharing. However, this resulted in a “bigger, more clientelist, more corrupt public sector.” One of the most important things to have a healthy democratic government is the complete separation of the three powers (Legislature, Executive, and Judiciary). According to (ibid), in Lebanon, the Supreme Judicial Council is a ten-member council in charge of appointing and managing judges. However, it is significantly influenced by the Ministry of Justice (part of the Council of Ministers), which appoints eight of the ten members, together with the president and the rest of the cabinet. The Ministry of Justice is responsible for approving and transferring judges selected by the Supreme Judicial Council, as well as their budget. Judicial independence is threatened as a result of the executive branch’s influence over the judiciary [4]. As a result of the “Taif’s” division, several groups have clamored for more political power, leading to elevated levels of corruption and a very clientelist system [6, 7].

While it is difficult to give a complete review of corruption in Lebanon due to a combination of government obscurity and a scarcity of scholarly study, the available evidence indicates that corruption is deeply embedded in Lebanese society [8, 9]. In Lebanon, corruption is strongly tied to political elite. The government of Lebanon is very centralized [10]. While some localities have some decision-making authority, most policies are set by the federal government (ibid). Due to this centralization, power is concentrated in the hands of a select few individuals in parliament. According to Boege, Brown, & Clements ([11], 17), the Lebanese political order can be characterized as a hybrid, where power is distributed through a combination of “authority structures, sets of rules, logics of order, and claims to power” that blend both Western and local institutions. According to the authors, this leads to instability and informality. The sectarian system in Lebanon exacerbates the power imbalance in the hybrid system.

Political elites frequently differ on policies because they want to profit from a particular circumstance and get advantages for their faction [12]. Political elites would throw out employment to their own followers to earn votes and stay in power [12, 13]. Diwan and Haidar describe the political system as a “coalition of sectarian oligarchs” (p.2) who preserve their power by participating in mutually beneficial behind-the-scenes arrangements with individuals or groups (e.g., political subsidies in exchange for political backing by enterprises). As a result, citizens are barred from participating in democracy, and societal necessities are pushed aside in favor of the interests of their political party and affiliated sects [8]. Political parties in Lebanon have little to do with genuine politics and are merely a tool for sectarian elites to manipulate the system by controlling resources to benefit their own in-group [8, 9].

2.2 Economy and business in Lebanon

Politics and commerce are heavily intertwined in Lebanon, with far-reaching implications for the country's economy [14]. Since October 17, 2019, thousands of Lebanese have taken to the streets across Lebanon, expressing their anger over the economy's collapse and demanding "all government parties out" [15]. The October 17 Revolution did not occur out of nowhere; Lebanon has been experiencing severe economic difficulties since 2009, when GDP growth peaked at 10.1 percent in that year and has since fallen to 0.2 percent in 2019 [16]. According to the Central Intelligence Agency, Lebanon had the third highest Debt to GDP ratio in 2017, with 152.8 percent. The Debt to GDP ratio compares a country's public debt to its Gross Domestic Product (GDP). Other social and economic issues confronted Lebanon, including the Israeli-Palestinian conflict and regional crises. Despite the fact that Lebanon's government revenue was just \$19 billion in 2019, the gross public debt was \$86.2 billion in 2019. Taxes account for 58 percent of these earnings, while debt interest payments account for 32 percent [17]. The majority of Lebanese debt is held domestically, with 60.6 percent held in local currency by commercial banks and the Banque Du Liban (BDL) and the rest in foreign currency [18]. Aside from unemployment, corruption, and debt, Lebanon is now facing a dollar liquidity constraint. Although no official capital controls have been enforced, banks have imposed restrictions on dollar withdrawals. As a result of the crisis, 34 percent of enterprises have reduced employee salaries since October 17, and 49 percent of employers have had to slash staff salaries by roughly 39.7%.

Furthermore, it experienced a 10% increase in inflation in January 2020 compared to the same month the previous year. The Lebanese have lost faith in their government, leaders, and banks, and it is estimated that \$4 billion has been taken out of the bank and saved at home [15]. According to Stel & Naudé ([12], 264), "the political class is 38 heavily embedded in the private sector" with the majority of business-people being former politicians or present politicians who are also businessmen. Chaaban [19] investigated Lebanon's banking industry and its relationship to politics. He found that out of 20 banks studied, 15 had a board chair tied to a politician, and six board members held public office. This, however, was proven to be detrimental to banks because businesses with stronger political ties had higher loan default rates. Banks were giving out loans in exchange for political favors without following proper procedures or ensuring that everything was financially sound before granting the loan. Corruption in the public sector has an impact on the private sector, since most businesses in Lebanon indicate that they have been asked to pay a bribe by a public official at least once, and that failing to comply with these demands has hampered their growth [20]. In fact, about 43% of foreign corporations in Lebanon often or very frequently pay bribes, while another 40% sometimes do.

