

## The International Anti-Corruption Agenda — tools and common approaches



A topic of long-standing concern ....

“Just as it is impossible not to taste the honey (or the poison) that finds itself at the tip of the tongue, so it is impossible for a government servant not to eat up, at least, a bit of the king’s revenue”

- Kautiliya in *Arthashastra*  
(400 B.C. in India)

**1980s**

high-profile demonstrations vs. corrupt leaders  
first international anti-corruption conferences

**1990s**

End of Cold War  
World Bank agenda-setting  
founding of Transparency International  
OECD Convention attacking supply side issues

**2000s**

UN Convention against Corruption in force  
Millennium Challenge Account

The international legal framework

- UN Convention Against Corruption (Global)
- OECD Convention
- OAS Convention (Latin America)
- CoE Criminal/Civil Law Conventions (Europe)
- AU Convention (Africa)
- National laws

## OECD Anti-Bribery Convention



### OECD Convention

#### **Successes**

Bribery of foreign officials has become more dangerous in some countries

#### **Challenges**

Generally low rate of convictions because: statute of limitations is often too short; investigators require specialized skills; poor law enforcement coordination; lack of awareness on part of tax inspectors.

## The UN Convention Against Corruption (in force as of Dec 2005)

- Global in scope, addresses public and private sectors
- Requires international cooperation regarding prevention and enforcement
- Recovery of assets is “a fundamental principle”



### **Strengths**

- Global in scope, covers private and public sector
- Asset recovery provisions

### **Weaknesses**

- No mandatory provision on transparency in political funding
- Preventive measures left to state discretion
- Criminalisation of the taking of bribes by public officials optional
- No mechanisms for follow-up in text

- Donor Strategies and Approaches to AC Reform

### "The Corruption Eruption":

- Law enforcement: drafting conventions and national legislation
- Prevention: mobilizing demand for reform and increasing supply by the government
- Recent focus on elite and international cooperation

## Some common reform areas

- **Economic policy and management** (deregulation, tax simplification, reducing monopolies) — *reducing discretion*
- **Financial controls** (strengthening financial management, audit and procurement) — *reducing discretion*.
- **Budget transparency**, including at the local level and in the natural resources sector – *reducing discretion*
- **Public service reforms** (reducing size, use of merit-based methods for recruitment and promotion, salary reform in context of other reforms) — *reducing discretion and incentives*.
- **Strengthening the rule of law** through legal-judicial reform (independence of the judiciary, strengthening the legal framework, improving performance of the judiciary, use of alternatedispute resolution methods) — *increasing risks*.
- **Electoral reform and party finance** – *reducing discretion and incentives*
- **Public oversight** (Parliamentary oversight, freedom of information, support to media and civil society) — *increasing risks*.

## Critiques of traditional donor approaches:

- Corruption perceived as a generic problem – recommendations vary little from one society to another
- Approaches imposed from outside – lack of local ownership
- Anti-corruption reform reduced to technical changes in “governance”, based on principal-agent theory
- Corruption/governance seen as a “sector” and not mainstreamed
- Sometimes focus on just one pillar (i.e. Anti-Corruption Commission in Sierra Leone)
- Weak accountability of donors to partners, poor coordination
- Too little attention on the “supply side” – developed country firms
- Political will perceived as a monolith – not broken down into the wills of national leaders, senior managers, donors themselves

Context/Capacities/**Tools**

Over- and Undervalued Anti-Corruption Tools

- **Overvalued:**

- Anticorruption Plan, Commission
- Multidonor Trust Funds (do they provide the accountability they are supposed to?), etc.
- ....

- **Undervalued:**

- Financial Management Reforms (transparency in the budget)
- Domestic Accountability Institutions: Parliament, SAI, CSOs
- Freedom of Information
- Transparency of donors themselves
- ....

The usual framework for coordination of AC reform - both post-war and regular development contexts:

- Anti-Corruption “Strategies” or “Action Plans”
  
- Anti-Corruption Agencies

## Characteristics of National Anti-Corruption Plans

- Often contain more than a hundred measures to reform the civil service, public financial management, tax and customs, public procurement, audit, court administration, whistleblower protection, etc.
- Developed in consultations with outsiders (donors, foreign experts, UN agencies, IFIs) as well as insiders: legislative and executive branches of government, civil society (NGOs, business associations, labor unions)

What is good practice for the design of a national anti-corruption action plan?

### “Good practice”

- Based on corruption diagnosis/assessment of the political culture
- Participatory drafting process
- Credible leadership
- Locally owned, not donor-driven
- Buttressed by broad support in civil society: NGOs, trade associations, labor unions.
- Sequenced
- Measurable
- Adequate resources

### Realities

- Medicine prescribed without diagnosis (Ghana)
- Lacking local ownership (particularly in conflict-affected countries, Afghanistan)
- Undifferentiated laundry list of reforms (most)
  - Government’s capacity to deliver undervalued
  - No indicators, time frames
- Unrealistic, public becomes disillusioned (Albania, even if the process is good)
- Fragmentation/depletion of responsibilities (Lithuania)
- Private sector and international cooperation issues often absent

## Missed opportunities

- Sectoral efforts - work more directly at the interface between governments and citizens and firms, "islands of integrity"
- Takes focus away from local strategies and initiatives - in some settings the entry point might be bottom-up participatory reform, such as community-driven development.

## Anti-Corruption Agencies



## Rationale for establishing independent bodies

- To assert leadership in the anti-corruption effort – and establish a corruption-free space within the bureaucracy
- To resolve coordination problems among different agencies
- To centralize information and intelligence about corruption

## The model – Hong Kong: context and capacities

- Problem focused on police corruption
- Low political corruption
- Small size of the colony (6 million)
- Included an amnesty
- High levels of funding (internally provided resources)
- Functioning judiciary and judges
- Expatriate management in the beginning

## Common pitfalls associated with AC agencies

- Used as window dressing to appease donors
- Targeted against political enemies
- Frying small fish only
- Can divert resources from, or duplicate efforts of, other agencies
- Subject to political interference and marginalization
- Incoherent impact indicators, lack of clarity around what "success" means (Uganda Leadership Code)
- Inadequate, short-term funding
- Unskilled staff
- Poor coordination with, or weak, complementary institutions (i.e. AG's office, courts, NGO sector)

**Initial high expectations**



**ACC unable to meet unrealistic expectations**



**Cuts in funding & impaired organisational development**



**Stakeholder disillusionment**

## Lessons Learned: Anti-Corruption Agencies

- Inappropriate indicators means that modest success is not recognized
- Donors drive them to failure by not supporting administration, only projects
- Focus on investigating petty corruption is not clearly beneficial
- ACAs need independent prosecution capacity or good links with the Attorney General's office
- **Recommendations**
  - Set feasible tasks, start small
  - Provide long-term funding
  - Governments and donors should agree on key performance indicators
  - Alternative models: focus on public procurement, or public service ethics

- Questions for discussion
- Is there value to creating a Anti-Corruption Agency in the Yemeni context?