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Corruption

Theoretical, Empirical, and Policy Approaches

Edited by Kamil Hakan Dogan



Corruption - Theoretical, Empirical, and Policy Approaches

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IntechOpen Book Series

Social Sciences

Volume 19

Aims and Scope of the Series

The social sciences, as a form of scientific knowledge anchored on epistemological foundations, theories, and specific methodologies, both in their fundamental and applied dimensions, are paramount for understanding and, consequently, developing instruments that contribute to improving social and environmental living conditions. This Social Sciences book series, based on the concept of the social sciences as key elements in the promotion of scientific knowledge and its inherent consequences, has as its primary goal to be a space for the dissemination of relevant information on various objects of study, aimed at specialists, students, policymakers, and others interested in the challenges facing humanity. Thus, the aim is to promote scientific progress through the sound and rigorous dissemination of studies that, from the perspective of the social sciences, either through a specialised disciplinary approach or through interdisciplinary perspectives, foster a deeper understanding of the objects under analysis, clarifying the issues addressed and their implications.

Meet the Series Editor



Sandro Nuno Ferreira de Serpa (PhD, FRSA, FRSS, FRGS, FR-SPH, FRAI, FISDS, GLO Fellow), is an Associate Professor with tenure in the Department of Sociology at the University of the Azores and a Senior Integrated Researcher at the Interdisciplinary Centre of Social Sciences (CICS.NOVA.UAc). With over 25 years of experience in higher education, in 2025 Dr. Serpa is ranked by ScholarGPS as the 8th scholar worldwide in Sociology (Prior 5-Year category) and 1st in Portugal. His career is distinguished by encompassing over 400 scientific publications published in Brazil, Canada, China, Germany, India, Kazakhstan, the Netherlands, Pakistan, Poland, Portugal, Romania, Spain, Switzerland, Turkey, the United Arab Emirates, the United Kingdom, and the United States of America with a high research impact, as evidenced by a Google Scholar h-index of 29 and a Scopus h-index of 14 (with 79 documents indexed). His international prestige is underscored by his status as a Fellow of five distinguished British Royal Societies: the Royal Society of Arts (FRSA), the Royal Statistical Society (FRSS), the Royal Geographical Society (FRGS), the Royal Society for Public Health (FRSPH), and the Royal Anthropological Institute (FRAI), alongside being a Fellow of the International Society for Development and Sustainability (FISDS) and Fellow of the Global Labor Organization (GLO). Registered Vetted Expert for the European Commission and the United Nations. Dr. Serpa's research focuses on the sociotechnological co-evolution of Society 5.0, Artificial Intelligence in Education, and Algocratic Governance. An expert in strategic editorial leadership, he currently serves as the Series Editor for Social Sciences Series at IntechOpen, Editor for SAGE Open, and is a member of the Editorial Board for International Studies in Sociology of Education (Taylor & Francis) and Societies (MDPI). His extensive administrative background includes roles as Department Head, Degree Director, and Deputy Director of CICS.UAc, reflecting a profile that harmonizes scientific excellence with high-level academic management.

Meet the Volume Editor



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He is the editor of 10 books, a reviewer for several international journals, and has published over 200 articles in refereed journals, textbook chapters, and abstracts at scientific meetings. His publications have been cited more than 1400 times.

Contents

Preface	XIII
Section 1	
Theoretical and Conceptual Approaches	1
Chapter 1	3
Corruption, Law and Contested Illegality <i>by Firoz Khan</i>	
Chapter 2	19
Corruption-Proofing: A Theoretical Framework for Anti-Graft in Africa <i>by Dan Kuwali</i>	
Section 2	
Empirical Analyses: Institutional and Regional Perspectives	43
Chapter 3	45
Contemporary Determinants of Corruption in Colombia: A View from the Allocation of Public Goods and Services <i>by Ibis Danilo Yanguas-Botero</i>	
Chapter 4	67
Failures and Policy Transfer of Anti-Corruption Initiatives in Central America: Honduras and Guatemala (2015–2019) <i>by Fredy Enrique Salazar Porras</i>	
Chapter 5	97
Implications of Changes to the Corruption Eradication Commission (KPK) Regulations on Accelerating the Eradication of Corruption in Indonesia <i>by Sukmareni and Ujuh Juhana</i>	
Chapter 6	113
Perspective Chapter: Judicial Power vs. Political Corruption – National and International Experience <i>by Serhii Prylutskyi</i>	

Chapter 7	129
What Motivates Participation in Corruption and How Does Such Participation Affect Firm Performance?	
<i>by Carl Greppin and Yunmei Wang</i>	
Section 3	
Sectoral Challenges and Policy Applications	161
Chapter 8	163
Anti-Corruption Framework for the Ghana Police Service Reform	
<i>by Ilham Dwi Hatmawan</i>	
Chapter 9	175
Digital Integrity in the Gulf: Policy Innovations and Technological Tools to Combat Corruption in GCC States	
<i>by Lotfi Hamzi</i>	
Chapter 10	197
Professional Codes of Conduct as a Tool to Combat Corruption in the Construction Industry	
<i>by Gabriel Nani and Kwami Dorgbley</i>	
Chapter 11	217
The Corrosive Shadow: How Corruption Undermined Patient Data Privacy and Rights Enforcement During the COVID-19 Pandemic in Indonesia	
<i>by Haidir Anam and Ummu Anityaningrum</i>	

Preface

Corruption is more than just a legal deviation or a moral failing; it is a systemic issue that infiltrates the social, political, and economic foundations of societies globally. With global environments continually changing due to rapid digitalization, evolving geopolitical partnerships, and unprecedented events such as the COVID-19 pandemic, the ways corruption manifests and the necessary instruments to fight it have grown increasingly complex and subtle.

This book, titled *Corruption - Theoretical, Empirical, and Policy Approaches*, aims to connect theoretical academic discussions with the tangible and often difficult aspects of governing and implementing reforms. Offering a comprehensive strategy for addressing and reducing the detrimental influence of corruption in contemporary times, this book integrates insights from the Global South and North, drawing on examples such as the institutional structures of Colombia and Ghana and the developing legal systems of Indonesia, Ukraine, and the Gulf region.

Comprising three crucial sections, the book features ‘Theoretical and Conceptual Approaches’ as its first section, which critiques the standardized dogma frequently applied by international anti-corruption endeavors. It examines the contested concept of unlawfulness and proposes forward-looking strategies, including “corruption-proofing,” to strengthen institutional durability through stringent accountability measures, continuous monitoring, and sustainable practices.

Offering a comprehensive look into the practical circumstances of different countries, Section II: ‘Empirical Analyses: Institutional and Regional Perspectives’ features research on topics including institutional influence in Colombia, the independence of the judicial system in Ukraine and Indonesia, and the socio-economic factors driving corruption in ex-Soviet Republics. The chapters offer a wealth of empirical evidence, demonstrating how both local environments and past histories determine the form of corruption and the efficacy of anti-corruption efforts.

The third section, “Sectoral Challenges and Policy Applications,” shifts to practical implementation, examining how sectors such as law enforcement and construction can be improved through the adoption of ethical codes and merit-based systems. It also delves into the “digital frontier” of anti-corruption, assessing the use of AI and blockchain in the Gulf region, and raises concerns about corruption’s potential threat to data privacy within healthcare.

Serving as a crucial reference, this book equips scholars, practitioners, and policymakers with the analytical tools and factual evidence needed to develop anti-corruption strategies that are both more impactful and adaptable to cultural contexts, as well as durable. We hope this compilation will stimulate a more refined and committed international strategy to uphold integrity in public service.

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Section 1

Theoretical and Conceptual
Approaches

Chapter 1

Corruption, Law and Contested Illegality

Firoz Khan

Abstract

Pervasive and persistent corruption originates in the South and East – it is the condition of the ‘evil and primitive Other’. The Northern anti-corruption project in and for the South evinces serious ignorance of the situation they claim to be remedying. Salvation for the incapable and unwilling resides in healthy dosages and speedy administration of the anti-corruption ‘gold standard’ - good governance, the rule of law, transparency and accountability – by the North and the(ir) cheerleaders of the social behavioural change communication brigade. Legality is contested by historical resistance and material claims; alternative moral economies of reciprocity, redistribution and solidarity; the interwoven relationship between formal and informal citizenship; accelerated interpenetration of formal/informal/illegal to the point of near indistinguishability; and multiple conceptions and interpretations of law in the same geographic space. Corruption in the South is possibly more varied and complex than in the North with many scholars are pushing against the limited purchase and dismal results of orthodoxy in situations poorly understand and or strategically ignored. This paper unpacks the double standards, normative posturing, and imposed dualism of mainstream anti-corruption studies by bringing it into dialogue with a handful of subjects from other social sciences. It argues that mainstream anti-corruption studies can no longer ignore nor dismiss the plural and contested understandings of legality, legal systems and illegality as relayed by other disciplines. The paper summons the urgent need to critically integrate orthodoxy’s binaries, dualities and disembodied norms. However, whether mainstream anti-corruption scholarship is capable and willing to change is the question.

Keywords: orthodoxy, citizenship, contested illegality, legal pluralism, legal consciousness

1. Introduction

The battle against corruption has “Orientalist overtones” [1] (03). As opposed to the West, permanent and pervasive corruption is the condition of the South and East – the “evil and primitive Other” [1]. These sinners violate the sacrosanct norms of good governance, the rule of law, transparency, and accountability. The gold standard! The anti-corruption industry [2] unhelpfully combines indignation, litigation, and penalization – all of which have their time, place, and limits. The

industry idealizes and fixates on administrative processes, enshrining the “limited, managerial, *status-quo* conception of government” [3] (31, original emphasis). Akin to what Western democracies “imagine themselves to be” [3] (10), the rational-bureaucratic model and practice does not recognize the social, economic, and cultural embeddedness of “corrupt” practices [4]. Friendship, kinship, and loyalty have their own social contract, governance principles, and community institutions but are erased from the mainstream discourse. In the Global South, the state is “above and part of the corruption for elites” – to unprecedented and incestuous levels across the globe – and the state and law are not equal to “instruments” to battle corruption but “opportunities” for corruption [5] (11, 22). In contrast, the gold standard is bent on installing and imposing a state that is an “umpire in a liberal economy,” serving the dominant voices and demands of the private sector [3] (31).

Anti-corruption reforms emphasize “neutral” technical solutions, universalize, are positivist, distort and rewrite history – good governance is the outcome rather than the cause of development [6, 7] – unduly and irresponsibly elevate civil society as a bulwark against a state perpetually sliding into corruption, and display “serious ignorance of the situations that they claim to be reforming” [4] (06). Anti-corruption studies are theoretically and epistemically insular, averse to multidisciplinary interaction, and obsessive about law enforcement and punishment [8].

Worryingly, and by no stretch of fact, *the* defining feature of mainstream approaches to combating corruption is the colonial overreach and imperial impulses gravitating around “forcing” [9] (223) Western rational-bureaucratic organization, cultural categories, and jurisprudence on the “Other,” who are deviant by ideal and norm [1] (07). This deviancy is common to public-office-, public-interest-, and market-centered definitions of corruption. All confront the same problem as legal or moral definitions of corruption – including supreme indifference to different social and moral norms [10] – and are therefore “not viable alternatives” [1] (07).

