
CHAPTER 11

Anti-Corruption Agencies

Can Anti-Corruption Agencies be Successful in Combating Corruption?



Introduction

Anti-Corruption Agencies (ACAs) have, over the past 2 decades, received a great deal of attention and criticism because of the high visibility of their work and their seemingly limited impact compared to the resources devoted to them.

Although they are a new institutional response to corruption (as suggested by de Sousa, 2010), ACAs are often misunderstood and insufficiently analyzed. A few authors have tried to systematically evaluate the effectiveness of ACAs.¹ This chapter builds on this literature and focuses on three less known experiences (UK, Lithuania, and Bhutan) to emphasize the importance of having a political commitment to tackling the problem of corruption, developing a deep understanding of the nature of the corruption problem, and mapping the existing institutional landscape before establishing a new anti-corruption agency if it is to be effective.

Is a stand-alone agency the best model?

A structured response to corruption often draws heavily on the United Nations Convention Against Corruption (UNCAC) as a comprehensive practitioner framework. UNCAC Article 6 requires States Parties to establish (or ensure the existence of) anti-corruption body/bodies to take ownership of the corruption prevention policies, practices and procedures required by Article 5. Article 36 requires States Parties to ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Both Articles propose standards for such institutions, including that they should be independent, specialized, staffed, and have sufficient resources to meet their roles and responsibilities.

Many governments, multilateral and bilateral donors have suggested or opted for the establishment of a single agency—an anti-corruption agency (ACA)—to undertake both Articles' functions. This approach has been reinforced by the perceived success of the Hong Kong experience. This route has resolved the reluctance of many donors to engage with existing inadequate and compromised public sector and law enforcement institutions. Many donors have therefore welcomed the establishment of a single agency to focus on 'corruption' and, through

project funding, have supported these efforts as evidence of a country's anti-corruption commitment. However, in a misreading of UNCAC, the focus on combining both Article 6 and 36 responsibilities has meant that these new agencies are often expected to take on a disparate range of roles, which may include national anti-corruption strategies, covert intelligence and money laundering investigations, asset disclosure and registration, and awareness programs for civil servants and citizens.

Despite the increase in the number of ACAs, their success has been mixed and limited. Experiences from countries show that most of these agencies have fallen short of achieving the organizational standards set by UNCAC. The independence of the institutions (functional, budgetary and appointments), strategic focus, human and financial resources, and mechanisms for collaboration and coordination fall short of what would enable them to be effective. They have therefore not been successful in delivering according to their mandates and in line with citizens' expectations, and in many cases have not had any significant impact on the trends, types and levels of corruption in their jurisdictions.

The pervasive institutional limitations raise questions as to whether the model of a stand-alone multi-functional ACA is the right one, or whether the need can be addressed through existing institutions. Focusing attention on organizational inadequacies essentially ignores basic questions such as: Have ACAs been able to address the corruption 'problem', which is what they were set up to do? More importantly, is a dedicated agency the effective response, as part of a country risk-based anti-corruption strategy? These questions direct the focus onto a few relevant issues that give rise to further questions: (i) Was the 'problem' sufficiently defined to justify the need for a dedicated and often new agency? (ii) Does such a definition provide the basis from which to design a fit-for-purpose body and ensure its effective functioning? and (iii) Were wider issues, such as the agency's organizational development and maturity, and its fit within its external institutional and operating environment taken into account? These three relevant issues will be returned to later in this chapter. To provide the context, it is necessary to look at two aspects of these basic questions.

Corruption and the environment

Corruption has all too often been regarded as a stand-alone issue that can be addressed through the establishment of a stand-alone agency. Corruption is considered a core inhibitor of issues related to democratization, economic development, human rights and the rule of law. While UNCAC provides an adequate summation of the types of offenses and unacceptable conduct that it considers corruption (and by implication indicates a range of institutions that should be involved in combating it), it silos corruption as a stand-alone issue. Accordingly, an ACA is a stand-alone response, from both the causes of the problem and from other areas of financial crime, as well as from other inhibitors

of democratization, economic development, human rights, and the rule of law.

In most cases, countries do not develop a national anti-corruption strategy in advance of establishing an ACA and so do not tailor the design of such an agency to the problem.² In the absence of such a strategy, there is often no pre-agency assessment of exactly what type of corruption is to be addressed and whether a dedicated ACA is an appropriate response. There is also limited understanding of the roles and responsibilities of the ACA and of its mandate with respect to other law enforcement and public sector



institutions. Knowing the problem and clarifying how it is to be addressed ensures that an ACA can be designed to be focused and fit-for-purpose, and avoid getting involved in areas that do not fall within the normal understanding of corruption or becoming essentially the institutional repository of anything that has a ‘corruption’ dimension.³ At the same time, there is often a lack of clarity over the roles and responsibilities of other key institutions which also play a role in combating corruption, as well as the mechanisms and incentives to ensure the inter-connectedness and inter-dependence of the institutional landscape.

UNCAC itself does not recognize the dynamics of corruption as an operating environment.

