Cracking down on corruption

CAPI, Columbia University, 16 October 2014

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Impacts

- Hampers economic performance/ growth
- Discourages investment
- Distorts natural resource development
- Damages the environment

- Reduces tax revenue
- Distorts services
- Inefficient public administration
- Weakens judicial integrity and the rule of law
- Diminishes quality of life/ human development
• Doing wrong things
• Failing to do something one should do
• Doing something permissible, but purposely doing it in an improper manner

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• Breach of trust
• Unauthorized trading of entrusted authority
Two research questions

• What do/ should ACAs do?

• How do we know if they are effective?
<table>
<thead>
<tr>
<th>Country</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sierra Leone</td>
<td>84</td>
</tr>
<tr>
<td>Cambodia</td>
<td>57</td>
</tr>
<tr>
<td>Liberia</td>
<td>75</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>62</td>
</tr>
<tr>
<td>Finland</td>
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<tr>
<td>Denmark</td>
<td>1</td>
</tr>
<tr>
<td>Australia</td>
<td>1</td>
</tr>
<tr>
<td>Canada</td>
<td>3</td>
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</tbody>
</table>

Transparency International, Global Corruption Barometer, 2013
Corruption is much more than bribery

\[\text{TASP} \quad (\text{Graycar})\]

- Type
- Activities
- Sectors
- Places

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Types

- Bribery
- Extortion
- Misappropriation
- Self-dealing
- Patronage
- Abuse of discretion
- Misuse of information
- Creating or exploiting conflict of interest
- Nepotism, clientelism and favoritism
- etc etc
Activities

• Appointing personnel
• Buying things (Procurement)
• Delivering programs or services
• Managing disasters
• Making things (Construction / manufacturing)
• Controlling activities (Licensing / regulation/ issuing of permits)
• Administering (justice for example)

etc
Sectors

• Construction
• Health
• Tax administration
• Energy
• Environment & water
• Customs & Immigration
• Legal system

Places

• Countries
• Regions
• Localities
• Corporations
• Work places

etc

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Perceptions of Corruption, by institution - %

<table>
<thead>
<tr>
<th>Country</th>
<th>Parliament</th>
<th>Education</th>
<th>Judiciary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sierra L</td>
<td>53</td>
<td>64</td>
<td>74</td>
</tr>
<tr>
<td>Kyrgyzstan</td>
<td>77</td>
<td>61</td>
<td>66</td>
</tr>
<tr>
<td>Liberia</td>
<td>96</td>
<td>87</td>
<td>89</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>69</td>
<td>67</td>
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<tr>
<td>Finland</td>
<td>31</td>
<td>7</td>
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<tr>
<td>Denmark</td>
<td>18</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>Australia</td>
<td>36</td>
<td>19</td>
<td>28</td>
</tr>
<tr>
<td>Canada</td>
<td>47</td>
<td>20</td>
<td>25</td>
</tr>
</tbody>
</table>

Transparency International, Global Corruption Barometer, 2013
• Corrupt Individuals
• Corrupt Organisations
• Corrupt Societies

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• Corrupt events

Different controls
Context

- Structural (embedded and/or tolerated)
- Situational (opportunistic)

Participants

- Willing (collusion)
- Unwilling (extortion)
Will the behaviour:

• Benefit an individual or organisation
  – Need/ Greed

• Exhibit patronage
  – Nepotism / Cronyism / Love / Friendship

• Promote ideology, change values, re-allocate resources
What is being corrupted?

• event
• process
• culture
• people acting alone, and the rewards were small
• people working together, and the stakes were higher
• culture of corruption running right through organisations
• grand corruption, the whole state was manipulated
Responses

1. Criminalisation
2. Anti-corruption agencies
3. Situational responses
4. Governance
5. Education and Integrity Building
Rich countries/ poor countries

- Crisis
- Commitments made by politicians
- ACA established
- ACA unable to meet unrealistic expectations
- Loss of credibility
- ACA expires
- Corruption returns to previous level

(Recanatini, 2014)
ACAs

- Distinctiveness from other enforcement agencies
- Durability,
- Powers to centralise information
- Knowledge production and transfer
- Existence: known by and accessible to the public at large.
- Rule of law (checks-and-balances and accountability to sovereign authority)