Anti-corruption’s new vanguard – the social behavioral change communication (SBCC) practitioners – assert that the “Other” accepts corruption as a local practice and finds it difficult to dodge and dislodge because other locals are expected to be corrupt too. Over and above being a “teleological trap” [5] (13), they pay little heed to the organizational and material expression of corruption, including its features and patterns [10]. Tied mainly to the myopic edict and verdict of official organograms and deviation from Weberian norms, the SBCC vanguard betrays a naïve, but strategic, ignorance of bureaucracies. Conflict, contestation, shifting alliances, and power relations are core components of bureaucracies [11] (01). Privatization, deregulation, and marketization have hollowed out bureaucracies now forced to march to the drumbeat of disembodied modern, official, Weberian norms. Ethnographers remind us of “several ideal types of bureaucracy and not just one”; the deviation of real bureaucracies from the ideal types; official norms co-exist with different practical norms – *de facto*, tacit, or latent norms; each government boasts its own bureaucratic association and institution; and that “sedimentation of distinct bureaucratic procedures is the rule rather than [the] exception” [11] (23).

More worrying in the SBCC schema is the air brushing, at best, of the “breeders of corruption,” that is, weak state capacity, inefficient and ineffective legal machineries, and the dismal wages of public servants related, in part, to the hollowing out of the state [5] (13). For the SBCC folk, corruption is unvarnished “self-interest” – a “crass economic reductionism, obliterating the complexities of motive, behavior, and function” [12] (78) – untethered from the daily lives of

officials and the socio-cultural patterning of power, privilege, and responsibility. The SBCC remedy is the gold standard bullet, but now with enhanced surveillance and punishment [13] (499). There are “very few examples of rigorously tested social norms anti-corruption interventions that are happening in real-world settings and involving the expected beneficiaries” [14] (435); the intervention and outcome are not easily connected or connected at all [15]; and the sustainability of the intervention is a legitimate concern.

The countries of the Global South, home to close to 90% of the world’s population, receive “only passing mention” [16] (473) in mainstream public administration and their star-studded journals. The Global South – regardless of history, context, and culture – is regularly and routinely portrayed as the place where “corruption originates,” and is principally concentrated, thereby sanctioning Northern intervention – because locals are deemed incapable and unwilling – by way of minimizing the role of the state in the economy [17] (440). Corruption is described as a “symptom of an intrusive, meddling state” [18] (126) reigning in free markets, entrepreneurialism, and competition. The “science of corruption” blames swollen, inefficient bureaucracies for underdevelopment [1] (08). The state must be “reduced to its bare bones so that it does little more than protect property and provide security” [1]. Anthropologists remind us: “‘Not enough state’ produces no less corruption than too much state” [19] (33).

As with the anti-corruption discourse, public administration is an “insular and self-referential intellectual community” [20] (837) trapped in a “self-interpretive closet” [21]. Both shun comparative perspectives – especially comparing like with like – and steer clear of anthropology and sociology [11] (06). Both playbooks care little about the implications – “up to this day” – of the colonial experience for developing countries [22] (346); the nature of the peripheral state in the Global South [23]; different bureaucratic systems other than the Weberian ideal, “not recognized anywhere” [24] (65); the “ontologically linked” nature of the public and private, questioning mainstream flat-earth understandings of corruption as the “abuse of power for private gain” [17] (444); the alternative moral economies of the poor [12] and the elite (with their own norms to legitimize inequality [25] [70]); the ambivalence and interdependence of formal (modern) and informal (moral) citizenship [26], the latter embedded in heterogeneous morality [27] (04); and plural conceptions and contested understandings of legality, legal systems, and illegality [28]. The paper addresses each below.

Having covered the Other, Otherings, and normative grand-standing of the contemporary anti-corruption industry, the next section turns to the past in the present and the present in the future. Colonialism, modernization, and corruption share an enduring relationship reproduced in today’s hyper-extractive global economy and the international legal architecture. From Africa to Eastern Europe and the Balkan regions, and “some” Latin American countries, no matter the depth and extent of involvement in corruption, the anti-corruption political platform is a “stronghold”; it is “an integral part of the evergreen rhetoric of ‘modernisation’ and ‘democratization’ by political leaders and their elites” [5] (21). Section Three turns to processes and dynamics that birthed and sustain the peripheral state: the “major motive force for corruption” [23] (82). Section Four attends to moral economies, citizenship, legality, contested illegality, and hypocrisy. The accelerated interpenetration of the “formal/informal/illegal” [9] (228) and the gray zones between legality and illegality destabilize binary imposed models/binaries of formal/informal and legal/illegal, referenced to moral economies of survival, citizenship, and illegality.

Responding to the insularity, isolation, (studied) ignorance, and detachment of mainstream anti-corruption studies from real-world corruption, this paper's narrative draws on arguments and insights culled from: coloniality to advise on past and present dynamics of peripheralization [8, 29, 30]; criminology to probe the limits and limitations of the law [13, 28]; economics to inform transactions, incentives, and regulation [6, 7, 22, 25, 31–33]; ethnography to counter ethnocentrism, moralization, and criminalization of (misunderstood) social practices [1, 4, 5, 10, 11, 19, 27, 34–43]; political science to interrogate state form and statecraft [3, 18, 23, 44]; geography [17, 45] for the “meaning-making” of corruption's material and territorial power [16, 20, 21, 46–48] (438); social policy to magnify rights and citizenship (amongst others) [26]; SBCC as the preferred anti-corruption approach and vocabulary [14, 15]; sociology to address social exclusion [49, 50]; and socio-legal studies to explain the reasons for multiple conceptions and interpretations of law [51–56]. It is hoped that the learnings from coloniality, criminology, economics, ethnography, political science, geography, public policy, social policy, SBCC, sociology, and socio-legal studies can spark discussion and debate about the complexity and diversity of corruption in the Global South. The cursory coverage of the subjects and disciplines does not claim to be comprehensive, but wherever possible, authoritative texts were sourced as a contribution to anti-corruption scholarship.

2. The past in the present: Colonialism and corruption

Contrary to the dominant view in the celebrated literature on institutions and growth that “European settlement has only positive effects,” colonialism and corruption are positively correlated for all developing countries where Europeans were a minority in the population [22]. If large European settlements installed inclusive growth institutions in colonies (featuring the protection of private property, contract enforcement, and market enablement of investment and innovation) and extractive institutions when in small settlements (enabling expropriation and rent-seeking) [31], it follows that it would lead to lower levels of corruption. However,

Higher European settlement leads to more corruption. The degree of European settlement determined the power of the elite in colonized countries, and the elite was able to maintain its privileges in the present as shown by the relationship between European settlement in colonial times and inequality today. European settlement and corruption are positively correlated [22] (320).

Europeans formed more powerful elites when settled in large numbers and benefited from acts of corruption with impunity because punishment was unlikely in the colonies but could be prosecuted in the metropole. There is a double standard at work here. While the colonialists supposedly maintained clean and liberal government in the metropolises, they installed rapacious regimes in colonies, justified by the Manifest Destiny of Europeans and the White Man's Burden. In 1890, Burgess – the mentor of the “father of public administration,” Frank Goodnow – wrote of Europeans as sharing a culture that set them above “all other peoples in other parts of the world,” and force was permitted to empty territories of “barbaric civilizations” [47] (186). Moral weakness and the arbitrary power of the uncivilized – the “norm” of the “half-devil and half-child” [57] in colonies – was deployed to protect and legitimize the theft, looting, and plunder by the white civilizing colonial officials [17] (446). Today, local

and transnational anti-corruption discourses are justifiably accused of “erasing whiteness and colonialism together with maintaining and sustaining global structures of white supremacy and wealth extraction” [8] (313) (a point returned to shortly).

The effects of European settlements and colonial history on elite formation are observable in present corruption practices, explaining the persistence of corruption in some countries. The comprador bourgeoisie are the “conveyor belts of the exploitation of the Third World by the West” [30] (36). The increasing share of natural resources in total exports in much of Central and South America and in Africa [45] (1,129) is accompanied by the “recompradorization,” and “generalized compradorization” [29] (1,158) of dominant classes and authorities in all the regions of the South. Compradorization followed on the heels of the colonial project. Today, there is “comprador subalternisation” [29] (1,130), which deepens and aggravates legal and illegal elite hoarding at global and national scales alongside mass impoverishment. Excessive preoccupation with corruption, misappropriation, nepotism, patrimonialism and other “aberrations” in the developing world tends to “substitute for an analysis of the forces that determine the dynamics and direction of the process” [49] (29).

The anthropology of illegality points to the need to “study up” on corruption, which is more than the stigmatization of groups and their activities as criminal and illegal (the patterned hypocrisy discussed shortly), but also to focus on the illegal practices of the rich and powerful. The most “un-marked” status categories – American and Western European white male corporate owners and managers [42] – summon and distort cultural arguments to justify greasy payments to top officials [18] (132).

3. The past in the present and future: Corruption, capitalism, and the peripheral state

Corruption, at its root, represents the failure of development – a toxic cocktail of rising inequalities, a degenerate capitalist morality (individualism, greed, acquisitiveness, material success, and unequal distribution of rewards), and escalating conflict and violence [34] (114). Corruption is “not an unfortunate deviation from an otherwise smoothly functioning socioeconomic system but is the product of the system itself” [34] (128). Lobbying, political finance, revolving doors, personal ties, and media capture game policymaking processes for personal gain, contaminating and corrupting the public interest [44]. Corruption is “frequently an integral part of the political system” [39] (06).

Under liberal democratic regimes, corruption represents an additional and illegal advantage of wealthy interests over and above legal advantages they ordinarily enjoy by virtue of large campaign contributions, muscle in the courts and so forth. Wealth, in this sense, is doubly conservative in such regimes . . . Much of what we consider as corruption is simply the “uninstitutionalized” influence of wealth in a political system [39] (33–34, original emphasis)

Corruption in the Global South is “more likely varied and complex than in the North” [3] (26). Political scientists argue that the “root cause of corruption in the Global South is lodged in the nature of the peripheral state” [23] (92). The ruling class in peripheral societies creates “favorable conditions” for multinational corporations and state managers who cooperate with the political and economic elite to reproduce their domination and power. The peripheral state is described as “criminalized,”

“exploitative,” “predatory,” and “susceptible to capture,” while anti-corruption mechanisms are said to be blunted by ineffectiveness and/or political manipulation [23] (94, 96, 97). The “outside historical influence of colonialism” [50] (145) and contemporary imperialism – such as the institutionalized influence of wealth – have forged and molded today’s peripheral state and “gave it a corrupt role within the peripheral tier of the international capitalist system” [23] (99). Exacerbating matters is the pro-market anti-corruption regime of contracting out, concessions, and privatization – all encouraged by the World Bank – bringing windfall profits to “OECD-based” multinational corporations [46] (546), which cherry-pick, asset-strip, and pay millions to shareholders while disenfranchising thousands with full cost recovery. Atop the secrecy and all-too-often scant regard for transparency in the periphery, multinational corporations – “a separate legal person from its subsidiary corporations” – have committed grave international crimes – genocide, crimes against humanity, and war crimes – in sectors “allegedly more prone to being involved in human rights abuses.” such as extractive, surveillance/intelligence, arms, and chemical industries [55]. The separate legal person has no binding obligations under international law [56].