This includes not only where corruption causes the most harm, promoting exclusion and inequality, or how far it may be rooted in legacy and cultural issues. It does not necessarily identify addressing corruption as a means to other developmental ends, such as fixing countries’ tax bases. Nor does it allow for the need to adjust or adapt the work of ACAs, or—by not specifying the roles of organizations—ensure the allocation of

responsibility more properly taken on by other bodies. This is partly a consequence of the antecedents of UNCAC, partly its use of mandatory and optional classifications, and partly its presentation as a legal document suitable for treaty purposes. Hence, it is a prescriptive document (rather than a working document amenable for updating, revision and adaptation) and a continuing driver for addressing corruption at the multilateral or bilateral level to the point where *not* having such an ACA becomes the exception to the norm. The prescriptive nature of UNCAC, reinforced by its current review process, lacks an approach that recognizes corruption’s developmental and country-specific trajectories as the starting point to assess the most effective strategic and institutional response to a dynamic phenomenon. Further, continuing to see corruption as a stand-alone issue has implications when it becomes less an end in itself than as a facilitator of issues being addressed by other agendas and agencies (for example, that of money laundering as a cornerstone of the fight against international illicit money flow, people trafficking, terrorist finance, and organized and serious crime).

Agency and the environment

Answering the ‘problem’ and ‘need’ questions

Establishment of a dedicated ACA based on a successful model from another country is a commitment to address corruption without considering the country-specific institutional environment which is long recognized as playing a significant role in determining the likely effectiveness of an ACA.⁴ Although the success of the Hong Kong model (i.e., the establishment of the Independent Commission against Corruption) can be explained by the specific institutional circumstance, it is frequently seen as an explicit and immediate commitment to anti-corruption. It has also been assumed that the fully-formed replica, as the distillation of good operational practice and appropriate organizational arrangements, can become active and effective immediately, irrespective of both the necessity of the UNCAC standards for such agencies’ organizational development and maturity in practice,

and the relationship with the agency’s external institutional and operating environment. This results in an expectation of high-level performance and quick results. Such outcomes, however, are predicated on an ‘ideal type’ organizational platform, without too much thought about what is required in organizational terms to deliver the expectations. At the same time, the point when an ACA is established is often the point at which it is loaded with most, if not all, the roles and expectations to address corruption without giving due consideration to parallel roles in the institutional landscape and complementary reforms in the wider environment. It has implications for the longer-term organizational capacity, capabilities, maturity, and credibility of the ACA, its perceptions among citizens, and its *impact* on the ‘corruption’ problem.

Rather than seeing the establishment of an “ideal ACA” as a panacea to address corruption, one could explore other options. One solution is to use the country’s vision as articulated in the National Anti-

Corruption Strategy (NACS) to determine whether an ACA is needed or whether an alternative response may be found among the existing institutional arrangements. Another solution, if an independent and new agency is considered necessary, may lie in supporting its establishment and evolution over time. This in turn requires defining 'success' in organizational terms and ensuring the necessary competences and approaches that support the evolution of the organization within its external environment to achieve the desired outcomes. Such a consideration may require an approach which

looks to support organizational maturation issues until such point as the ACA is consistently able to do something achievable *well* within its existing resources and capabilities. Further, and perhaps more importantly, it is seen to do something *well*. This means working toward the 'good enough'⁵ (or best possible) ACA and beyond until it is robust, credible and fit for the purpose for which it was intended (so long as that purpose has been identified). The next pages offer three examples of such alternative solutions and their effectiveness in addressing corruption at the country level.

Modell: Building an anti-corruption response from the existing institutional landscape

The United Kingdom (UK) was increasingly seen as a safe haven for illicit financial capital. The label 'Londongrad'⁶ exemplified the longstanding preference of politicians and other Politically Exposed Persons (PEPs) for London as a safe investment and relatively relaxed regulatory regime for a high-end net worth resident lifestyle. As the media often commented, law enforcement or other dissuasive actions had been limited. The scale of the laundering of criminal proceeds, as the UK's National Crime Agency warned in its 2015 threat assessment, was 'a strategic threat to the UK's economy and reputation'. The government's *Anti-Corruption Plan* (2014) aimed to more effectively tackle 'those who engage in corruption or launder their corrupt funds in the UK' as well as return the proceeds of corruption (a core tenet of UNCAC in Article 3 but imperfectly applied thereafter by most developed countries).⁷ This commitment was reinforced by Prime Minister David Cameron at the 'International Anti-corruption Summit' in London in 2016.

The UK's plethora of agencies with different and competing mandates and administrative costs limited any coordinated response to investigating international corruption and the proceeds of international corruption. There are nearly 50 police forces in the United Kingdom and a smaller number of agencies with a national remit, notably the National Crime Agency (NCA), the Serious Fraud Office (SFO) and the Crown Prosecution Service (CPS). Much of the effort to develop agencies' relationships with

other agencies is framed by strategies or plans (such as the police fraud strategy, the 2014 Anti-corruption Plan [now the UK anti-corruption strategy 2017-2022], the serious organized crime strategy, the cybercrime strategy, and so on). There are high-level boards and inter-agency arrangements to facilitate intelligence, case-sharing or inter-agency work. Within such a patchwork institutional landscape, all of whom have been the subject of year-on-year financial cuts and of competing policy agendas, the cost associated with investigating bribery allegations in foreign jurisdictions, and the cost of identifying, tracking and recovering the proceeds of corruption, severely limited the response options. Certainly, a new dedicated agency was never on the table but a possible reconfiguration of existing expertise within existing institutional arrangements was.