Furthermore, business corruption is most visible during times of crisis, such as in the case of Beirut Port construction following the devastating explosion, where construction companies are accepting short-term concessions to avoid long-term reform, in the hopes of reactivating stagnant patronage networks in the future ([21], para 4). A study by Diwan and Haidar, examines Politically Connected Firms (PCFs) to highlight the effects of combining politics and business. PCFs have a wide impact on the industries in which they operate. PCF's overall market share can range from 50 to 75 percent, with an average of 70 percent across all sectors, implying that they have a monopoly in the industries in which they operate. The same study shows that non-PCFs see an 11.3 percent drop in hiring. These enterprises are able to hire more

people as a result of the benefits of having a link to a politician/political party, notably as a type of clientelism to repay the politician. More broadly, for every added political connection, 7.2% less jobs are created. While having a political link benefits business, the processes through which PCFs must repay these politicians decrease their overall output. Remarkably, the political environment can have a negative impact on the business sector even if no politician is directly involved [14]. Stel and Naudé [12] showed, according to their survey of Lebanese businesses, political instability and corruption are two of the main hurdles to conducting business in Lebanon.

In 2009, 97% of businesses said they would have to pay a bribe to get a government contract, with the bribe amounting to around 8% of the deal's worth (double than the rest of the Middle Eastern countries) (ibid). Corruption at the political level, as well as their considerable influence in the commercial sector, produces several economic problems [8]. The economy of Lebanon is described as "free-market service-oriented with limited natural resources." ([10], p. 507). According to a study by the Lebanese Center for Policy Study in 2011, a small number of corporations controlled at least 50% of 300 separate marketplaces. As a result, there is a significant economic divide across the country [10]. The government's enormous public debt further exacerbates the economic gap, so that while the economy has the capacity to expand (Lebanon's GDP was \$US 47.5 billion in 2016, up from \$US 45.7 billion in 2004), finance remains scarce. Particularly since only 2% of businesses account for 50% of all loans [8, 13]. The economy remains stagnant because these enterprises are not allowed to expand or must maintain the appearance of being unprofitable in order to avoid being targeted by corrupt persons [22].

2.3 Electricity

Lebanese citizens distrust the government's ability to provide fundamental services [8]. The clientelist nature of Lebanese politics, in which public officials provide unequal access to resources in exchange for political favors, accentuates this (ibid). Stel and Naudé [12] and Stel [13] demonstrated this through studies on electricity delivery in Lebanon. Electricité du Liban (EDL) is a state-owned company charged with providing electricity to the country. In 2018, Lebanon was ranked fourth worst in the world for power quality (World Economic Forum Report, 2017–2018) and 126th out of 141 nations for road quality (World Economic Forum Report, 2017–2018). EDL (Electricité du Liban) is a state-owned organization tasked with supplying power to Lebanon. However, electricity in Lebanon is not delivered equitably or efficiently, resulting in citizens having to pay twice: once for government service and again for generators from a private company due to frequent power outages (ibid). Corruption, dysfunction, and inefficiency have been particularly prevalent in Lebanon's electricity sector. EDL owns and operates eight HFO/DO production units and five small hydro power plants with a total installed capacity of 3000 megawatts (MW), including 2764 MW of thermal power plants that mostly use imported fuel oil. Corruption and inefficiency in the power sector have been a major source of popular outrage, culminating in the protests. Uprising in October 2019. The sector's shortcomings, which are frequently blamed on the government. EDL, an electricity provider in Lebanon, has had tremendous impact on the lives of Lebanese inhabitants through three distinct methods. First, frequent power outages deprive the majority of the Lebanese population of reliable energy, forcing many of them to rely on costly and polluting local diesel generator networks.

The unequal distribution of power outages, coupled with the inability of certain groups to afford a link to a generator network, as well as the emergence of powerful

neighborhood-level structures, all have major consequences for energy access and justice. Secondly, the financial strain on the electricity sector, which has consistently accounted for 3.8 percent of Lebanon's GDP each year in the last decade, has significantly contributed to the country's rising public debt. Consequently, this has played a crucial role in country's current economic collapse and devaluation of the Lebanese Pound (LBP), resulting in high inflation, a large increase in unemployment rates, and poverty level. Third, data suggests that the proliferation of diesel generators in densely populated residential areas has had a significant negative impact on the environment and public health. The operation of diesel generator for only three hours per day in Beirut neighborhoods has been found to contribute to 38% of daily carcinogen exposure. This indicates a significant increase of 60% above background values without generators. In Lebanon, the EDL has been utilized to pay kickbacks to politicians as well as a means for political elites to deliver free electricity to their supporters [13]. According to Abdelnour [23], 55 percent of EDL bills are not paid, while 45 percent of electricity generated is not billed. The cost is then distributed to citizens and private firms who must pay large fees to the EDL owing to inflation. Furthermore, it has been reported that the Speaker of Parliament hires people of his own sect for EDL jobs [13]. As a result, services become "a political favor, not a public right," reinforcing citizens' negative emotions and furthering corruption ([12], p. 256).