For the Global South, international laws extend a historical pattern privileging Empire [13] (12). These laws foster neo-colonial relationships through which the Global North coerces countries of the South to principally serve its public interests. Replacing direct colonization – the “White is right, and the West is best” norm – the West today defines the rules, norms, terms of trade, and policy initiatives, including the anti-corruption arena [3] (32). The White gaze embodies a “specific vision” about how states function or supposedly function – the Weberian ideal not recognized anywhere. Deviation means categorization as the failed state, the fragile state, and the corrupt state [13], with all the rightsizing consequences, impositions, and interventions. Distracting from corruption in the metropole, the primarization and comprador subalternization of southern economies, the immunity from prosecution of white male corporate managers and owners for gross human rights violations caused by their industries – just as in colonial times – and support for the peripheral state that hoards and starves are absent or low-key in orthodoxy. This is both “capture of the state” (by non-state actors) and “capture by the state” (by its leaders and/or other state organs) [32] (225, original emphasis).

4. Moral economies, citizenship, legality, contested illegality, and hypocrisy

Neoliberalism “in practice” has occasioned “much greater interpenetration of the formal/informal/illegal to the point of near indistinguishability in certain contexts” [9] (228). From the arms industry to resource wars, from the criminal economy to money laundering and real estate investment, from child labor in cobalt extraction to cell phones, and from zones of exception to sacrifice zones, the boundaries between formal, informal, and illegal are thin.

What is appropriate and inappropriate economic behavior is one of definitions, motive and power . . . of the ability of competing interests to impose and enforce their own perceptions of illegality [35].

The formal, informal, and illegal co-evolve, co-exist, and are contested with profound implications for the roles and responsibilities in the formal legal

community of rights (constitutions, policies, and laws) and the moral informal community characterized by “loyalty and duty to kin and in-group” [18] (128). Constituting an “implicit social contract” [33] (337), the currency of the informal social network – the moral informal economy – is reciprocity, redistribution, and solidarity, along with clientelism, nepotism, and cronyism [5, 19, 41]. Referencing food riots in eighteenth-century England, Thompson said the “crowd”/rioters shared “a popular consensus” of legitimate and illegitimate practices (in bread production) grounded in traditional rights, customs, obligations, and social norms constituting the “moral economy of the poor” [12] (78–79). The “moral economy” is described as the “production, distribution, circulation [of] emotions and values, norms and obligations in the social space” [25] (68–69).

Scott refers to “peasant conceptions of social justice, of rights and obligations, of reciprocity” [41] (vii) that create institutions to insure “the weakest against ruin by making certain demands of the better-off villagers” (41) and elites (6). The everyday forms of resistance are the “weapons of the weak” [40] (350). The morality of reciprocity, obligation, and indebtedness is the “ammunition of the weak” [5] (19).

Where the state fails to deliver, citizens organize themselves to forge a citizenship model catering to their needs and security [26] (781). As a “function of the quality of public governance” [48] (3,245), informal (moral) citizenship comprises embodied, engendered, and community-based rights rather than formal (modern) citizenship with its disembodied, evolutionary, and individual rights. In formal (modern) citizenship, individual rights are realized through laws, courts, and the rule of law – one among numerous regimes and codifications of law [1, 4, 9] – versus the reciprocities and relationships of informal (moral) citizenship.

Social rights are realized through a combination informal and formal processes and practices. Individual citizens negotiate obligations to both the state and their families, communities and kinship groups [26] (782).

Corruption and the corrupt exchange “is only one of the possible modalities of interaction between state and citizens and cannot be divorced from social relations of community, deliberation, obligation, and ‘arrangements’” [58] (32–34). To dismiss the latter is “inexcusably simplistic” – the “large simplifications” of the “official norms” brigade included [5] (13) – evincing incredible ignorance of empirical realities spanning the illegal and the “not strictly illegal” [27] (11). Today, illegality is “inevitable” [36], a “norm rather than exception” [37].

Corruption is “one of the contemporary forms of governance” [58] (35). It lies at the “very core of order enshrined in the law of the state” [1] (12). The anthropology of law, legal realism, and the association studying the interaction of law with society have challenged the claim of the efficacy of law, surfacing its historical and contingent nature [1] (13). The legal and illegal oppositions are not given but are subject to ongoing processes of social construction and contestation.

Ethnographers write of the legal and illegal as two sides of the same coin – one assuming the existence of the other [13]; corruption is not the law’s negation. The two sides are not opposites but constitutive of one another [1] (03); because law contains the possibility of its violation, legal/illegal spheres are not mutually exclusive but two dimensions of a whole, ambivalently conjoined [1] (03). Legality and illegality are not separate nor unpolluted; they “overlap and merge in everyday practice” [59] (211), invoking numerous moralities that are not equivalent [38].

Illegality is “not simply the breach of law but a contested social and political category” [28] (177) because both the legalized and the illegalized do not belong to a specific category in politics and power [59]. What is deemed legal or illegal is a function of definitions and motivations, and the power to “impose and enforce their own perceptions of illegality” [35]. Illegality is fashioned by numerous interconnected dynamics, including perceived historical injustice and claims; survival and livelihood strategies; the disconnect between formal law and real practice; the gray zone between legality and illegality (nearly indistinguishable); and how actors interpret and understand the law [28]. To understand the materiality of contested illegality, the paper draws on ethnography, criminology, and socio-legal studies.

The law, tied to colonialism and the postcolonial [43] (167), is not the sole and only source of authority [9]. It co-exists with traditional rules, religious beliefs, codes of conduct, and practical norms – de facto, tacit, or latent norms that differ significantly from official or legal norms [4] – generating complex dynamics and configurations of “legal plurality” [1] (03). Legal pluralism invites negotiations about the system of law and the rules of the game. Due to several systems of rules, these rules are filtered through context, available resources, and survival strategies. As with negotiating the system, there is a notable gap between “official and publicly assumed rules” (themselves plural in nature) and the “real” rules based on local professional cultures, bureaucratic customs, traditions and routines, accepted ruses and practical knowledge, and other “coping strategies” [4] (97). The division between the public sector – its roles, functions, and rules – and “real” rules (social norms external to government) – is “permanently eliminated” [4] (97); this is an “excess” rather than an “absence” of rules [4] (97), not aligned with official norms, legislation, and regulation, or formal and legal standard operating procedure.

With the borderline growing thinner between “everyday practice” – compensating for government failure via “informal, friendly social contacts” [18] (128) – and anti-corruption’s formal arm’s-length, rule-bound transactions and relations, civil servants in the developing world staff “schizophrenic-type administrative apparatuses” [19] (47), wherein negotiations, bargaining, and arrangements “replace” formal norms [4] (04). Adherence to abstract official norms co-exists with everyone reproducing the system via everyday practice. Participation in a system “he denounces” puts him in a “schizophrenic situation” [19] (48).

Multiple legal codes of conduct co-exist and apply to distinct categories of individuals and groups, engendering a legal consciousness that concentrates on the “meaning, sources of authority, and cultural practices commonly recognized as legal, regardless of who employs them or for what ends” [13] (06). Inspired by distinct research schools, legal consciousness is about the ways in which “people experience, understand, and act in relation to the law” [51] (366). Legal consciousness is constituted by cognition, behavior, ideologies, and practices people use wherein law “could play a role” [51] (366). It is more than awareness, knowledge, or ignorance of the law because law is not part of cognition nor consideration. Importantly, while legal pluralism is the excess and not the absence of rules, legal consciousness extends to the “absence as well as presence of law in people’s understanding of the social world” [51] (366) and their place in it. Shared expectations, values, and behaviors governing interactions within relationships or social groups – group and relational norms – influence how individuals perceive, interpret, and respond to legal and social issues.

To talk about how law influences individual behaviour in a vacuum, devoid of social context, is to ignore the ways that group identity interacts with law to provide motivations to comply. These include motives to cooperate, to be loyal to the group, to adhere to group norms, and to avoid social exclusion [51].

There are three common narratives detailing people's relation to the law: "before the law" (the police and courtroom), "with the law" (as a tool to be strategically and pragmatically deployed), and "against the law" (often aligned with the elite, including resistance, evasion, or defiance) [60] (7, 11, 15). Outcomes "before the law" routinely create a disconnect between the formal ideology of the law and the lived reality of citizens; "with the law" regularly exposes formal legal channels as inefficient, inaccessible, or stacked against people, justifying corruption; and "against the law" undermines and erodes the legitimacy of the legal system [52]. Before, with, and against the law are not mutually exclusive; individuals can move between them depending on the context [60], regularizing extractive behaviors, abusing hierarchies, and rewiring accountability [51].

By moving beyond institutional analyses and legal frameworks, legal consciousness highlights how corruption is normalized, resisted, and perpetuates itself. It fundamentally challenges top-down, purely punitive anti-corruption measures, refocusing on context-specific governance, procedural justice, and framing corruption as collective injustice, not an individual choice, toward the cultivation of shared legal consciousnesses intolerant of corruption [53, 54].

Contested illegality, legal pluralism, and legal consciousness are connected, explaining why mainstream anti-corruption approaches falter. Contested illegality is about the definition, imposition, and enforcement of the illegal; legal pluralism alerts us to the multiple legal systems and interpretations co-existing in the same space; and legal consciousness points to the social ties and group dynamics resisting and perpetuating corruption. Whether mainstream anti-corruption studies can engage with plurality, fluidity, and social (versus individual) ties is an open question.

The moral economy of the poor, together with their multiple legal systems, consensually derived rules, and complex governance structures (from reciprocity and solidarity to cronyism), makes claims for historical redress and redistribution and justifies illegality for survival and welfare – not enrichment. Both enrichment and survival operate in gray zones too.

Corruption has two faces: the first overtly illegal one is broadly condemned and the second, which is legitimized by social practices, is tolerated and sometimes encouraged albeit 'unofficially' [4] (05).

At play here is a "patterned hypocrisy" – the legal transgression of the elite is invisibilized and unstigmatized, while the "small people" [38] (305) are stigmatized and criminalized, never mind whether they see the law as licit, ambiguous, plural, and not in their best interests. The "hypocrisies of illegalities" raise profound public policy questions pertaining to unequal access to resources, institutional capacity, and "cultural production" [38] (305). From this vantage point, legalization and illegalization are best viewed as processes – "not states of being" – summoning inquiry into history, relational norms, and power [38] (304), because the study of corruption is compelled to not only look at the traffic between "influence, power,

and networks” but also look into “practices which exist beyond corruption, but are functionally, structurally, or culturally closely related to it” [4] (12).

5. Conclusion

The bulk of establishment anti-corruption scholars will object to the historical arc of this paper; they will object to the poor understanding and shabby treatment of their theories and teachings; they will object to the disciplines chosen and the reasons motivating the mix; they will object to the less-than-paper-thin presentation of the (universe of) subjects in the disciplines and their irresolution; and there will undoubtedly be many other objections, both big and small. But, if anything, the modest attempt to put mainstream anti-corruption studies in dialogue with concepts and ideas culled from a handful of subjects from social sciences – albeit wanting, with countless science/subject permutations – exposes the limits of moral condemnation, righteous indignation, expensive litigation, and ineffective penalization. To understand and study corruption in the Global South will require stretching and broadening the canvas, introducing paint colors, intensifying them, and thickening the texture of the paint.