The UK established the International Corruption Unit through a reconfiguration of expertise within existing institutional arrangements. The Department for International Development (DFID) took the lead through a senior official who operated as the institutional 'boundary-spanner'⁸ in negotiating between agencies and adapting responses to changing circumstances. The official was authorized to commit, ring-fence and oversee dedicated resources and influence the selection of likeminded officials to lead the initiative operationally.⁹ This enabled the allocation of dedicated investigation and intelligence units within existing law enforcement agencies, who were able to

draw upon their agencies' in-country liaison officers and other technical support, with access to dedicated CPS prosecutors. Practice demonstrated the need for greater flexibility as well as removing demarcation issues between the various units and agencies for more effective coordination and cooperation, as well as intelligence-gathering and information-sharing. Thus, further reconfiguration within existing law enforcement arrangements was achieved in terms of amalgamating intelligence- and investigation-based work. The outcome was the establishment of the International Corruption Unit (ICU) within the NCA, which also houses the UK Financial Intelligence Unit. The NCA also managed the ICU's administrative, human resources, training, and other functions, with salaries, expenses and travel still largely funded by DFID.

The ICU was given dedicated staff and budget, and its capacity was enhanced, including support from the NCA, which yielded positive results. The ICU has had an annual budget of some £4 million and a staff of 45 persons, of whom 30 were frontline investigators. It also has seconded officials from the SFO and the Financial Conduct Authority (the regulator for financial services firms and financial markets in the

UK) to facilitate information-sharing. Staff expertise is enhanced by NCA financial investigator training, as well as bribery investigations training run by the City of London Police. Specialist support is accessible through NCA intelligence collection techniques, which the NCA can deploy in pursuit of its crime reduction mandate as well as the international liaison network of NCA officers attached to embassies overseas. In terms of organizational impact, the ICU currently has a caseload of 23 cases, and with current resourcing, they can handle in the region of 23-25 cases. By 2018, the value of assets restrained in the UK and overseas exceeded £683 million, while the cumulative amount of assets confiscated exceeds £55 million.

The key role played by the 'boundary-spanner' cannot be over-emphasized. The ICU's achievement very much reflects the intentions of UNCAC Article 36 and has relied on the flexibility of existing institutions and the availability of the 'boundary-spanner'—a senior official with a clear focus and a degree of executive and financial authority as well as trust from relevant institutions to deliver the necessary institutional reconfigurations and maintain, to date, its organizational development and consolidation.

Model II: A 'best possible' agency

A deep understanding of the institutional and operating environment is crucial for the design of a dedicated agency. Lithuania's post-Soviet transition to democracy was impacted, not surprisingly, by former Soviet-led institutions and bureaucracy. As part of accession to the European Union, the European Commission insisted that Lithuania address corruption, which, given the legacy issues, meant that the solution would be a political issue. The government recognized the necessity to secure external support to address corruption with an aim to secure membership of relevant western liberal democratic groupings, such as the European Union and NATO, and later OECD.

Following its establishment, the new agency benefited from internal and external guidance and followed a shrewd path. After due deliberations by commissions and with cross-party support, the Special Investigation Service (STT) was established. It was

located as a unit within the Ministry of Interior and was able to handpick experienced staff on enhanced terms. The STT also drew on Ministry resources and technical expertise internally, as well as US expertise and resources and then EU consultancy programs externally.¹⁰ While the model may (to some¹¹) seem like the three-function Hong Kong model, the Lithuanians saw the model as 'the FBI model which was the most viable, economically feasible, and efficient'.¹² The FBI provided the STT with early advice and support. The model in practice was very much a law enforcement-defined agency that focused on embedding its functions and competences. It did not over-extend itself within an evolving democratic context with pre-existing patterns of corruption and new ones emerging. In this context and against widespread citizen perceptions of corruption, the STT reflected what might be termed as an evolution towards a 'good enough' agency that was able to maintain organizational competence, resilience, and shape.

In the early years of democratization, Lithuania benefited from a number of international programs to improve its law enforcement areas and help it to assume the obligations of EU membership.

The primary focus was on strengthening the STT's investigative, intelligence and analytic functions. From the establishment of STT within the Ministry of Interior in 1997 to its establishment as an independent agency by law in 2002, it reported to the President and Parliament, which helped it to avoid isolation. This also addressed all the organizational issues that a new, independent agency was perceived to have suffered from in other countries. The STT was able to access in-house technical services and practitioner training and guidance that reinforced its own perceptions of its roles and requirements. STT's successful progression from an agency under a ministry to an independent fit-for-purpose agency can be attributed to a number of factors:

1. **From the outset, the STT was seen as a quasi-law enforcement agency focusing on corruption** (which in turn is largely limited to bribery and abuse of office offenses). Its functions also included corruption prevention and corruption awareness, but these were seen as subordinate to its core function. It had strong leadership committed to its core function, who had direct involvement in directing the early shape and ethos of the agency; in 2006, about 83 percent of the STT budget was allocated for criminal prosecution and by 2014 nearly two-thirds of staff continued to work in this area (just over 10% work in the areas of prevention and awareness).
2. **STT had the right human resources.** Its original employees, a number of whom moved later into management roles within the agency, had experience of work in other law enforcement institutions and were usually university graduates. The pattern (and method) of recruitment (by type, background and educational level) has largely been maintained. Despite losing staff when the original enhanced-salary scheme was ended and when private sector posts had greater attraction, the STT managed to maintain both its staff complement at around an average of 250, as well as the type of staff it wanted to appoint. This contributed to maintaining a continuing organizational culture. It also has taken a robust approach to those considered unsuitable for the organization (at times moving out up to 10% of staff in a particular year). The recent years indicate a gradual reduction of staff turnover (to 3%), which ensures continuity as well as retention of expertise and institutional memory.
3. **STT benefited from a continuous practitioner and technical training program.** Although the initial focus on the criminal investigation of corruption appeared to commit significant resources to minor offenses, the accumulation of competence and experience has been reflected in more recent years in an increasingly higher level of offender, primarily senior public sector and criminal justice officials.
4. **STT's effectiveness resulted from the combination of a strategic approach taken on the basis of informed intelligence and specific technical approaches.** Both covert and 'open source' intelligence informed strategic thinking as well as investigations. This, coupled with technical approaches and analysis, helped in corruption case management and in mapping the corruption problem by type and function, thus providing a better understanding of the drivers and location of the risk (some of which informed its prevention and awareness work).
5. **STT established early in its development the need for a 5-year strategy supplemented by an annual business plan and a performance management regime.** The budget was maintained, rising moderately in recent years, allowing it to maintain and recruit staff. This in turn enabled it to function effectively without significantly overloading the organization in terms of caseloads or cases that stretched the capacity and competency of the organization especially in the early years.
6. **STT succeeded in developing links with domestic and overseas organizations that were able to provide valuable guidance to the newly established agency.** It managed to negotiate the difficult formative years and survived countervailing influences and agendas as a consequence of both its strong but politically-connected leadership and its equally strong esprit de corps among its staff. This was facilitated by methods of recruitment and internal promotions, as well as its focus on a law enforcement approach to its investigative functions.

Model III: A specialized agency: The importance of assessing the institutional landscape and operating environment

Moving towards a democratic society that has a strong traditional culture has both benefits as well as unintended consequences for addressing corruption. This is demonstrated by Bhutan, a country that began the process of democratization from an environment where the society and state were largely based on personal connections and kinship. The consequence, according to a 2007 external review, was strong concentration of powers; weak or non-existent checks and balances; poor transparency; undefined discretionary powers; unclear rules and procedures; and patronage.

The Bhutan Anti-Corruption Commission (ACC) was established as part of the 2005 constitutional arrangements, with the aim of rooting out corruption right from the beginning. It was very much a pre-emptive move announced by the Royal Decrees to anticipate the consequences of social, economic, and political change and curb 'self-interest leading to corrupt practices'. The corruption 'problem' appeared to relate more to the risks posed by the emerging democratization process than to what may be described as traditional cultural behavior. Little attention was given to the potential consequences of criminalizing such practices or to the effect of democratic notions of public accountability and merit-based decision-making on the existing currency of social and political relationships within the state.

The ACC as a single agency had an extensive portfolio of responsibilities and its staff and activities were quickly ramped up. It was expected to address criminal behavior and had powers to prevent and investigate corruption. The ACC began work in 2006, with 3 commissioners and 8 staff. Within 5 years it had 3 commissioners, 16 staff in investigations, 5 in prevention, as well as 18 management and support staff. By 2018, there were over 50 staff in investigations (including technical staff), 14 in prevention and 45 management and support staff, making a total of around 120 staff. Within 5 years it drafted the first National Anti-Corruption Strategy (2008–13) (NACS) as part of its duty under the Act to operationalize the government policy of 'Zero Tolerance to Corruption'. It developed

a detailed Operations Manual, began public opinion surveys in 2007 and rolled out a National Integrity Assessment model in 2009, developed together with the South Korean Anti-Corruption Agency. This later incorporated the corruption perception surveys. It also began to conduct system studies, based on investigations and complaints from both citizens and the media.

Furthermore, despite the very challenging environment, the ACC was set up without an institutional and corruption risk assessment, which could have helped identify institutional gaps and weaknesses that the ACC could have begun to address in its work. This lack of strategic planning had consequences for the agency's impact. Efforts of the ACC were not complemented by a wider set of reforms that needed to focus on developing a public service ethics culture, as well as on mitigating some of the effects of particularism in practice through more robust internal controls. This led to the uneven development of the wider institutional landscape and operating environment, with the following consequences:

- 1. Many reforms did not address past cultural heritage issues.** Such issues included the presence of personal connections, kinship and hierarchy, which fostered a clientelist sub-climate that favored the political and business elites. This underlines the wider failure of educational and information processes, which should have derived from a national anti-corruption strategy. Not all awareness and educational responsibilities should be located within a single institution. Further it presents the ACC with continuing challenges because it has to focus on what it interprets as a corruption problem, but which is more rooted in the traditional cultural norms and values. This is confirmed both by the recent ACC Integrity Assessment reviews and its latest (2018) Annual Report:

Corruption in the form of favoritism and nepotism are prevalent in public service delivery. This corroborates with the significant number of complaints received by the ACC on abuse

of functions,...Abuse of function is the highest type of alleged corruption offenses constituting more than 50 percent and over the last five years the trend in the percentage has been increasing annually. Further, majority of the complaints that qualified for investigation pertained to abuse of function (48.6%)...the decentralization process in the country is expected to aggravate the corruption vulnerabilities with more authority and resources for the LG functionaries.¹³