2.4 Pollution

The 2015 garbage problem in Lebanon is a good example of corruption's pervasiveness (though it is still on-going). The main landfill reached capacity in 2015, and the government's rubbish collection contract expired. However, there was a political impasse because any proposal for the government contract took on a sectarian tone, with politicians discussing hidden plans to benefit from the deal. Citizens and the environment come second to politicians' ambition to benefit from this circumstance. Because of a shortsighted government that failed to plan or manage the expanding waste of a consumer society that imports far more products than it exports, the problem arose when stinking rubbish bags covered riverbanks and overflowed over roads. Beirut is one of the Middle East's most polluted cities. Lebanon was placed sixth on the Pollution Index for Country this year (up from twelfth in 2018). It is far ahead of China, which has a population of 1.4 billion people. In Lebanon, the cancer burden is significant. Lebanon holds the unfortunate distinction of having the highest cancer rate in the Arab world and one of the worst rates in the eastern Mediterranean region, according to the World Health Organization and the Global Cancer Observatory. There are 242.8 cancer sufferers for every 100,000 people in Lebanon. (By way of comparison, neighboring Israel, which possesses nuclear power and thus nuclear waste, has an estimated 233.6 cancer sufferers per 100,000 inhabitants.) The figures in Lebanon may also be an underestimation because they are based on an incomplete national registry that does not meticulously account for private hospital records [24].

The link between pollution of the air and water and cancer is now widely known. Lung cancer is caused by outdoor air pollution, according to the International Agency for Research on Cancer, which confirmed this in 2013. Since the 1990s, while Lebanon was in the midst of reconstruction following the civil war, there has been a significant increase in cancer cases reported (1975–1990). From June 1st to August 31st, 2018, Jounieh, a coastal city located a few kilometers south of Beirut, was included among the global hotspots for nitrogen dioxide (a gaseous air pollutant created by the burning of fossil fuels) [24]. The main source of this pollutant in Jounieh was attributed

to the transportation and electricity production plants of the rusted Zouk power factories, as well as the numerous diesel generators scattered across the country (which have replaced the Electricité du Liban's (main electricity producer) non-existent and failing power plants). It is crucial for people not to overlook the toxic legacy left behind by the civil war, even as the 17 October revolution is recognized as the beginning of the end of a sectarian regime that was consolidated by the so-called national pact of 1943 and crystallized with the 1989 Taef agreement, which officially ended the civil war [24]. During the violent and chaotic civil war in Lebanon, these toxic—and some believe nuclear—wastes were dumped in numerous regions, allowing various groups to profit from trafficking such waste [24].

2.5 Culture and corruption

A very important determinant of corruption is culture. The article “Culture and Corruption: An Experimental Comparison of Cultural Patterns on the Corruption Propensity in Poland and Russia” compares the effects of cultural patterns on the propensity for corruption in Poland and Russia. The study conducted experiments on university students from both countries to determine the relationship between cultural values, trust, and corrupt behavior. The results suggest that cultural differences, such as individualism vs. collectivism, power distance, and uncertainty avoidance, play a significant role in shaping attitudes toward corruption. The study also found that trust in others is negatively correlated with corrupt behavior, and that trust levels are higher in Poland than in Russia. The authors conclude that cultural factors should be taken into consideration when designing anti-corruption policies and programs [25].

The article “Wealth, Culture, and Corruption” by Bryan W. Husted explores the relationship between wealth, culture, and corruption in various countries. The study analyzes data from 63 countries and finds that wealth is negatively correlated with corruption. Cultural factors such as individualism, power distance, and uncertainty avoidance also play a significant role in shaping attitudes toward corruption. Specifically, the study finds that countries with higher levels of individualism and lower levels of power distance and uncertainty avoidance have lower levels of corruption. Additionally, the study suggests that certain cultural factors, such as the importance of family and social connections, may mitigate the negative impact of corruption on economic growth. The author concludes that understanding the complex relationship between wealth, culture, and corruption is essential for policymakers seeking to combat corruption and promote economic development [26].

The article “Cultural Dimension of Corruption: A Cross-Country Survey” by Monica Violeta Achim examines the cultural dimensions of corruption in various countries. The study surveyed participants from Romania, Italy, Spain, and Hungary to determine the relationship between cultural values, social norms, and corrupt behavior. The results show that cultural values, such as individualism, power distance, and uncertainty avoidance, are significantly correlated with corrupt behavior. The study found that people from countries with high levels of individualism are more likely to engage in corrupt behavior, while those from countries with low power distance are less likely to engage in corrupt behavior. The study also found that social norms play a significant role in shaping attitudes toward corruption, with participants reporting higher levels of corruption in countries with weaker social norms. The authors suggest that cultural factors should be considered when designing anti-corruption policies and programs [27].

2.6 Other determinants

The article “Behavioral Determinants of Corruption: A Cross-Country Survey” examines the behavioral factors that contribute to corruption in various countries. The study surveyed participants from Romania, Italy, Spain, and Hungary to determine the relationship between demographic characteristics, social norms, trust, and corrupt behavior. The results show that people who are older, more educated, and have a higher income are less likely to engage in corrupt behavior. The study also found that social norms play a significant role in shaping attitudes toward corruption, with participants reporting higher levels of corruption in countries with weaker social norms. Additionally, the study found that trust in institutions and the government is negatively correlated with corrupt behavior. The authors suggest that addressing the behavioral factors that contribute to corruption can be an effective approach to reducing corruption in society [28].