Stretching and broadening the canvas, history reminds us of the continuities and discontinuities of past and present corruption patterns, as well as the processes and dynamics of present and future corruption – enrichment alongside impoverishment – in the hands of the peripheral state. Without consideration of the composition and distribution of elite power, in both the metropole and the periphery, it is difficult to measure the balance of power – the key determining factor in the success and sustainability of anti-corruption programs and interventions.

Adding colors and intensifying them calls for urgent recognition of the moral economies of the poor (insurance, reciprocity, negotiation, and solidarity), the processes and practices of graded (modern and moral), but interwoven, citizenship, and the co-existence and co-evolution of the formal, informal, and illegal. It would be foolhardy to deny the empirical reality of the increasingly indistinguishable boundaries between them. The color palette for painting distinguishable, nearly indistinguishable, and indistinguishable is likely more intricate, complex, and diverse than the monochromatic palette of orthodoxy’s binaries, dualities, and disembodied norms.

The thickening of the texture is because the meanings and interpretations of both legal and illegal are plural and contested. Contested illegality is about historical claims, survival, the gap between law and practice, gray zones, and multiple understandings and interpretations of law. Establishment scholars will struggle to include or accommodate these in their monochrome.

Legal pluralism, negotiation about systems of the law and rules of the game, everyday practices, and formal norms have bequeathed schizophrenic situations and administrative apparatuses. Legal consciousness explains why and how social groups and ties resist or continue with corruption. When cross-referenced to pluralism and consciousness, contested illegality entails negotiating the terms and rules of the game filtered through contexts, arrangements, and strategies with fluid and plural legal, illegal, and not-yet-illegal boundaries. Establishment scholars will struggle to include or accommodate this in their monochrome.

The canvas, colors, and textures of the paint will change the painting. Whether it unsettles or provokes will depend on scholars looking into and beyond orthodoxy – that is, self-interest, the strict separation of the public and private spheres, rational bureaucratic administration, official norms, and other gold standards. Bureaucracies at work, co-existence and co-evolution, interdependencies, practical norms, contested illegality, plurality, fluidity, and ambivalence are better candidates to begin understanding and theorizing the distinctly different corruption in the North and South, its diversity, complexity, and persistence.

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Chapter 2

Corruption-Proofing: A Theoretical Framework for Anti-Graft in Africa

Dan Kuwali

Abstract

Corruption remains one of the most insidious impediments to Africa's governance, development, and democratic consolidation. This chapter conceptualises corruption-proofing as a transformative framework for institutional resilience and systemic integrity. While previous scholarship has focused primarily on reactive legal mechanisms, this discussion advances a proactive systems-based approach centred on Accountability, Responsibility, Monitoring, and Sustainability (ARMS) as key principles of governance transformation. The chapter interrogates the enabling conditions of grand corruption – including elite capture, weak institutions, opaque political financing, and global complicity – and proposes a whole-of-society strategy to prevent, deter, and ultimately neutralise corruption. Using a comparative, doctrinal, and systems analysis methodology, the discussion synthesises existing legal instruments such as the African Union Convention on Preventing and Combating Corruption (AUCPCC) and the United Nations Convention Against Corruption (UNCAC), drawing from regional experiences and case studies across sub-Saharan Africa. The chapter concludes that corruption-proofing requires a holistic, people-centric paradigm termed 'condemn and commend', anchored in structural deterrence, ethical leadership, and multi-level accountability. By commending integrity and condemning illegality, dismantling kleptocratic structures, and incentivising ethical conduct, African states can reclaim public trust and repurpose diverted wealth toward inclusive growth. Corruption-proofing governance is not merely about preventing wrongdoing but about re-imagining governance as a moral enterprise grounded in justice, transparency, and collective prosperity. The study recommends strengthening diagonal accountability through the media and civil society, institutionalising supranational enforcement mechanisms, and embedding transparency and integrity within national systems.

Keywords: ARMS strategy, condemn and commend, illicit financial flows, systems approach, whole-of-society

1. Introduction

Corruption is not merely a moral failure; it is a structural crisis that corrodes governance, erodes public trust, and perpetuates inequality [1]. Grand corruption, in

particular, diverts substantial public resources into private hands, undermining democratic legitimacy and stunting socio-economic development [2]. Despite decades of reform and the proliferation of anti-corruption legislation across the continent, Africa continues to grapple with entrenched corruption because most interventions have targeted symptoms rather than systemic causes [3]. This chapter reframes corruption not simply as deviant individual behaviour but as a complex, adaptive system driven by institutional incentives, power asymmetries, socio-political cultures, and transnational economic networks [4].

The central theoretical contribution of this chapter is the concept of corruption-proofing governance, which is conceptualised as a proactive, system-oriented approach to strengthen institutional integrity and prevent corruption before it manifests. Drawing on governance theory, institutional economics, and human security, corruption-proofing integrates four interrelated pillars – Accountability, Responsibility, Monitoring, and Sustainability (ARMS) – designed to make governance structures inherently resistant to corruption. Unlike conventional anti-corruption strategies that primarily sanction wrongdoing, ARMS operationalises a design-based approach that addresses both human behaviour and institutional architecture to create corruption-resilient systems [5].

To explore corruption-proofing in Africa, this chapter adopts a multi-layered analytical approach that blends legal, institutional, comparative, and policy perspectives [6]. It draws on a doctrinal analysis of regional and international anti-corruption instruments, including the African Union Convention on Preventing and Combating Corruption (AUCPCC) and the United Nations Convention Against Corruption (UNCAC), to examine the legal frameworks intended to promote integrity [7]. This legal lens is complemented by a comparative case study analysis, which highlights experiences from African countries such as Botswana, Rwanda, and Ghana, alongside global examples from Singapore and Nordic states, to illustrate how systemic design, leadership ethics, and cultural norms influence the prevalence and mitigation of grand corruption.

In addition, the chapter applies systems thinking and institutional analysis to unpack the structural drivers of corruption, including state capture, elite dominance, opaque political financing, and weaknesses in oversight mechanisms [6]. By considering corruption as a dynamic system rather than a series of isolated incidents, the analysis identifies both the incentives that sustain malfeasance and the institutional levers that can deter it [8, 9]. Finally, the chapter incorporates policy evaluation, drawing on empirical data, Transparency International (TI) indices, World Bank reports, and African Development Bank studies to identify practical, context-sensitive interventions that are actionable at both national and supranational levels [10].

Structurally, the chapter is organised to guide the reader from diagnosis to prescription. After this introduction, the second section examines the persistence of grand corruption in Africa, focusing on structural and socio-political factors that enable it, including elite capture, weak oversight, and transnational illicit financial flows (IFFs). The third section develops the theoretical foundations of corruption-proofing, situating the ARMS framework within the context of governance theory, institutional economics, and human security discourse. In the fourth section, the discussion operationalises corruption-proofing by illustrating how the four pillars – ARMS – can be implemented within African institutions. The fifth section draws lessons from comparative practice, presenting successes

and failures in corruption-proofing across Africa and beyond, and highlighting the roles of leadership, culture, and technology. Finally, the sixth section presents a set of policy recommendations and a whole-of-society strategy to deter grand corruption, emphasising vertical, horizontal, and diagonal accountability, asset recovery, and measures to strengthen civic participation and institutional integrity [11].

The central thesis of this chapter is that sustainable mitigation of grand corruption in Africa requires systemic redesign of governance architectures rather than mere reactive enforcement. Corruption-proofing – through ARMS – demonstrates that integrity can be engineered into institutions, making ethical behaviour the rational, low-cost choice for public officials and creating a governance ecosystem in which corruption is structurally disincentivised [12]. By integrating legal, institutional, and social mechanisms, African states can move from episodic anti-corruption campaigns toward resilient, preventive, and inclusive governance capable of withstanding elite capture and transnational illicit flows [13].

2. Corruption defined

Corruption defies a single, universally accepted definition due to its multi-faceted nature, varying legal interpretations, and diverse societal perceptions [14]. At its core, corruption entails the abuse of entrusted power for private gain, whether within public institutions, private enterprises, or hybrid public-private contexts [15, 16]. The World Bank has expanded traditional definitions by replacing ‘public office’ with ‘trusted office’, thereby acknowledging that corruption is not solely a problem of the public sector but also occurs in the private sector, often in collusion with state actors [15, 17]. From a public choice perspective, corruption is understood as the manipulation or subversion of rules by unscrupulous actors to generate extralegal wealth or privileges for themselves [18]. Manifestations of corruption include bribery, extortion, nepotism, abuse of discretion, conflict of interest, and elite or state capture, among others [19–21]. These malfeasances must be distinguished from fraud, which involves deliberate deception for personal or financial gain [22].

This discussion emphasises political or grand corruption, which represents the ‘elephant in the room’ that undermines anti-corruption efforts against petty and administrative corruption [23]. Grand corruption, particularly pervasive in Africa, siphons off resources critical to human development and good governance, a reality reflected in the near-universal ratification of the AUCPCC and the UNCAC by African states, with only a few exceptions globally [7, 24, 25]. Both instruments oblige states to enact laws criminalising corruption, preventing its occurrence, detecting and investigating malfeasance, and punishing perpetrators (see, e.g., Article 18 [24] and Article 1(a) [25]). Yet, in practice, the political influence of elite kleptocrats frequently undermines enforcement, resulting in widespread impunity [26].

The purpose of this discussion is to explore strategies to prevent and deter grand corruption, particularly by curtailing the opportunities for political elites to divert public resources without legal or political consequences [27]. Central to this approach is a people-centric framework, which recognises that ordinary citizens – rather than elites – bear the brunt of corruption’s social and economic harms. This approach operationalises diagonal accountability, whereby non-state actors – including the media and civil society – exercise oversight and leverage their

principal-agent authority to raise concerns, question governance, and demand transparency and accountability [28].

To address grand corruption effectively, the chapter employs systems thinking, recognising that corruption is embedded in complex social, political, and economic systems [29]. Systems thinking enables the identification of feedback loops that reinforce inequality and elite privilege, such as nepotism in employment and the preferential awarding of contracts to connected individuals, which consolidate wealth and access to opportunities [30]. Conversely, these dynamics exacerbate marginalisation and deprivation among the poor and minority groups. A systems approach, therefore, seeks to transform the culture and environment of corruption by eliminating structural enablers, cultivating moral and transformational leadership, promoting ethical role models through commend-and-condemn campaigns, and establishing transparent, accountable institutions across the governance spectrum [31].

3. Grand corruption: Diagnosis, measurement, and challenges of detection

The World Bank differentiates between isolated corruption, often localised or opportunistic, and systemic corruption, which is embedded in the structures of governance and power [17, 32]. Grand corruption, typically orchestrated by political elites, may involve state capture, embezzlement, and high-level bribery. It is distinct from administrative or petty corruption, which is more operational in nature and often carried out by lower-level bureaucrats, such as traffic officers or local officials [33].

Political corruption can be further divided into extractive and power-preserving corruption. Extractive corruption occurs when public officials use their positions to extract wealth for themselves, their families, and close associates through activities such as embezzlement and fraud [34]. Power-preserving corruption, by contrast, employs corruptly gained resources to consolidate political authority and secure party dominance, for example, by financing political campaigns or rewarding loyalists [34, 35]. Understanding these distinctions is critical for developing targeted, actionable anti-corruption strategies, as some forms of grand corruption evade conventional measurement tools, such as the TI Corruption Perceptions Index (CPI), which captures perceptions rather than actual covert financial flows [36].