2. The ACC's 'ownership' of the NACS did not include means to ensure parallel engagement by other public organizations.

The first NACS—and thus the one that sets the stage—was a broad statement of intent that did not require the ACC's substantive engagement with all the relevant ministries and agencies. Of the 21 objectives, only 7 involved the ACC in conjunction with other institutions, while implementation was the responsibility of the Committee of Secretaries. Furthermore, there were no measurable actions, activities or outputs, although this was rectified in the revised strategy. The ACC itself noted in 2009 that 'fighting corruption is perceived as an ACC battle...without the concerted and conscious effort of all actors, the cadre's lone battle against corruption will continue to remain an action of sorts at best and a mockery at worst'.¹⁴

3. The ACC's efforts were not complemented by increases in the capacity of other institutions, as envisioned in the National Internal Control Framework.

The State Audit Institution (RAA) in 2017 pointed to the continuing levels of inappropriate or inadmissible payments for contracts, services and expenses. It also noted that these were primarily due to the lack of effective accountability mechanisms, weaknesses in internal controls and the tolerance of unethical conduct. Some 270 staff in the RAA were insufficient to audit some 930 agencies with nearly 1,300 accounts; only 50% could be reviewed annually. With less than 50 internal auditors in the internal audit service (IAS), internal control risks are not addressed. The National Internal Control Framework, which was set up in 2013, had envisaged that the IAS would not only fulfil its responsibilities to assess risks and strengthen internal control mechanisms at various levels of management, but would also supplement the mandates of the RAA and ACC.

4. The civil service, as a whole, is uneven in its approach to the establishment of a basic ethical framework built on public ethics, accountability and merit.

This is generally reflective of the slow progress on embedding the expectations of the NACS. The civil service also appears reluctant to integrate into their work plans the increasing amount of information produced by the ACC on areas of vulnerability and risk. The roles of parliamentary oversight and accountability have not been developed as per the revised NACS. The efforts of ministries to promote ethical environments are still a learning process. There is also a lack of clarity as to the exact relationship between the legislature and the civil service, and where the general responsibility for governance should lie. In terms of the strategy, shifting primary responsibility for prevention to ministries has not yet been achieved.

The first national anti-corruption strategy did not have the intended impact.

As explained above, the lack of an environmental and corruption risk assessment had consequences for the NACS's impact. Several additional reasons were identified in a 2013 review:¹⁵

- Only a few departments and agencies have conducted strategic reviews of institutional capacity to prevent and combat corruption, or implement plans to strengthen this capacity, despite the availability of practical tools to do so developed by the ACC and external partners;
- Implementation of the NACS was perceived to be the sole responsibility and accountability of the ACC; this is likely to be one of the key reasons why the NACS is little known and governance-related reforms are not seen in connection with the NACS. There is limited awareness that measures to strengthen good governance, focusing on transparency and accountability, have a direct and highly important impact on reducing corruption risks; and
- Communication around implementation of the NACS was inadequate. In addition, the absence of clarity about leadership and implementation roles in relation to the NACS resulted in a lack of systematic monitoring, oversight and evaluation of implementation. This can partly be attributed to the aspirational and voluntary nature of the NACS.

Some external reviews have noted the ACC as a well-organized agency, reflecting good practice approaches to management and delivery of its functions. For example: “the ACC has made important contributions to citizens’ awareness and understanding of the meaning and consequences of corruption. It has managed to acquire a strong reputation very quickly and has built institutional capacity to carry out an extensive mandate and detailed functions. The ACC is a consolidated institution with a clear mandate, a clear vision, well-established capacities and a strong esprit de corps.”¹⁶

On the other hand, the consequences described above indicate the size of the challenges still facing the ACC. They not only identify the weaknesses associated with the wider reform process but also an ACC chasing a continuing corruption problem rooted in both the culture and the democratization process:

This is a serious cause for concern because money in politics will fundamentally erode and eat away at

*the heart of our relatively young democracy. It may create a pervasive culture of corruption that could result in a governance which systematically favors the rich over the poor and the well-connected over the disconnected. Corruption may seep into the fabric of our government, making policy decisions to favor the privileged few rather than the public good thereby creating a legacy of patronage.*¹⁷

This emphasizes how the ACC’s position in the institutional landscape should have been determined at the time of its establishment. A more coherent and coordinated approach to the wider anti-corruption environment and the responsibilities of the wider institutional landscape was never developed. As a result, the ACC does not fit entirely into this environment and the environment does not fully facilitate its purpose. This could and should have been anticipated at the time the ACC was established. The question should have been: what should come first – the NACS or the ACC?

Comparing the three models and their possible impact

Impact as organizations

The operational impact on the ground of the UK’s ICU has been substantial, though this is not always recognized by the media. Its impact is primarily reflected in the increase in the number of corruption cases under investigation. The ICU has also diversified to the countries to which its cases relate and built strong relationships with overseas law enforcement authorities. While the work of the NCA¹⁸ is often reported in the media, that of specialist units is only sporadically mentioned. This is often a consequence of the complexity of the institutional landscape and the tendency of the UK media not to spend too much time explaining specialist functions to a general readership.