2.7 Gap in literature

The literature on corruption in Lebanon is extensive, but some potential gaps in the literature could include:

Comparative analysis: While there are several studies that have examined corruption in Lebanon, very few have compared the country’s corruption levels with other countries in the region or around the world. Such comparative analysis would provide useful insights into the unique drivers and factors that contribute to corruption in Lebanon and how it compares to other countries.

Qualitative research: Most of the studies on corruption in Lebanon rely on quantitative data and analysis. Qualitative research that examines the social, cultural, and political dimensions of corruption in Lebanon would provide a more nuanced understanding of the issue and its underlying causes.

Globally, while there have been extensive studies and research on corruption in various fields such as economics, political science, law, and sociology, there are still some gaps in academic research about corruption. Here are some potential areas where further research is needed:

- **The role of technology in corruption:** As technology continues to advance, there is a need to explore how it affects the nature and extent of corruption.
- **The impact of corruption on different stakeholders:** While most research on corruption has focused on its economic and political impact, there is a need to explore its effects on other stakeholders such as society, the environment, and human rights.
- **The intersection of culture and corruption:** While there has been research on the cultural dimensions of corruption, there is a need for more comprehensive and comparative studies that explore how different cultural factors interact with corruption.
- **The effectiveness of anti-corruption measures:** While many countries have implemented various measures to curb corruption, there is a need for more research on the effectiveness of these measures and their impact on reducing corruption.
- **The relationship between corruption and inequality:** While corruption is known to exacerbate inequality, there is a need to explore the ways in which inequality itself can contribute to corruption.

These are just some examples of the potential gaps in academic research on corruption. However, researchers are continually making progress in expanding our understanding of this complex issue.

3. Research Design and Methodology

Proposed hypotheses:

H1: There is a relation between “Taif agreement” and corruption in Lebanon.

H2: Politicians in Lebanon are the main reasons behind corruption.

H3: Corruption is affecting the economic situation of Lebanon.

H4: Corruption is affecting businesses in Lebanon.

H5: There is a relation between the economic situation and the businesses in Lebanon.

H6: There is a relation between corruption and pollution in Lebanon.

H7: Corruption is affecting the number of cancer cases in Lebanon.

Throughout the questionnaire, we managed to tackle corruption in Lebanon in three main fields: business and economics, environment and public health, and electricity.

In order to study the history of corruption in Lebanon along with its current effects and long-term implications, a questionnaire was conducted with a total of 60 responses out of which 58 of those were considered to be reliable and valid. Out of the respondents, 53.8% were females (35) and the remaining respondents were males which accumulate to 41.7% (25) (**Table 1**).

The age in years ranged between 18 and 64 whereby more than half (53.8% of which accumulates to 35) had an age ranging between 18 and 24, 14 respondents between 25 and 34, 5 respondents between 35 and 44, 3 respondents between 45 and 54, 2 respondents below 18, and 1 respondent between 55 and 64 (**Table 2**).

Gender	Percentage	Number
Male	41.7%	25
Female	58.3%	35

Source: Questionnaire.

Table 1.
Male and female percentages.

Age	Percentage	Numbers
18 and below	3.3%	2
18–25	58.3%	35
25–34	23.3%	14
35–44	8.3%	5
45–54	5%	3
55–64	1.7%	1
64 and over	0	0

Source: Questionnaire.

Table 2.
Age percentages.

Education	Percentage	Number
High School Student	13.3%	8
High School Graduate - College Credit	5%	3
Bachelor's degree	53.3%	32
Master's Degree	25%	15
Doctorate Degree	3.3%	2

Source: Questionnaire.

Table 3.
Education percentages.

Also, the respondents were asked for their educational level; 32 respondents have a bachelor's degree, 15 respondents have a master's degree, 8 were high-school graduates, 3 were high-school students, and 2 respondents have a doctorate degree (**Table 3**).

The questionnaire consisted of 22 questions in total: 3 demographic questions (age, gender, and educational level), 4 polar questions (yes/no), 6 multiple-choice questions (with more than one answer to be selected), and 8 open-ended questions. In addition, the questions were regarded as qualitative as they analyze the characteristics as it focuses on historical incidents and future insights.

The questions that were administered through the questionnaire did not have right or wrong answers but rather studied the Lebanese people's perspectives on corruption based on factual information and historical dates.

The questionnaire was administered to Lebanese people in May 2022 living in Lebanon exclusively and more specifically university students as they are the most familiar with the core of the politics in Lebanon recently. The data was collected and analyzed online, by sending the link over the internet and automatically submitting the response and calculating percentages or saving answers through online databases.

4. Results

In order to enhance the precision and reliability of our research, we categorized the survey questions into four domains, namely government, economy and business, electricity, and pollution, and examined them in the context of corruption. The domain of economy and business in Lebanon is significantly impacted by corrupt practices. According to the research findings, political instability and corruption are the primary reasons why businesses avoid investing in Lebanon, as reported by 83.9% of the respondents for political instability, 80.6% for corruption, and 22.6% for environmental factors (**Figure 1**) [29].