Grand corruption is inherently covert and complex, often executed by politically exposed persons (PEPs) who manipulate state mechanisms with impunity [37]. Its detection relies on identifying risk indicators, or ‘red flags’, including unexplained wealth, bid rigging, single-sourcing of high-value contracts, and the registration of accounts and companies in offshore tax havens. While PEP-linked transactions are not conclusive proof of corruption, they indicate heightened susceptibility to illicit practices, especially in sectors like defence procurement, infrastructure, healthcare, and energy, where procurement stakes are high.

Unlike petty corruption, which can often be addressed through standard law enforcement, political corruption requires systemic interventions, as elite kleptocrats can undermine anti-corruption institutions, manipulate oversight processes, and evade prosecution [38–40]. Criminal prosecution alone is insufficient; often, by the time legal remedies are applied, public resources have already been

diverted, rendering asset recovery challenging and sometimes largely symbolic [26, 41, 42]. Grand corruption, defined as ‘the abuse of high-level power that benefits the few at the expense of the many and causes serious and widespread harm to individuals and society’, therefore necessitates preventive, people-centric, and systemic approaches [43].

4. Political economy of grand corruption in Africa

Africa remains the poorest continent, with persistent underdevelopment exacerbated by entrenched corruption [18]. Grand corruption is a major driver of inequality, limits access to essential services, discourages investment, and undermines state capacity [17, 44–46]. Despite symbolic efforts, such as the African Union designating 2018 as the ‘Year of Winning the Fight Against Corruption’, the continent is still widely perceived as the most corrupt globally [47, 48].

Sub-Saharan Africa dominates global corruption indices, with 6 of the 10 most corrupt countries located in the region, characterised by average CPI scores of 32 out of 100, reflecting widespread governance challenges [10, 49]. Approximately 90% of the continent’s population lives under very corrupt administrations, and IFFs drain over US\$50 billion annually, further constraining economic and social development [50].

The AUCPCC, adopted in 2003 and in force since 2006, represents the continent’s normative response, establishing an Advisory Board on Corruption tasked with promoting ratification, implementation, and enforcement. To date, 44 of the 55 AU member states have ratified the convention, illustrating both progress and the limitations of collective action against corruption [51].

Corruption erodes social cohesion, institutional trust, and economic potential, rewarding the undeserving while penalising diligence and innovation [52, 53]. Kofi Annan, former UN Secretary-General, underscored that while corruption exists globally, its consequences are most devastating in developing countries, where the misappropriation of public resources directly harms the poor and vulnerable [54]. Political unrest, including the Arab Spring, has often been catalysed by corruption, reflecting its direct impact on peace, security, and societal stability [55].

Thus, for Africa, combating grand corruption is not merely a legal or moral imperative but a matter of economic justice, social stability, and national survival. Unless African states adopt robust, systemic, and people-centric strategies to prevent and deter grand corruption, the vice will continue to constrain development, exacerbate inequality, and perpetuate cycles of poverty and instability [56, 57].

5. Factors promoting grand corruption in Africa

The persistence of grand corruption in Africa can be attributed to a convergence of greed, opportunity, and systemic weakness [58–60]. As greed is inherent in human nature, it thrives where institutional checks are absent. High levels of inequality concentrate resources and decision-making power in the hands of political and economic elites, fostering rent-seeking and patronage politics [61, 62]. This structural imbalance allows elites to shape policies that protect the status quo and perpetuate self-enrichment. Institutional weaknesses – such as the absence of ethical

codes of conduct, lack of oversight, outdated regulations, and bureaucratic opacity – facilitate corruption by creating spaces for discretion without accountability [51, 63]. Monopoly control over essential services and public procurement fosters overpricing, while weak sanctions embolden impunity. Emerging technologies, including alternative currencies and online gaming platforms, further enable IFFs that obscure accountability and frustrate the tracing of illicit funds [64, 65].

Corruption is further entrenched through state and elite capture, whereby powerful individuals manipulate institutions to serve private interests [66]. Legislative oversight may be neutralised, the judiciary politicised, and audit institutions compromised. PEPs – those with access to state power and resources – often operate with impunity, aided by networks of family members and business associates [67]. This elite immunity erodes public confidence and undermines the effectiveness of enforcement agencies.

Moreover, weak regulatory regimes around political party financing, conflict-of-interest disclosure, and religious contributions allow rent-seeking to infiltrate public life [68]. A culture of corruption, coupled with a lack of coordination among law enforcement agencies, fosters complacency and normalises graft [69]. Finally, international complicity – through opaque offshore banking systems, lax global financial regulations, and weak mutual legal assistance – creates fertile ground for grand corruption to flourish beyond national borders [70–72].

Corruption-proofing refers to the deliberate design and implementation of systems, institutions, and governance cultures that minimise the opportunity for corruption by default [51, 63, 72–74]. Unlike traditional approaches that rely primarily on punitive measures, corruption-proofing emphasises prevention, resilience, and systemic integrity. It recognises that corruption is not solely a moral failing of individuals but a structural phenomenon enabled by institutional weaknesses, misaligned incentives, and opaque power networks. As such, effective corruption-proofing requires a holistic, systems-thinking approach that encompasses the identification of structural vulnerabilities, the mapping of power relations, and the embedding of deterrence mechanisms at every level of governance.

At the conceptual core of corruption-proofing is the ARMS framework, which operationalises systemic anti-corruption strategies through four interlocking principles:

1. **Accountability** – ensuring that public officials, political leaders, and institutions are answerable to the citizenry and that there are predictable consequences for misconduct [75, 76]. This principle emphasises transparency, enforceable obligations, and mechanisms for citizen oversight, fostering a culture where abuse of power is neither tolerated nor invisible.
2. **Responsibility** – cultivating ethical leadership, integrity, and conscientious decision-making at all levels of governance [77, 78]. Responsibility underscores the role of personal and collective ethical standards, professional codes of conduct, and moral exemplars, reinforcing the idea that leaders are stewards of public trust rather than personal gain [75].
3. **Monitoring** – establishing continuous oversight and evaluation systems that track compliance, detect anomalies, and generate real-time, accessible data for decision-makers and civil society [79, 80]. Monitoring includes

technological solutions, audit regimes, whistleblower protection, and independent institutional review processes to ensure that corruption risks are identified and addressed proactively [81, 82].

4. Sustainability – embedding anti-corruption values, norms, and mechanisms into long-term governance and development processes to ensure enduring resilience [80, 83, 84]. Sustainability involves the institutionalisation of ethical practices, educational programmes, civic engagement, and policy continuity to prevent regression once leadership or political priorities change.

The ARMS framework is theoretically grounded in systems theory and the collective-action model [85, 86]. Systems theory posits that corruption is sustained not only by individual opportunism but also by interlocking structural incentives, reinforcing loops, and feedback mechanisms within governance systems [9, 87, 88]. The collective-action model further explains why corruption persists even when societal actors recognise its harms: when non-compliance appears widespread and enforcement is weak, rational actors may perceive participation in corruption as unavoidable or profitable [11, 89].

Accordingly, corruption-proofing requires structural transformation rather than moral exhortation alone. This entails redesigning incentive structures to reward compliance, empowering oversight institutions, mobilising civil society and media as active monitors, and promoting social norms that stigmatise corrupt behaviour [89, 90]. By integrating these systemic, preventive, and people-centric strategies, corruption-proofing seeks to reorient governance from reactive punishment toward proactive resilience, making corruption costly, difficult, and socially unacceptable by default [91].

6. The ARMS framework: Operationalising corruption-proofing

The ARMS framework represents a comprehensive blueprint for operationalising corruption-proofing in complex governance systems. By integrating preventive, systemic, and people-centric strategies, ARMS seeks to embed integrity into institutional design, leadership culture, and citizen engagement. Each component addresses distinct yet interdependent aspects of governance, collectively creating an environment where corruption is costly, detectable, and socially unacceptable. The framework reflects a synthesis of systems theory, collective-action models, and contemporary governance practice, offering actionable strategies to deter grand corruption in Africa and beyond.

6.1 Accountability

Accountability is the cornerstone of corruption-proofing, encompassing the obligation of duty-bearers to be held accountable for their decisions, actions, and use of public resources. Effective accountability is multi-dimensional, combining vertical mechanisms, such as citizen oversight and participatory governance, with horizontal mechanisms, including inter-institutional checks, judicial review, and parliamentary scrutiny. In many African contexts, vertical accountability is weakened by low civic literacy, political patronage, and fear of reprisal. At the same

time, horizontal mechanisms are often undermined by executive dominance, politicised institutions, and limited enforcement capacity [69].

Notably, Malawi's Public Finance Management Act (2022) aims to enhance horizontal accountability through performance-based budgeting and independent audits conducted by the National Audit Office [92, 93]. Yet, persistent capacity gaps and delayed reporting cycles limit its deterrent potential. In Kenya, the judiciary's assertive stance in high-profile corruption cases – such as those against senior public officials in the National Youth Service scandal – demonstrates the power of judicial accountability when institutions act autonomously [94–96]. Meanwhile, South Africa's Zondo Commission on State Capture has exemplified institutional courage and transparency, demonstrating how public inquiries can restore trust and provide a moral compass in the reconstruction of post-capture governance [97, 98].

Operationalising accountability, therefore, requires multi-level ecosystems, integrating open-data platforms, civil society monitoring, parliamentary oversight, and independent audit institutions. When effectively implemented, accountability not only deters misconduct but also restores public trust and reinforces the social contract between the state and citizens.

6.2 Responsibility

Responsibility extends beyond legal compliance to encompass ethical stewardship and moral leadership. It implies that public officials and political elites internalise integrity as a professional and personal obligation, rather than merely a formal requirement. Cultivating responsibility demands values-based education, leadership training, ethical codes of conduct, and performance evaluation systems that link integrity to career progression and professional recognition.

Rwanda's public service reforms provide a vivid example of institutionalised responsibility. Through the Imihigo performance contracts, senior officials pledge annual development targets that are publicly evaluated, thereby linking leadership responsibility directly to measurable outcomes [99, 100]. Similarly, Ghana's Office of the Special Prosecutor represents an effort to embed moral responsibility at the apex of state accountability by ensuring that even high-ranking officials are not immune to prosecution [101]. These models illustrate how responsibility, when institutionalised, can transform bureaucratic ethos into a culture of ethical excellence.

By bridging the gap between compliance and conscience, responsibility transforms governance from a reactive framework of punishment to a proactive culture of ethical decision-making, thereby reducing opportunities for corruption at both individual and institutional levels.

6.3 Monitoring and evaluation

Monitoring entails continuous, evidence-based oversight of governance processes, ensuring transparency, accountability, and timely detection of corruption risks. Effective monitoring leverages digital technologies and real-time data analytics, such as e-procurement systems, open-budget platforms, and citizen feedback portals, to track public resource management and procurement integrity. These innovations enable governments to institutionalise objective metrics and automated reporting, while simultaneously empowering citizens to participate actively in governance [102].