(Based on de Sousa)
New South Wales ICAC
Responses to Complaints Received 2011-12
N= 2,978

- Full investigation – 0.7%
- Preliminary investigation – 2%
- Referred to Assessments Section for further enquiry – 14%
- Closed but referred externally – 9%
- Closed without action or referral – 75%

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Half of all items received by NSW ICAC, 2011-12

- Partiality (bias, conflict of interest)
- Improper use of records or information
- Improper use or acquisition of funds or resources

Small number relate to bribery, or corrupt conduct related to investigations or proceedings

Plus some misconduct such as assault, drug use, and inappropriate behaviour
West Australia CCC allegations 2011-12
N = 5,912

**Corruption**
- Corrupt conduct – 2%

**Maybe corruption**
- Breach of code of conduct/policy/procedures – 11%
- Conflict of interest or improper association – 5%
- Breach of confidentiality/misuse of information/improper disclosure – 3%
- Fraud/falsification/fabrication – 3%
- Abuse of power – 2%
- Stealing/theft – 2%

**Not corruption**
- Neglect of duty or failure to act – 35%
- Assault – physical/excessive use of force – 10%
- Inappropriate behaviour – 7%
- Drugs-related misconduct – 5%
- Unprofessional conduct, demeanour/attitude language – 5%
- Bullying/intimidation/harassment – 4%
- Other – 5%
• Misconduct
• Maladministration
• Corruption
<table>
<thead>
<tr>
<th>ACA activities</th>
<th>Yes %</th>
<th>No %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prevention</td>
<td>83</td>
<td>17</td>
</tr>
<tr>
<td>Investigation</td>
<td>81</td>
<td>19</td>
</tr>
<tr>
<td>Prosecution</td>
<td>53</td>
<td>47</td>
</tr>
<tr>
<td>Co-ordination</td>
<td>47</td>
<td>55</td>
</tr>
</tbody>
</table>

World Bank: study of 63 ACAs (Recanatini, 2014)

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Problems of prosecution of corruption

• Findings do not automatically translate into criminal consequences or prosecutions

• ACAs are only empowered to make findings of corruption, and commonly to make recommendations as to prosecutions.
• ACA’s are inquisitorial and investigative bodies, not courts
• Problems of recovering criminal profits in corruption cases
• Problems of using ACA corruption findings in civil proceedings
• The problem of inadmissible evidence obtained in ACA hearings
• Is a finding of corruption or exposure a deterrent?

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Integrity

• Public servants’ behaviour in line with public purposes
• Daily public services reliable
• Citizens receive impartial treatment
• Public resources used appropriately and effectively
• Decision making processes transparent to public – open to scrutiny

(OECD)
Education and Integrity
Building

Standards

• Clear
• Known & communicated
• Enforced
Productive and unproductive controls

• Some controls have the potential to create significantly more value than they cost...

• Others tend to cost as much as they save or reach a point where diminishing returns can make the controls of negative value.
Unproductive
• Procedures
• Segregation
• Close supervision
• Delegation limits
• Audit
• Duplication of staff
• Financial checks
• Gift training
• Reporting
• Limited client interaction
• Registers

Productive
• Budget controls
• System performance
• System design
• Structural arrangements
• Inventory control
• Decision location
• Accountabilities
• Culture
• Management competence
• Feedback systems
• Procurement strategy

(Waldersee 2013)
Indicators

• Strong internal controls and accountability
• Build alliances with citizens and civil society
• Strong focus on disruption of networks
• Education efforts that reshape public norms and expectations

(Kuris)
Public policy contribution

• Exposure of poor practice and recommendations about better practice
• Public hearings contribute to bringing integrity/corruption issues and risks/deficiencies in government into the arena of public discussion/debate which can in turn lead to changes in public policy
• Discussion papers generate feedback - lead to recommendations for changes/improvements to public policy
Foundations for success

• Stable and ongoing legislative base and funding
• Focussed and realistic objectives: strategically targeted actions
• Political and public support for anti-corruption work
• Internal fearlessness
• strong ongoing relationships with external stakeholders to promote constructive capacity building as much as punishment/deterrence
Thank you

Any questions?

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