Furthermore, the study included questions related to the political affiliations of businessmen and the influence of politicians on business operations. Respondents provided various answers, including political power, financial gains, control over the economic sector, privilege over other businessmen, and the belief that the involvement of politicians is necessary for business success. Regarding the payment of bribes by foreign corporations in Lebanon, responses were divided between those who believed it to be true and those who did not. Those who agreed with the statement cited the facilitation of work, business success, and the systemization of corruption as

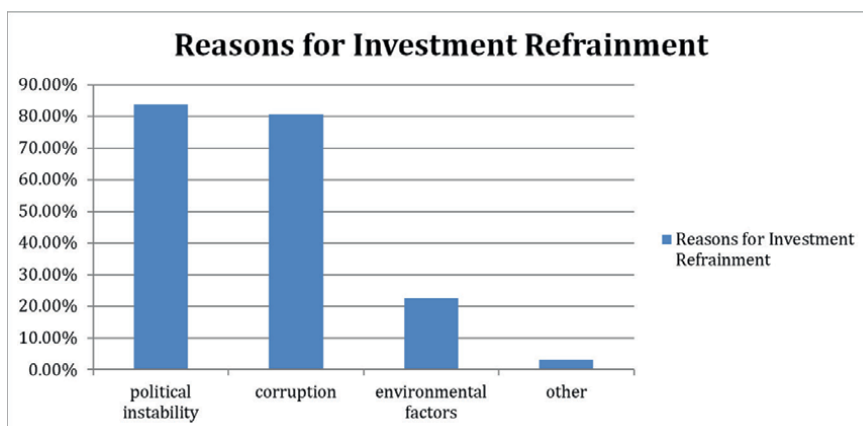


Figure 1.
Reasons for investment refrainment. Source: [29].

reasons, while those who disagreed argued that foreign corporations are governed by external laws and regulations. The study also investigated the reasons behind political firms claiming a monopoly in the market, with responses including violation of laws, political rewards and compensations, cover-ups for actual business deals, and the avoidance of competition [30]. This supports the hypothesis H2 that politicians in Lebanon are the main reason behind corruption.

The study also included an examination of corruption in the banking sector, which revealed that the Banque Du Liban was involved in corrupt practices. Consequently, participants were asked for their views on private sector banks. The respondents expressed their belief that these banks prioritize profit, maintain political connections, and are closely linked to the Banque Du Liban (BDL) [31].

In addition to corruption in the banking sector, the study also explored corruption within the government. The study found that corruption in various situations can be traced back to the government. Specifically, respondents were asked about the responsibility of Taef's accord in the current situation in Lebanon, and the majority of the respondents (54.8%) attributed responsibility to the accord, while 32.3% were skeptical and 12.9% did not believe that the accord was responsible [31]. This validates the hypothesis H1 that there is a relation between Taif agreement and corruption (**Figure 2**).

The research findings revealed that 83.9% of the respondents answered affirmatively when asked if opposing political parties in Lebanon have an under-the-table agreement with each other, with only 9.7% expressing uncertainty and 6.5% denying the possibility. In addition, when asked about the branch of government held responsible for Lebanon's current situation, a majority of 87.1% believed that all three branches should be held accountable, with 8.1% blaming the executive branch, 11.3% blaming the legislative branch, and 9.7% blaming the judiciary branch.

Regarding Lebanon's instability and informality, a significant percentage of respondents identified authority structures (80.6%), claims to power (61.3%), sets of rules (58.1%), and logic of orders (56.5%) as the main contributing factors. Moreover, when asked whether they still follow any political party, more than 75% of respondents answered negatively, indicating a positive trend toward political neutrality among the Lebanese population.

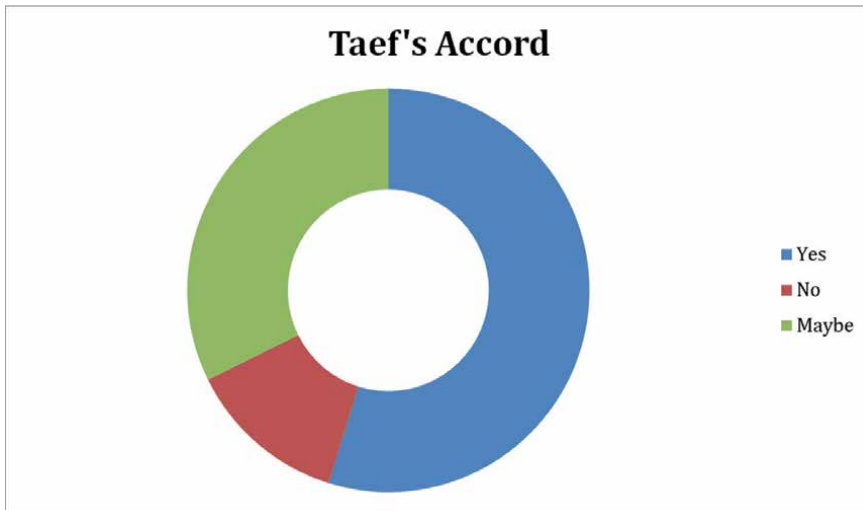


Figure 2.
TAEF's accord. Source: [31].

Concerning the electricity sector in Lebanon, the study found that it is plagued by various issues such as corruption, mismanagement, and lack of investment.