Kenya's Integrated Financial Management Information System (IFMIS) and Malawi's recently adopted Public Sector Reforms Monitoring Framework demonstrate how digital tools can curb procurement fraud and enhance financial transparency [103, 104]. Likewise, Ghana's Open Data Initiative has empowered journalists and civic groups to track irregularities in public expenditure. South Africa's use of the Auditor-General's real-time audits during the COVID-19 pandemic further illustrates how continuous oversight can expose misappropriation before it metastasises into systemic graft [105, 106]. By transforming oversight from episodic audits to continuous vigilance, monitoring disrupts the structural conditions that allow grand corruption to persist.

6.4 Sustainability

Sustainability ensures that corruption-proofing measures endure beyond political cycles, leadership changes, or temporary reform initiatives. This requires embedding anti-corruption principles into constitutional frameworks, national development plans, and fiscal governance systems, alongside the creation of resilient institutions that can maintain integrity under pressure.

Rwanda's long-term Vision 2050 and its integration of anti-corruption benchmarks into national development targets exemplify sustainability through institutional continuity [107, 108]. Malawi's incorporation of anti-corruption strategies into its Malawi 2063 blueprint further reflects a recognition that corruption-proofing must be part of long-term development architecture, not a transient political agenda [109, 110]. Similarly, South Africa's National Anti-Corruption Strategy (2020–2030) institutionalises reform through a multi-stakeholder implementation council to ensure continuity across administrations [111].

Sustainable corruption-proofing also involves cultivating long-term civic engagement, reinforcing ethical norms, and ensuring that governance reforms are institutionalised rather than dependent on individual champions [112]. By prioritising durability and resilience, sustainability transforms anti-corruption measures from episodic interventions into permanent systemic safeguards against elite capture and grand corruption.

Collectively, the ARMS framework operationalises corruption-proofing by aligning incentives, embedding ethics, enhancing oversight, and ensuring institutional resilience. Its systemic orientation acknowledges that corruption is not merely the result of individual malfeasance but a product of structural weaknesses, asymmetric power, and inadequate social accountability. Across Africa, the differentiated experiences of Malawi, Kenya, South Africa, Rwanda, and Ghana underscore that corruption-proofing succeeds where the ARMS pillars are localised, institutionalised, and sustained by political will and citizen vigilance. By implementing ARMS holistically, governments can create environments where corruption is systematically deterred, detected, and socially condemned, thereby protecting public resources, promoting equitable development, and reinforcing democratic legitimacy.

7. Comparative insights: Lessons from practice

Comparative experiences offer critical lessons for designing effective anti-corruption strategies, highlighting how institutional design, leadership commitment,

and socio-political contexts shape outcomes. By examining successful and instructive cases across Africa and beyond, this section identifies practical principles for operationalising corruption-proofing, demonstrating that enduring integrity emerges from systemic, preventive, and culturally embedded approaches rather than ad hoc punitive interventions.

7.1 Botswana: Institutional culture and elite consensus

Botswana is widely recognised as a relative success story in African anti-corruption efforts. While not entirely free of patronage, the country's governance performance is strongly shaped by a professionalised bureaucracy, institutional norms promoting transparency, and an elite consensus around ethical standards [113]. The independence of key oversight institutions, coupled with consistent enforcement of rules, has fostered a culture of accountability. Botswana illustrates that institutionalised integrity, rather than the charisma of individual leaders, underpins sustainable corruption-proofing, providing a valuable model for African states seeking to strengthen systemic resilience against grand corruption.

7.2 Ghana: Democratic accountability and institutional reform

Ghana's experience underscores the importance of democratic consolidation and institutional reform in advancing anti-corruption objectives [114, 115]. The establishment of the Commission on Human Rights and Administrative Justice (CHRAJ) and the Economic and Organised Crime Office (EOCO) has enhanced investigative and prosecutorial capacity. At the same time, reforms in public financial management and digitalisation – such as the e-procurement system and the Ghana Integrated Financial Management Information System (GIFMIS) – have improved transparency in government operations [116]. However, Ghana's case also demonstrates the limits of reform in the absence of political will and societal intolerance for corruption [117]. The persistence of patronage politics and selective enforcement underscores the need for robust institutions to be complemented by civic vigilance, non-partisan oversight, and a culture of accountability to achieve lasting integrity [118].

7.3 Kenya: Reform under political pluralism and persistent patronage

Kenya's anti-corruption trajectory reflects both the opportunities and constraints of reform within a politically pluralistic environment [119]. The country has introduced an array of legal and institutional mechanisms – including the Ethics and Anti-Corruption Commission (EACC), the Public Procurement Regulatory Authority, and the Public Finance Management Act – to enhance transparency and accountability. Judicial activism and media scrutiny have also exposed high-level corruption, demonstrating the power of civic oversight in a competitive democracy [120]. However, the coexistence of multiple power centres and ethnicised political patronage networks has often undermined enforcement [121]. Despite strong laws and donor-supported reforms, anti-corruption agencies have frequently been politicised or weakened by executive interference [122]. Kenya's experience reveals that pluralism alone does not guarantee integrity: without bipartisan commitment, institutional protection, and an active citizenry, formal reforms risk becoming symbolic rather than transformative [120, 123].

7.4 Rwanda: Centralised rent management and executive resolve

Rwanda demonstrates the role of strong executive leadership and centralised management in deterring corruption [123]. The government's decisive anti-corruption campaigns, streamlined public service management, and stringent oversight have significantly reduced opportunities for misappropriation [124, 125]. However, Rwanda's model raises important questions regarding sustainability, pluralistic accountability, and the balance between effective enforcement and inclusive governance [126]. While centralisation can enhance compliance in the short term, long-term resilience depends on institutional embedding and citizen engagement to prevent the concentration of power from becoming a new source of vulnerability [127, 128].

7.5 Singapore and the Nordic countries: High-trust, transparent societies

Singapore and the Nordic nations exemplify the efficacy of high-trust societies, robust institutional frameworks, and comprehensive oversight mechanisms [129, 130]. In these contexts, corruption is rendered costly and socially unacceptable through transparent public-sector practices, meritocratic recruitment, independent auditing, and strong civic norms [131, 132]. These cases underline that preventive corruption-proofing thrives in environments where systemic integrity is embedded culturally, legally, and procedurally, demonstrating the interplay between social norms and institutional design in reducing both petty and grand corruption [102, 133].

Comparative insights reveal four interrelated principles underpinning effective corruption-proofing. First, integrity systems must be institutionalised and resilient – anchored in robust laws, professional bureaucracies, and empowered oversight bodies rather than dependent on the charisma or goodwill of individual leaders, as illustrated by Botswana and Ghana. Second, anti-corruption strategies are most effective when they are preventive, systemic, and culturally embedded, aligning formal institutions with prevailing social norms to make integrity both a legal and moral expectation, as demonstrated by Singapore and the Nordic countries.

Third, democratic accountability and pluralism, while essential for legitimacy, must be balanced with coherent enforcement and political will, since Kenya's experience shows that institutional innovation can be undermined by patronage and fragmented authority in the absence of cross-party commitment. Fourth, centralised control and strong leadership, as in Rwanda, may yield rapid gains but must eventually give way to participatory governance and civic ownership to ensure long-term sustainability. Collectively, these lessons reinforce the value of the ARMS framework, showing that comprehensive corruption-proofing requires ARMS with context-specific adaptations that align institutional design, political dynamics, and societal norms within diverse governance environments.

8. Legal and policy recommendations

Effective corruption-proofing requires translating theoretical insights and comparative lessons into actionable policies. While legal frameworks provide the foundation, enduring integrity is achieved through systemic reforms that embed

transparency, accountability, and ethical norms into the structures, processes, and cultures of governance. The following recommendations, grounded in the ARMS framework and global best practices, provide a roadmap for policymakers to deter grand corruption while promoting sustainable, people-centred governance.

8.1 Embed integrity in constitutional and policy design

Anti-corruption principles must be constitutionally entrenched to ensure their durability beyond electoral cycles and political fluctuations. This includes guaranteeing structural independence, operational autonomy, and dedicated funding for oversight institutions, such as anti-corruption commissions, audit offices, and ombudsman agencies. Embedding integrity at the constitutional level reinforces the rule of law, reduces opportunities for elite interference, and institutionalises preventive mechanisms that are resilient to political pressure [69].

8.2 Ethical leadership development

Sustainable corruption-proofing relies on cultivating ethical leaders across public and private sectors. Public administration curricula, civil service training programmes, and executive leadership development should systematically integrate modules on ethics, integrity, and governance accountability. Mentorship programmes, values-based performance appraisals, and codes of conduct reinforce personal responsibility and cultivate a culture where ethical decision-making is standard practice rather than optional [112].

8.3 Leverage technology for transparency

Digital tools and e-governance platforms are essential for reducing discretion, increasing transparency, and enabling real-time public oversight. Innovations such as e-procurement systems, open-budget portals, and citizen feedback mechanisms institutionalise accountability by making information accessible and verifiable. Technology empowers both institutions and citizens to detect anomalies early, convert transparency into actionable intelligence, and deter corrupt practices before they materialise [102, 134].

8.4 Foster participatory governance

Deepening accountability requires inclusive, multi-stakeholder engagement. Civil society, academia, media, and professional associations should be actively empowered to track budgets, monitor procurement, and evaluate policy implementation. By leveraging their principal-agent role, non-state actors serve as additional oversight layers, increasing the cost of malfeasance for elites and reinforcing the principle that governance is a shared societal responsibility [11].

8.5 Adopt the ARMS framework in policy planning

The ARMS framework provides a structured methodology to embed corruption-proofing into policy and planning. Governments should incorporate measurable ARMS indicators into national and regional strategies, budgetary planning, and

performance evaluation. By aligning planning and evaluation with these principles, states can shift from episodic enforcement to systemic prevention, ensuring that anti-corruption efforts are continuous, evidence-based, and institutionally reinforced.

These recommendations collectively demonstrate that combating grand corruption requires a shift from reactive prosecution to proactive, systemic governance reforms. They emphasise structural integrity, ethical leadership, participatory oversight, and the integration of ARMS principles into institutional design. In doing so, they offer a practical pathway for states to transform governance cultures, protect public resources, and promote equitable development.

9. Conclusion

Corruption-proofing governance in Africa is neither a utopian ideal nor a distant aspiration – it is a pragmatic and urgent imperative for democratic consolidation, inclusive development, and social justice. As the comparative experiences of Botswana, Ghana, Kenya, and Rwanda demonstrate, institutional design, political commitment, and civic participation must work in tandem to transform integrity from an exception into a systemic norm. Legal and regulatory reforms, though indispensable, cannot, by themselves, overcome the deep-seated cultures of patronage and impunity that undermine governance across much of the continent. They must be reinforced by ethical leadership, civic empowerment, and sustained enforcement that transcends political cycles [135].

The ARMS framework offers both a conceptual lens and an operational pathway for embedding resilience against corruption. It calls for governance systems that are preventive rather than reactive, ensuring that transparency and integrity are built into institutional routines rather than imposed as afterthoughts. By realigning incentives, strengthening oversight, and cultivating societal intolerance for malfeasance, the ARMS approach reframes anti-corruption as a development-driven and justice-oriented agenda rather than merely a compliance exercise.