STT is seen as a credible agency addressing more significant corruption issues, such as its criminal justice corruption investigations, international corporate bribery, and the financing of political parties. In terms of the organizational and institutional

arrangements, it is a ‘fit-for-purpose’ agency with a managed portfolio of roles and functions, adequate resourcing, and strong professional leadership. This was recognized by OECD’s review, which reported that ‘all representatives at the on-site visit were unanimous in their praise for the STT’s professionalism and efficiency’ as Lithuania sought (and achieved in 2018) membership of the OECD. Lithuania has demonstrated its willingness to cooperate with other countries and to set up networks for its law enforcement practitioners.¹⁹ In terms of external domestic impact, therefore, public perceptions may now consider it a ‘good enough’ agency. Many of the continuing corruption issues may be more of a consequence of delays in embedding wider reforms. On the other hand, in terms of the types of corruption that face a consolidating democracy, the agency may be considered as a ‘best possible’ agency and fit-for-purpose for the increasingly complex and significant corruption problems facing the country.

The Bhutan ACC is seen as a well-organized

agency, reflecting good practice approaches to management and delivery of its functions. The ACC is highly visible in Bhutan and recognized as a champion of good governance. Due to a significant amount of outreach, the ACC is gradually gaining trust within Bhutanese society, which was initially sceptical of an additional law enforcement type agency,²⁰ and has been a notable force in promoting the anti-corruption message and in investigating and prosecuting corrupt officials.²¹ It has determined its roles and responsibilities and established a strategy that integrates the three areas of activity: education, prevention and investigations. It has managed to improve the quality of complaints through education, investigate substantive complaints, and use the evidence from investigated cases to inform its review of system weaknesses through its system studies. It is developing its preventative responsibilities through the Integrity Assessments and system reviews. Organizationally, it has developed an accessible and open management approach, with detailed and documented procedures. It has also built awareness, through its change management program, of the need to self-assess and review what it does and how it does it, with enough time to allow organizational consolidation and a level of organizational stability and focus. Its main issue, however, is its position in the institutional landscape and a continuing balancing act between how much it influences, or is influenced by, its operating environment.

Impact on corruption

The ICU has achieved a coherent set of responses that reflect both UNCAC and the UK government rhetoric, and is therefore well placed to implement new initiatives to address the investigation of international corruption and the proceeds of international corruption. The identified corruption problem led to a specific need that did not require a dedicated agency response. The response that was devised was carried out within existing institutional arrangements and, in terms of this particular corruption issue, is being addressed in a law enforcement context.

The Lithuanian STT and Bhutan ACC have had less success in terms of their impact on the general presence, prevalence and perceptions of corruption. Indeed, the collateral damage from the existing and emerging corruption types and trends is that the STT is not necessarily seen as environmentally – as opposed to organizationally – effective. The STT's approach to

engagement with citizens lies primarily with surveys of perceptions and attitudes, and its awareness and prevention efforts are largely targeted at risk sectors, promotional material, and (probably decreasing) joint work with voluntary and civil society bodies to promote education and values.

This may reflect not only the agency's prioritization of resources, but also weaknesses in partner organizations. In the case of STT, the Ministry of Education failed to give full support to Lithuania's anti-corruption education programs, thus hampering their effectiveness. Indeed, one of the issues of longer-term impact is how far a specific agency is responsible for cultural and social change, and how far that must lie with governments, ministries, and so on, to find the appropriate means to change social mores.

In Bhutan, the key issue concerned the balance between democratization and traditional cultural values. The impetus for reform was predicated on an understanding that an absolutist monarchy was not sustainable and that Bhutan's delicate relations with neighboring countries would not be shored up by *not* engaging with the international community. While the commitment to democratization has been genuine, it has also been partly tempered with 'defensive democratization'. This means a move toward universalism adapted to maintain elite privilege, hierarchical management and many of the societal facilitators of traditional cultural norms and values.²² Thus, development along the particularistic-universalism continuum would appear to be predicated on preserving the country's cultural traditions. Not all of these are amenable to (and may even seek to influence) democratization and the development of public accountability and merit-based decision-making in the public sector. This has consequences for the demands on, and the effectiveness of the work of, the ACC. As its own integrity assessment noted in 2016, there continued to be a need 'to reinforce coordinated efforts towards improving service delivery, strengthening accountability mechanisms, ethical leadership and corruption prevention measures in the agencies to improve the level of integrity'.²³

Conclusion

The alternative models discussed in this chapter highlight three issues relating to the need for, or design of, an ACA.

1. **The essential first step in any proposal for the establishment of an ACA is a risk or threat-based review of the existing institutional and operating environment.** Such review ideally can help identify the corruption problem and provide an understanding of the political landscape and the space for reform. It helps to answer the following questions: (i) What is the corruption problem that such a body/bodies would address? (ii) Is the problem sufficiently defined to justify the need for a dedicated entity or agency? (iii) Does such a definition provide the basis for the design of a *fit-for-purpose* body and ensure that the standards noted above will support its organizational development and maturity?
2. **Practitioners and government officials must pay attention to wider issues, such as the agency's organizational development and maturity, and its fit within the existing institutional landscape and operating environment.** Simply supporting an ACA is not enough; it must be designed to address—and adapt to—its institutional and operating environment. The environment in turn should be encouraged to develop in ways that complement and facilitate not only the work of the ACA but also the roles and responsibilities of other institutions. A lesson from the experiences of the UK, Lithuania and Bhutan is the centrality of the ownership, implementation and monitoring of national anti-corruption strategies in determining the need for an ACC and, if there is, ensuring complementary reforms in the external environment.
3. **The design of an ACA should involve an understanding of the corruption problem and a recognition of the importance of the inter-connectedness and inter-dependency of the institutional landscape.** While the donor tendency has been to allow an over-focus on one agency, national anti-corruption strategies have generally under-achieved in improving the institutional landscape and operating environment. Understanding the corruption problem and clarifying modalities to address it ensures that the need for an ACA can be established, and if