In the study, respondents were asked two questions regarding the electric sector in Lebanon. The first question aimed to explore the potential correlation between the financial drain on the electric sector and its impact on the country's public debt, consequently leading to inflation of the local currency. A majority of respondents (64.5%) answered yes, indicating a perceived relationship between the financial resources drain in the electric sector and the country's public debt. Meanwhile, 14.5% reported no, and 21% answered maybe, suggesting a level of uncertainty on the matter. The second question focused on how the government impacts the country negatively in the electric sector. The respondents were asked to choose from three options, including pollution (environment and public health), distribution of power range, and electric power to the rich. The results indicated that the majority of the respondents thought that the government was impacting the country negatively through pollution (environment and public health) with 62.9% of the responses. Additionally, 66.1% of respondents believed that the government was impacting the country negatively through the distribution of power range, while 51.6% answered through electric power to the rich. This supports the hypothesis H3 that states that corruption is affecting the economic situation in Lebanon (Figure 3).

In the administered questionnaire, an open-ended inquiry was included to explore the approach by which Electricité du Liban (EDL) provides electricity to political elites without receiving any financial benefits. Respondents reported that citizens are overcharged, and the expenses of the political elites are borne by the taxpayers [32]. Additionally, the questionnaire investigated the distribution of jobs at EDL, and respondents perceived it as corrupt, unfair, sectarian, and nepotistic [32].

Environmental pollution was another theme in the questionnaire, and the participants were asked two questions. The first question aimed to assess if the pollution in Lebanon, which is linked to the civil war (1975–1990), is attributed to the dumping of nuclear waste in populated areas. The findings revealed that 46.8% of the respondents answered "yes," 12.9% replied "no," and 40.3% chose "maybe" [32]. The second

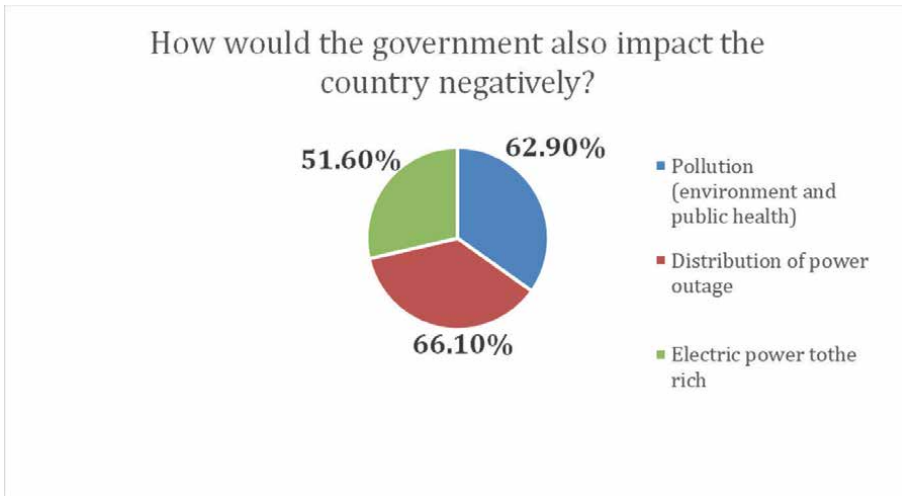


Figure 3.
 How would the government also impact the country negatively? Source: Questionnaire.

question aimed to explore how politicians could fill up garbage landfills within a short period of 25 years. Three options were provided, and the results indicated that 80.6% of the respondents believed that it was through under-the-table contacts, 40.3% reported public contracts, and 33.9% suggested that garbage was being sold [32]. This proves the hypothesis H6 that there is a relation between corruption and pollution in Lebanon (**Figure 4**).

Another question of the questionnaire addressed the issue of the validity of cancer statistics in Lebanon. A significant proportion of respondents believed that cancer figures are unreliable due to manipulation of data (56.5%), political cover-ups in public and private hospitals (62.9%), and incomplete registry (38.7%). Furthermore, garbage landfills were identified by respondents as a source of environmental pollution and public health impacts. In addition to these effects, respondents also reported that garbage landfills contribute to increased cancer rates, contamination of food, and deterioration of tourism. This supports the hypothesis H7 that states that corruption is affecting the number of cancer cases in Lebanon.

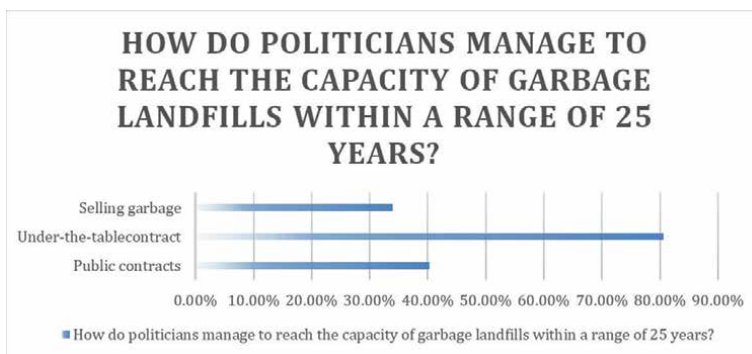


Figure 4.
 How do politicians manage to reach the capacity of garbage landfills within a range of 25 years? Source: [32].