Reactive and punitive approaches to corruption have consistently failed to disrupt its structural entrenchment or diminish its adaptive resilience within governance systems. This analysis advances the paradigm of corruption-proofing governance – a framework that moves beyond the reactive containment of malfeasance to re-envision governance itself as a normative and ethical enterprise, founded on the principles of justice, transparency, and collective flourishing. Corruption-proofing entails the deliberate design, institutionalisation, and internalisation of governance architectures, administrative processes, and civic cultures that inherently deter, disincentivise, and increase the cost of corrupt behaviour. It seeks to make integrity the path of least resistance and corruption an irrational choice.

The point is that corruption-proofing demands a whole-of-society approach. State institutions must partner with civil society, the media, and citizens to foster an environment where integrity is commended, illegality is condemned, and accountability is collective. Realising this vision demands a holistic, whole-of-society approach – one that operationalises diagonal accountability through the active participation of the media, civil society, and transnational networks; institutionalises supranational enforcement and oversight mechanisms; and embeds transparency

and integrity as core design logics rather than peripheral aspirations within national and international governance systems.

At the normative core of this model lies the commend-and-condemn strategy – an ethos that fosters an ethical public sphere in which integrity is not merely encouraged but institutionally rewarded, illegality is publicly and unequivocally repudiated, and accountability is embraced as a shared legal, ethical, and civic responsibility. The effective realisation of this strategy is undergirded by the ARMS principles, which collectively constitute the operational grammar of corruption-proof governance. These principles require that all stakeholders – states, corporations, and individuals – be held answerable for their conduct, exercise their mandates with responsibility and foresight, and be subject to rigorous, transparent, and continuous monitoring designed to sustain ethical governance over time.

Disrupting entrenched kleptocratic networks and rewarding ethical behaviour can rebuild public trust, enhance institutional legitimacy, and redirect squandered resources toward equitable growth and human security. In this sense, corruption-proofing governance is not only about protecting systems from decay but about reimagining governance as a shared moral and developmental enterprise – anchored in integrity, sustained by vigilance, and driven by collective responsibility.

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Section 2

Empirical Analyses:
Institutional and Regional
Perspectives

Chapter 3

Contemporary Determinants of Corruption in Colombia: A View from the Allocation of Public Goods and Services

Ibis Danilo Yanguas-Botero

Abstract

This chapter aims to contribute to the theoretical and practical field by deepening the understanding of the relationships between the main contemporary determinants of corruption and the allocation of public goods and services in Colombia. The study integrates findings from a systematic review of scientific literature and open-ended interviews with key actors from the public sector, the private sector, and civil society. Rather than presenting corruption as an isolated deviation or the outcome of individual misconduct, the research frames it as a structural, cultural, and institutional phenomenon, deeply embedded in the evolution of the country's governance. The analysis identifies three interpretative dimensions: institutional deterioration and governance capture, cultural and ethical transformations in society, and oversight processes and the safeguarding of the public good. By mapping these variables and their interrelations, the study contributes to a deeper understanding of how systemic corruption undermines effectiveness, equity, and legitimacy in the allocation of public resources. The findings provide both conceptual and practical implications for the design of public policies, institutional reforms, and anticorruption strategies tailored to the Colombian sociopolitical context, while also offering valuable insights for other countries facing similar structural challenges.

Keywords: Colombia, corruption, governance, public resources, institutions

1. Introduction

Corruption constitutes one of the most complex phenomena confronting contemporary democracies. In the international arena, it undermines the legitimacy of institutions, distorts the economy, deepens social inequality, and erodes citizens' trust in the state. Corruption cannot be reduced to isolated acts of ethical deviation; rather, it must be understood as a systemic structure that permeates the allocation of resources, the exercise of power, and the safeguarding of fundamental rights [1, 2].

In the Global South, this phenomenon acquires particular relevance, as it is closely linked to social inequality, the capture of public institutions by political and economic elites, and the persistence of exclusionary development models [3, 4]. Corruption scandals in public procurement illustrate how networks of power operate both within formal legality and through informal practices, blurring the boundaries between the public and the private, between the rule and its transgression [5].

Colombia both reproduces and experiences these dynamics, displaying a web of corruption manifested in recurrent high-profile scandals as well as in everyday practices that affect the lives of millions of citizens [6]. From the inequitable distribution of the public budget to the cooptation of oversight systems, corruption in Colombia functions as a structural phenomenon, instrumental to certain forms of governance, and normalized within the collective imagination. This reality poses urgent challenges for democracy, public ethics, and the effectiveness of the Social Rule of Law [7, 8].

This chapter seeks to deepen the understanding of corruption in Colombia through a contemporary analysis of the phenomenon during the period 2014–2023, examined from the perspective of the allocation of public goods and services and articulated around interpretative dimensions that link the cultural and institutional aspects shaping it. These findings emerge from an analysis of specialized scientific literature and interviews conducted with key actors from the public sector, the private sector, and civil society.

This analysis does not interpret corruption as a dysfunction of the system; on the contrary, it reveals it as a logic reproduced through practices, discourses, and institutions. In this regard, the study is framed within a critical perspective that contributes elements for academic and political reflection, as well as for the construction of a democratic ethic capable of contesting the meaning of the public against the normalized forms of corruption.

2. Relations of the interpretive lines

This section seeks to develop connections among the interpretive dimensions by employing grounded theory [9], with the aim of subsuming within them a broad and in-depth explanation of the causes of corruption in Colombia through the allocation of public goods and services. It should be noted that the section begins by applying the methodological design of Strauss and Corbin [10] for the development of open, axial, and selective coding, which led to the formulation of the interpretive dimensions. What follows is the definition of these dimensions, together with their description, the axial coding categories that were incorporated, and the corresponding codes from which such coding emerged.

2.1 Interpretive lines that explain causal interaction

The following section presents the interpretive dimensions that subsume the open, axial, and selective coding. These dimensions were developed on the basis of 30 open-ended interviews with politicians and public officials, entrepreneurs and professionals in the sector, as well as civil society actors who either confront or endure the phenomenon of corruption. The sample is considered relevant

according to the literature [11, p. 225; 12, p. 1783]. For the coding process, grounded theory as validated by Glaser and Holton [9] and Strauss and Corbin [10] was employed. The software Atlas.ti 8.0 was used exclusively for word frequency analysis; in other words, the open, axial, and selective categories were constructed without software, just as the interviews were manually transcribed from voice to text.

2.1.1 Institutional deterioration and governance capture

This line links the structural, normative, and functional dimensions of the state and the organizations that permit, reproduce, or combat corruption. This is where governance failures, institutional weaknesses, a lack of justice, and the contradiction between legal mandate and its implementation are evident.

Integrated axial categories

- Structural corruption, public administration in Colombia
- Corruption, judicial system, impunity, and justice
- Corruption, Social Rule of Law, and political regime
- Corruption and public finance
- Corruption, democracy, public procurement, bribery, and cronyism

Relevant codes

Corruption, public, administration, system, government, justice, contracts, democracy, terms, institutions, legal, entities, representation, efficiency, state, sector, politics, politicians, contracting.

The selective coding performed is presented in **Figure 1** as an illustration (see **Figure 1**).

Definition of institutional deterioration and governance capture

This interpretative dimension constitutes the central axis of the analysis, as it represents the visible and operational manifestation of public systems coopted by private or illegitimate interests. From a theoretical standpoint, it refers to a model of institutional management in which formal rules are systematically altered by actors who prioritize personal gains over the public interest. Methodologically, this category is shaped by empirical accounts that reveal regulatory deviations, state capture, systemic corruption practices, and the absence of accountability. It emerges from both cultural and structural dynamics, particularly sustained by a permissive culture toward corruption and the weakness of oversight mechanisms.

2.1.2 Cultural and ethical mutations in society

This line brings together the subjective, behavioral, symbolic, and relational factors that allow us to understand how corruption is legitimized, reproduced, and normalized at different social, cultural, and personal levels. It includes values, attitudes, social networks, everyday practices, and cultural codes.

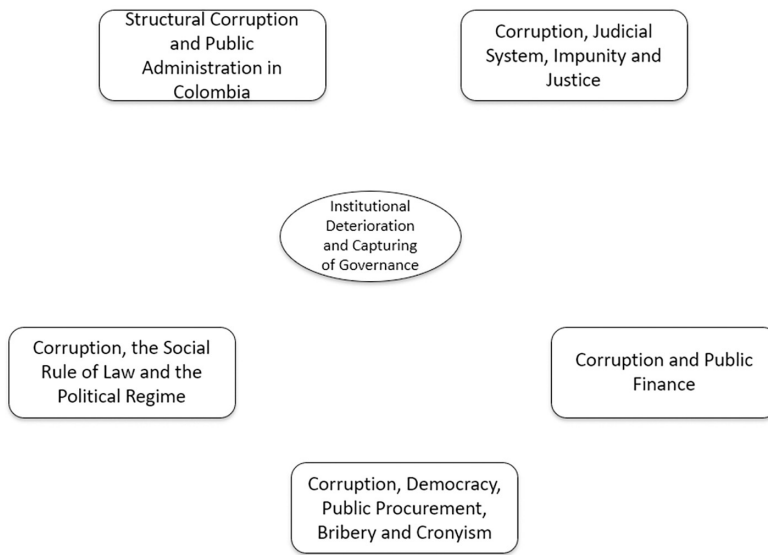


Figure 1.
Institutional deterioration and capturing of governance.

Integrated axial categories

- Corruption, ethics, and human behavior
- Corruption, social and cultural factors
- Corruption, education, and research
- Corruption and health

Relevant codes

Ethics, problem, affects, culture, social, values, practices, life, interests, education, university, projects, community, change, groups, social, and organizational.

Figure 2 shows the construction of the semantic network that incorporates the axial coding, constructed using the relevant codes called open coding (see **Figure 2**).

Definition of cultural and ethical mutation in society

This interpretative dimension represents the web of values, practices, and informal norms that justify, tolerate, or legitimize corruption as a customary way of addressing public and private matters. Within the framework of grounded theory, this variable emerges from the analysis of discourses that reveal early socialization into the tolerance of illegality, an individualistic ethic oriented toward immediate gain, and a weak social sanction against corrupt behavior. Methodologically, it is identified as a construct that cuts across the micro level (family, schools), the meso level (communities), and the macro level (media and political leadership), directly shaping perceptions of the public sphere.

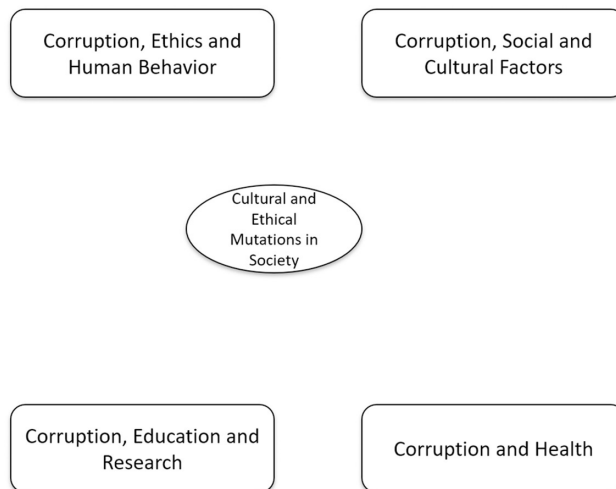


Figure 2.
Cultural–ethical mutations in society.

2.1.3 Processes of oversight and safeguarding of the public good

This line addresses practices of social, accounting, budgetary, and political control, as well as how resources are distributed, accountability is exercised, and transparency is reversed or improved. This articulates accounting, economic, fiscal, ecological, and civic aspects of power and corruption.