so decided, *designed* to be focused and fit-for-purpose. This also entails determining the roles and responsibilities of other institutions, as well as the mechanisms and incentives to ensure the connectedness of the institutional landscape and a collective approach to addressing corruption from a range of perspectives.

Notes

1. Recanatini, F. 2011. *Anti-Corruption Authorities: An Effective Tool to Curb Corruption?* in *International Handbook on the Economics of Corruption*, Susan Rose-Akerman and Tina Soreide, eds., 2011; Doig, A., & Norris, D. (2012). Improving anti-corruption agencies as organisations. *Journal of Financial Crime*, 19(3), 255-273. <https://doi.org/10.1108/13590791211243101>.
2. For a review and discussion of country-level AC strategies, please see Norton Rose Fulbright. 2016. *Countries Curbing Corruption: An Examination of 41 National AC Strategies*.
3. Such as the powers of the Thai NACC in relation to malfeasance in office – which may include intentional exercise of power contrary to the provisions of the Constitutions or any law - or the multiple remits (such as bribery, fraud, money laundering, asset disclosure, ethical standards, inspections and whistleblowing) of the Ugandan Inspectorate of Government.
4. Huther, J. and Shah, A. 2000. *Anti-corruption Policies and Programs: A Framework for Evaluation*. World Bank Policy Research Working Paper No. 2501. Washington: World Bank; Shah, A. 2007. 'Tailoring the Fight Against Corruption to Country Circumstances'. In Shah, A. (ed). *Performance Accountability and Combating Corruption*. World Bank: Washington.
5. Drawn from Bruno Bettelheim (1988). *A Good Enough Parent*. Vintage Books; 1st Vintage Books Ed edition). Expanded in Doig, A., Watt, D. and Williams, R. 2007. 'Why Developing Country Anti-corruption Agencies Fail To Develop: Understanding The Dilemmas Of Organisational Development, Performance Expectation, And Donor And Government Cycles In African Anti-corruption Agencies'. *Public Administration and Development*. 27. pp1-9; 2006 'Hands-On or Hands-Off? Anti-Corruption Agencies in Action, Donor Expectations, and a Good Enough Reality'. *Public Administration and Development*. 26. pp163-172. These articles were in turn based on an empirical study: Doig, A., Watt, D. and Williams, R. 2004. 'Measuring 'success' in five African Anti-Corruption Commissions - the cases of Ghana, Malawi, Tanzania, Uganda & Zambia. U4 (www.u4.no). Here it is argued that, like *good enough parenting*, sponsoring bodies should not try to create the agency they would like to have at the outset, but should instead recognize that the best they can do is to help the agency toward a successful future by providing the means and mentoring to give it the organizational confidence and competence to do so until – and when – it reaches organizational maturity.
6. 'Londograd' is shorthand for the concerns summarized in 2016 by Roberto Saviano, the Italian investigative journalist, who said: 'If I asked you what is the most corrupt place on Earth you might tell me it's Afghanistan, maybe Greece, Nigeria, the South of Italy, and I will tell you it's the UK. It's not the bureaucracy, it's not the police, it's not the politics but what is corrupt is the financial capital.'
7. See World Bank/StAR. 2009. *Stolen Asset Recovery. Management of Returned Assets: Policy Considerations*. Washington: World Bank and *Proceeds of Corruption: Frameworks for the Management of Returned Assets. Draft Concept Note*. World Bank and UNODC/StAR. 2014. *Left out of the Bargain. Settlements in Foreign Bribery Cases and Implications for Asset Recovery*. Washington: StAR.
8. A person able to facilitate mutually-beneficial inter-agency arrangements through: building sustainable relationships; managing through influencing and negotiation; managing complexity and interdependencies; and managing roles, accountabilities and motivations.
9. The same official led the extensive discussions between DFID, the SFO and other agencies to agree a set of general principles (issued by the SFO and CPS in June 2017) intended to ensure that overseas victims – affected states, organizations and individuals – of bribery, corruption and economic crime, are able to benefit from asset recovery proceedings and compensation orders made in the UK.
10. A subjective observation was that most of the 'consultants' from the US and the UK in the early years were serving law enforcement and public sector officials whose level of practitioner expertise and technical competence offered a peer-to-peer experience that was compatible with STT expectations and aspirations, facilitating knowledge transfer.
11. In 2013 an UNCAC review team managed to misinterpret the STT as 'one of the most successful "copies" of the Hong Kong's Independent Commission against Corruption model'.
12. Kuris, G. (2012). *Balancing Responsibilities: Evolution of Lithuania's Anti-Corruption Agency, 1997-2007*. Princeton University: Innovations for Successful Societies. p5.
13. Bhutan Anti-Corruption Commission. 2018. *Annual Report 2018*. Thimphu: Bhutan Anti-Corruption Commission: 81.
14. Quoted in: UNDP/UNODC. 2010. *Bhutan: Capacity Assessment of the Anti-Corruption Commission*. Bangkok: UNDP/UNODC: 22.
15. Basel Institute on Governance. 2013. *National Anti-Corruption Strategy (NACS) of Bhutan 2008-13: Evaluation Report*. Basel: Basel Institute on Governance.
16. Transparency International. 2015. *Anti-corruption Agency Strengthening Initiative: Assessment of the Bhutan Anti-corruption Commission*. Transparency International: Berlin.
17. Bhutan Anti-Corruption Commission, 2018.
18. For example, in relation to the use of Unexplained Wealth Orders or the establishment of the National Economic Crime Centre.
19. OECD. 2017. *Phase 2 Report on Implementing the OECD Anti-Bribery Convention In Lithuania*. Paris: OECD: 42, 43.
20. Swiss Agency for Development and Cooperation. 2016. *Bhutan: We Can Win the Fight Against Corruption*. Asia Brief. SDC: Bern.
21. Bertelsmann Stiftung. 2018. *Transformation Index*. Bertelsmann Stiftung: Brussels.
22. See, for example, G. E. Robinson. 1998. 'Defensive Democratisation in Jordan'. *International Journal of Middle East Studies*. 30.
23. Anti-Corruption Commission. 2016. *National Integrity Assessment 2016*. Thimphu: Bhutan.