5. Discussion

5.1 Business and economics

The extent of corruption in the business field has been a matter of concern for policymakers and the general public alike. To explore this issue, a survey was conducted, which revealed that Taef's agreement has been the main catalyst for Lebanon's downfall. Taef's accord, which dates back to over 30 years ago, established a consociational power-sharing system that laid the foundation of sectarianism in Lebanon [5]. This has resulted in political instability and corruption being identified as the main obstacles to businesses operating in Lebanon.

According to the Lebanese Opportunity, in addition to unemployment, corruption, and debt, Lebanon is currently facing a dollar liquidity crunch. Banks have imposed restrictions on dollar withdrawals, despite the absence of official capital controls. Since October 17, 34 percent of businesses have cut employee compensation, and 49 percent of employers have had to cut staff salaries by approximately 39.7% due to the crisis. This clearly indicates the instability in the Lebanese market.

Furthermore, Stel and Naudé ([12], 264) contend that the political class in Lebanon is deeply integrated into the corporate sector. They note that the majority of businesspeople are former or current politicians who are also businesspeople. This observation highlights the fact that politicians are the main source of corruption in Lebanon. It also provides an explanation for why corruption is a significant obstacle to businesses operating in Lebanon, given that the majority of businesspeople are former or current politicians.

Furthermore, respondents were asked to give their insights on why political enterprises claim a monopoly in the market. Results showed that reasons behind such monopolies include violations of laws, political rewards and compensations, cover-up for true commercial dealings, and avoidance of competition. These findings illustrate the negative impact of political influence on the business environment in Lebanon.

In this study, participants were inquired about their views regarding the link between politics and business in Lebanon. Results revealed that political power, financial gain, economic sector domination, privilege over other businesspeople, and the necessity of political involvement for business success were among the reasons why politicians have a significant impact on business operations. Moreover, Chaaban's [19] study on Lebanon's banking industry indicated that political ties between politicians and businesses are prevalent. In fact, 15 out of the 20 banks examined had a politician on their board of directors, and six of the board members held public office. However, such practices have led to negative consequences for banks as they have higher loan default rates for businesses with stronger political linkages. This is due to banks providing loans to businesses in exchange for political favors without proper procedures or financial assessment.

Additionally, participants were questioned about bribery in Lebanon by international firms. According to the United Nations, approximately 43% of foreign firms frequently or very frequently pay bribes, while 40% pay bribes occasionally. These results indicate that bribes are commonly being paid by foreign firms in Lebanon.

The present study aimed to explore the impact of political connections on job production and the economic sector in Lebanon. According to Helou [15], an additional political connection results in a 7.2 percent decrease in job production.

Although having political connections is advantageous to business, the process of repaying politicians ultimately reduces their overall production. Moreover, the political atmosphere can also have a negative impact on the economic sector, even when no politician is directly involved. When investigating the banking sector, Chaaban [19] discovered that 15 of the 20 banks he examined had a politician on the board of directors, and six of the board members held public office. However, these political linkages have been shown to be harmful to banks, as businesses with stronger political ties have higher loan default rates, indicating that banks provide loans in exchange for political favors without proper procedures.

The research findings indicate that under-the-table arrangements exist between rival political parties. Moreover, 87.1 percent of respondents believed that all three branches of government should be held responsible for Lebanon's current state, whereas 8.1 percent blamed the executive branch, 11.3 percent blamed the legislative branch, and 9.7 percent blamed the judiciary branch. According to the research, the judiciary branch was the focus of the investigation, with the Supreme Judicial Council, a ten-member council responsible for appointing and overseeing judges, being heavily influenced by the executive branch, particularly the Ministry of Justice, which appoints eight of the ten members and has a significant influence over the judiciary's budget and judge appointments. This goes to support hypothesis H5 which states that there is a relation between the economic situation in Lebanon and the businesses in Lebanon.

Regarding electricity in Lebanon, 64.5 percent of respondents believed that the depletion of financial resources in the electricity sector was linked to the country's public debt, resulting in local currency inflation. The depletion of financial resources in the electricity sector has been a major contributor to Lebanon's rising public debt, averaging 3.8 percent of GDP annually over the last decade [15]. The present study highlights that the financial resource drain from the electricity sector has contributed to Lebanon's current economic collapse, leading to the devaluation of the Lebanese pound, high inflation, and increased unemployment and poverty.

A question in the survey focused on the negative impact of the government on the country, specifically in relation to pollution, power distribution, and electric power to the wealthy. According to research conducted, the expansion of diesel generators in densely populated residential areas has had a significant negative impact on the environment and public health. The presence of diesel generators for only three hours a day has led to an increase in carcinogen exposure in Beirut areas, resulting in a 60% increase above background levels without generators. The uneven distribution of power outages, difficulty for certain groups to finance a connection to a generator network, and the growth of powerful neighborhood-level structures all have substantial implications for energy access and justice. In the survey, respondents also raised concerns about the way by which EDL supplies electricity to political leaders without receiving any monetary compensation, resulting in overpricing citizens who bear the costs of other citizens through taxes. According to Abdelnour [23], 55% of EDL bills are unpaid, while 45% of electricity generated is not billed, resulting in a burden on citizens and private businesses who must pay huge fees to the EDL due to inflation. Additionally, respondents were asked about the possible link between pollution in Lebanon, dating back to the civil war, and the dumping of nuclear waste in civilized areas. The research shows a significant increase in reported cancer cases in Lebanon since the 1990s, indicating that the dumping of nuclear waste is likely a contributing factor to pollution in the country.

Another question inquired about the ways in which politicians could fill waste landfills within a 25-year period. Among the three options provided, 80.6% of respondents chose under-the-table contracts, 40.3% chose public contracts, and 33.9% believed politicians were selling junk. According to Yahya, when the main landfill in Lebanon reached full capacity and the government's garbage collection contract expired, there was a political stalemate as proposals for a new contract became heavily sectarian and geared toward personal gain. Therefore, the preferred response was under-the-table contracts.

Another question pertained to cancer statistics in Lebanon, which many respondents felt were inaccurate due to data tampering (56.5%), political cover-ups in public and private hospitals (62.9%), and an incomplete registry (38.7%). Research has revealed that Lebanon has the highest cancer rate in the Arab world and one of the worst in the eastern Mediterranean, with 242.8 cancer patients per 100,000 persons (WHO & GCO). This number may actually be an underestimation due to an imperfect national registry that fails to include private hospital records (WHO & GCO). In comparison, Israel, a country with nuclear power and resulting nuclear waste, has an estimated 233.6 cancer patients per 100,000 individuals (WHO & GCO). This goes to support hypothesis H7.

6. Conclusion

The survey conducted on the Lebanese population sheds light on various issues plaguing the country. It is clear from the responses that corruption and nepotism are rampant in the government and its associated institutions, leading to mismanagement of resources and deterioration of public services. The public has lost faith in the government and political parties, with the majority of respondents reporting that they do not follow any political party. The electricity sector was a significant concern for the respondents, with many believing that the government is responsible for the sector's problems, including pollution and distribution issues. Pollution was a prevalent issue, with the respondents reporting various problems, including contamination of food and increased cancer rates. It is clear that the government needs to address these issues to improve the country's situation and regain the public's trust.

The current study, like any other, has some limitations. To begin with, the study's sample and data processing were flawed. This study's survey was lengthy, with 20 questions, and some respondents were unable to complete the entire questionnaire as some stated that they do not know what is Taif agreement while others they do not have time to complete the open-ended question. It would be worthwhile to replicate this experiment with a larger sample size in order to get a clearer picture of what is going on in Lebanon. Second, due to the brief time frame for data collection, the sample size is restricted to only 60 respondents. Third, because the questionnaire is self-reported, replies may be given at random. Forth, my study focused on pollution, business and economy, and Electricity. Including greater variety in the sample in the future might help us better grasp what's going on in Lebanon. Fifth, Citizens should be interviewed to gain a better understanding of how corruption impacts them and how they see the rule of law and the judicial system. Sixth, there is a geographic limitation where the study was only conducted in Lebanon instead of reaching a wider audience. Furthermore, this research was limited to understanding corruption

in Lebanon only and while it does contribute to the larger literature on corruption, it would be worthwhile to perform cross-national comparisons with other Middle Eastern, non-Western, and Western nations to gain a better understanding of how corruption changes in different contexts. It would also help to better understand the impact of corruption on various cultures and legal systems, as well as the type of corruption in these settings.

Based on the results discussed above, recommendations would be given to decrease the effects of corruption in Lebanon:

- Show your support for the National Anti-Corruption Strategy.
- Make the National Anti-Corruption Commission a top priority.
- Support for monitoring and oversight agencies.
- Transparent funding mechanisms.
- Support for independent media and watchdog organizations.
- A civil society-led anti-corruption front.
- Promotion of the Right to Access Information Law.
- The Lebanese Association of Certified Public Accountants (LACPA) should make necessary agreements with the Lawyers Community in Lebanon to train accountants on legal methods.

7. Future research


The globalization of corruption and its influence on non-Western nations should be the subject of future research. Because international anti-corruption groups are founded on Western rhetoric, it is crucial to keep track of how regulations are implemented in non-Western nations. By doing this research you can differentiate yourself from other countries and work on the weak points that you find in your country. Wider research on corruption in the different fields should be included in the future. Corruption is a ridiculously huge title that holds a lot of complications and meaning which have a profound impact on people's life. Regarding the limitation of interviewing citizens, a real interview should be conducted to have an accurate and direct response to support the transparency of the research.

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This book is a collection of chapters on corruption. It highlights the importance of corruption, transparency, and accountability and ways to deal with it. Understanding the types of corruption is very important to know how to deal with it. Types of corruption include bribery, lobbying, extortion, cronyism, nepotism, parochialism, patronage, influence peddling, graft, embezzlement, double-dealing, under-the-table transactions, manipulating elections, diverting funds, laundering money, and defrauding investors. Identifying corruption in all its forms requires analyzing the country and its political system and laws and rooting out the sources of corruption and the people behind it. Corruption and those participating in it must be identified to find ways to deal with it, including installing proper governance mechanisms with complete transparency and accountability for politicians, people in power, and/or citizens, as well as applying rules and holding those who infringe them accountable. This book provides a comprehensive overview of the many types of corruption and how to handle them.

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