References

- Anti-Corruption Commission. (2016). *National Integrity Assessment Report 2016*. Thimphu: Bhutan.
- Basel Institute on Governance. (2013). *National AntiCorruption Strategy (NACS) of Bhutan 2008-13: Evaluation Report*. Basel: Basel Institute on Governance.
- Bertelsmann Stiftung. (2018). *Transformation Index*. Bertelsmann Stiftung: Brussels.
- Bhutan Anti-Corruption Commission. (2018). *Annual Report 2018*. Thimphu: Bhutan Anti-Corruption Commission: 81.
- Bruno Bettelheim (1988). *A Good Enough Parent*. Vintage Books; 1st Vintage Books Ed edition).
- Doig, A., & Norris, D. (2012). Improving anti-corruption agencies as organisations. *Journal of Financial Crime*, 19(3), 255-273. <https://doi.org/10.1108/13590791211243101>.
- Doig, A., Watt, D. and Williams, R. (2004). 'Measuring 'success' in five African Anti-Corruption Commissions - the cases of Ghana, Malawi, Tanzania, Uganda & Zambia. U4 (www.u4.no).
- Doig, A., Watt, D. and Williams, R. (2006) 'Hands-On or Hands-Off? Anti-Corruption Agencies in Action, Donor Expectations, and a Good Enough Reality'. *Public Administration and Development*. 26. P. 163-172.
- Doig, A., Watt, D. and Williams, R. (2007). 'Why Developing Country Anticorruption Agencies Fail To Develop: Understanding The Dilemmas Of Organisational Development, Performance Expectation, And Donor And Government Cycles In African Anticorruption Agencies'. *Public Administration and Development*, p.1-9.
- G. E. Robinson. (1998). 'Defensive Democratisation in Jordan'. *International Journal of Middle East Studies*, p. 30.
- Huther, J. and Shah, A. (2000). *Anti-corruption Policies and Programs: A Framework for Evaluation*. World Bank Policy Research Working Paper No. 2501. Washington: World Bank;
- Shah, A. 2007. 'Tailoring the Fight Against Corruption to Country Circumstances'. In Shah, A. (ed). *Performance Accountability and Combating Corruption*. World Bank: Washington.
- Kuris, G. (2012). *Balancing Responsibilities: Evolution of Lithuania's Anti-Corruption Agency, 1997-2007*. Princeton University: Innovations for Successful Societies, p.5.
- Norton Rose Fulbright. (2016). *Countries Curbing Corruption: An Examination of 41 National AC Strategies*.
- OECD. (2017). *Phase 2 Report on Implementing the OECD Anti-Bribery Convention In Lithuania*. Paris: OECD: 42, 43.
- Recanatini, F. (2011). *Anti-Corruption Authorities: An Effective Tool to Curb Corruption?*, in *International Handbook on the Economics of Corruption*, Susan Rose-Akerman and Tina Soreide, eds., 2011.
- Swiss Agency for Development and Cooperation. (2016). *Bhutan: We Can Win the Fight Against Corruption*. Asia Brief. SDC: Bern.
- Transparency International. (2015). *Anti-corruption Agency Strengthening Initiative: Assessment of the Bhutan Anti-corruption Commission*. Transparency International: Berlin.
- UNDP/UNODC. (2010). *Bhutan: Capacity Assessment of the Anti-Corruption Commission*. Bangkok: UNDP/UNODC: 22.
- UNODC/StAR. (2014). *Left out of the Bargain. Settlements in Foreign Bribery Cases and. Implications for Asset Recovery*. Washington: StAR.
- World Bank/StAR. (2009). *Stolen Asset Recovery. Management of Returned Assets: Policy Considerations*. Washington: World Bank and *Proceeds of Corruption: Frameworks For the Management of Returned Assets. Draft Concept Note*. Washington: World Bank; World Bank.