Integrated axial categories

- Corruption, decentralization, auditing, budgeting, and accounting
- Corruption, citizen participation, accountability, and transparency
- Corruption, market, regulation, and the environment
- Corruption, economy, politics, and inequality

Relevant codes

Control, audit, transparency, equity, participation, trust, information, market, companies, private, taxes, quality, processes, society, regulation, law, environment, money, development, politics, and projects.

Figure 3 is the construction of the semantic network, which graphically shows the selective coding with its respective axial coding (see **Figure 3**).

Definition of public control deficit

This interpretative dimension refers to the absence or ineffectiveness of institutional and social mechanisms to monitor, sanction, and prevent corruption. Methodologically, this category is identified through the analysis of deficiencies in oversight bodies, limited access to public information, low levels of citizen participation, and the weakness of investigative journalism. From a theoretical perspective, it is argued that corruption

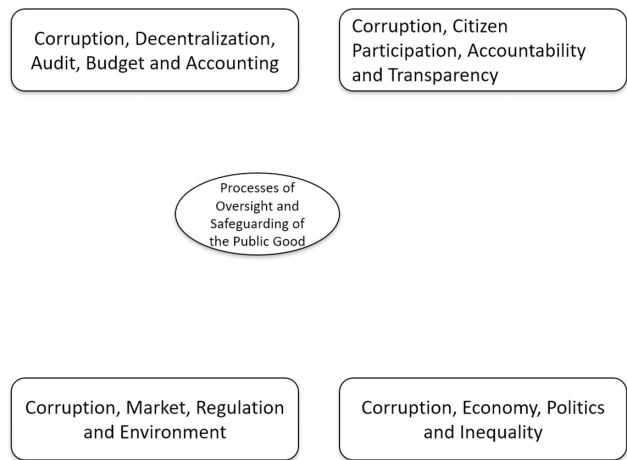


Figure 3.
Processes of oversight and safeguarding of the public good.

persists and deepens where effective checks on power are lacking, creating a favorable environment for illicit practices and the consolidation of clientelist networks. This deficit is not merely technical but also cultural and political, as it reflects a lack of collective will to exercise democratic oversight.

3. Causal model of corruption in Colombia

Table 1 describes in greater depth and organization the categories that emerge in the interpretive lines developed through selective and axial coding.

Causal relationships of the interpretive lines

In **Table 2**, it can be observed that these relationships aim to associate the variables with each other in order to shape the causal model.

Once the causal model is defined, **Figure 4** is incorporated, which shows the relationships among the interpretive lines.

This causal relationship among the interpretative dimensions seeks to demonstrate the existence of two-way interactions between the constructs, indicating that they are not isolated; on the contrary, it shows that they are intrinsically interconnected, forming an essential part of the ecosystem of corruption in Colombia.

4. Analysis of the interpretive lines

This section presents a detailed analysis of the dimensions that shape the in-depth examination of corruption in the allocation of public goods and services in Colombia. The identified dimensions are interconnected through causal relationships, feedback loops, and tensions that configure a complex system of structural corruption. Each of them is presented later.

Interpretative line	Propiedades	Dimensions
Institutional deterioration and governance capture	Institutional cooptation	High
	Diversion of resources	National and subnational
	State capture	Total
	Opacity in management	High
Cultural and ethical mutations in society	Normalization of corrupt practices	High – generalized
	Social tolerance	High – tolerant
	Educational reproduction	High – permanent
	Ethical component	Individualistic
Processes of oversight and safeguarding of the public good	Institutionality	Fragile
	Citizen surveillance	Absent
	Lack of access to information	Partial
	Control entities	Inoperative/partially active

Source: prepared by the author based on Strauss and Corbin [10].

Table 1.
Contemporary determinants of corruption in Colombia.

Interpretative line	Relationship	Interpretative line
Cultural and ethical mutations in society	↔	Institutional deterioration and governance capture
Processes of oversight and safeguarding of the public	↔	Institutional deterioration and governance capture
Cultural and ethical mutations in society	↔	Processes of oversight and safeguarding of the public

Table 2.
Causal relationships of interpretative lines.

4.1 Analytical description of the interpretive

This section analyzes the interpretative dimensions in light of the theoretical framework emerging from the state-of-the-art review, which examined 181 academic articles carefully and systematically retrieved from the databases ScienceDirect, Springer Link, and Scopus using the search equation: determinants AND contemporary AND corruption AND Colombia. The parameters for compiling the articles included the title, abstract, keywords, analysis of the introduction, results, and conclusions; filters were also applied to delimit the years 2014–2023. In addition, 30 open-ended interviews were conducted with politicians and public officials, entrepreneurs and sector professionals, and civil society actors. These were cross-checked through triangulation and memos, using Glaser and Strauss's [9] constant comparative method.

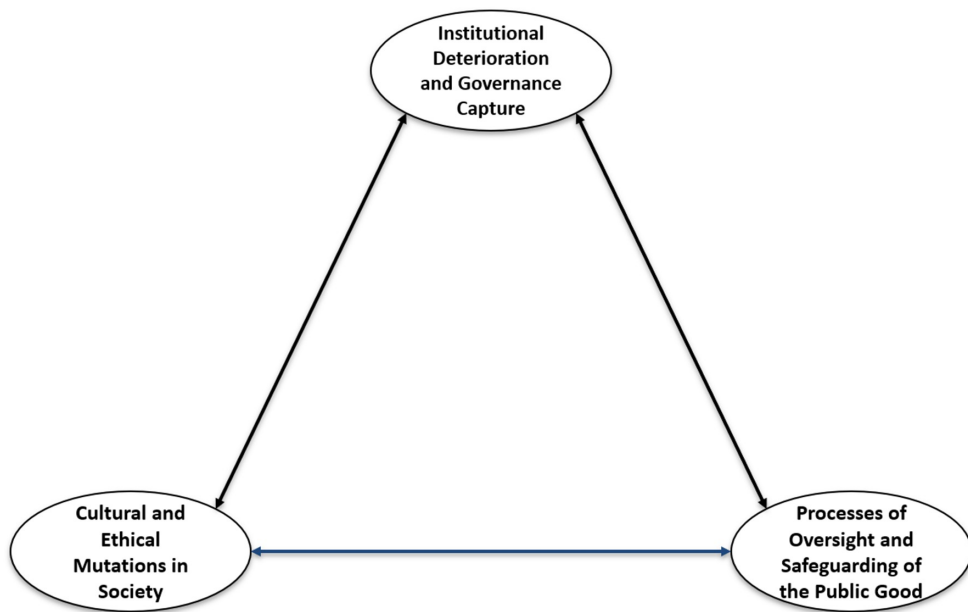


Figure 4.
Causal relationships of interpretive lines.

4.1.1 Institutional deterioration and governance capture

The conceptualization of this line refers to the use of public power through systematic practices of corruption that distort and divert the processes of formulation, implementation, and oversight of public policies [13, 14]. This pattern of governance is manifested in institutional capture exercised by clientelist networks, mafia-like political structures, or private interests, which replace the collective interest with particular objectives [6]. In the words of one of the interviewees:

“Corruption in Colombia arises from a mix of structural and cultural factors. . . drug trafficking, violence, and a culture of quick profits. [. . .] Institutions are weak and the State is captured. . . not only the Executive, but also the Legislative, the Judiciary, and oversight bodies. . . examples: the ‘toga cartel’, Odebrecht, corruption in the EPS. [. . .] Society has normalized these practices. . . illicit wealth permeates politics and social life. . . it erodes public ethics and turns corruption into a means of advancement or survival. [. . .] In summary, it is a systemic phenomenon that undermines democracy and governance, prioritizing illicit interests over collective well-being” (A13, suffer from corruption, personal communication, 23/10/2024).

An actor fighting corruption indicates that:

“The factor that has driven corruption in Colombia is, mainly, the economic interest of certain political and business elites [. . .]. That interest is reflected in the manipulation of contracts and public decisions in favor of private conglomerates [. . .]. This diverts resources that should guarantee basic rights such as health, education, or housing [. . .].

Corruption generates exclusion and inequality [...], while many justify these practices with phrases such as ‘he steals, but he gets things done’ [...]. In addition, state inefficiency is evident in unfinished projects and failed social programs [...].

The population ends up between resignation and protest [...], in a context where violence becomes part of everyday life [...]. Unlike Europe, where the State responds to social welfare, here mistrust predominates and institutional legitimacy is eroded [...].” (A7, fight against corruption, personal communication, 21/02/2025).

Institutional deterioration and the capture of governance undermine the principle of legality, erode the foundations of the Social Rule of Law, and transform public administration into a mechanism that facilitates the dispossession of common resources [1, 15, 16]. This analysis is significant because it integrates patterns of impunity, intentional inefficiency, private appropriation of the state apparatus, and the systematic manipulation of administrative, budgetary, and contractual processes [17, 18]. In the words of one interviewee:

“There is another stage that is no longer about finding a loophole in the law, but rather about making the loophole become law [...] the corporate capture of the State” (A3, policymakers, personal communication, 10/09/2024).

In this context, the state apparatus, coopted by political, economic, or criminal elites who use it to extract illegitimate rents, turns corruption into a structural phenomenon [19]. In the words of the interviewee:

“What has happened... has to do with the construction of the System and the political regime. That is made to facilitate corruption. [...] that was not modified with the constitutional design of 1991” (A3, fight against corruption, personal communication, 28/02/2025).

Corruption produces an institutional framework in which formal rules coexist with informal practices of allocating positions, resources, and benefits. This generates a façade of legality that conceals reality [20, 21]. In the words of a victim:

“There is an institutional framework that, instead of fighting corruption, [is designed to enable it]. Legal loopholes are exploited by lawyers through statute of limitations, counterclaims, and absences, [delaying trials until they expire]. This creates a system where crimes are committed and punishments are evaded, often serving minimal sentences or under house arrest. [Institutions are made by and for them], with lawyers reinforcing the scheme. Thus, the State ends up fostering corruption because it was built for their benefit. [That is why it is no surprise that in Colombia and neighboring countries there are so many corrupt actors]” (A9, suffer from corruption, personal communication, 03/10/2024).

Institutionalized corruption as a form of governance excludes citizens as subjects of rights and participation. The citizen is transformed into a client, an occasional beneficiary, or a silent accomplice [1]. In the words of an interviewee:

“The State cannot be... an instrument at the service of the powerful nor of those who hold great capital [...] it is also mistaken to foster a culture in which personal responsibilities are shifted to the... state sphere. [...] The powerful... appropriated [...] that discourse to continue defending an apparatus that serves them” (A6, suffer from corruption, personal communication, 27/11/2024).

The institutional deterioration and the capture of governance have global implications, such as tax evasion and money laundering [22, 23]. In countries such as Colombia, corrupt practices are connected with transnational criminal networks, external agendas, multinational corporations, and regulatory weaknesses [24]. In the words of an interviewee:

“For example, I had a company in Colombia that worked with foreign trade, and we saw many situations where drug trafficking had an influence [. . .]. It is impossible to erase that word in a sector like foreign trade. In the case of political representation, beyond mentioning any specific party, I would say that DIAN is a tax-collecting entity, and the port, for a single import, depended on political quotas of those appointed to coordination and leadership positions [. . .]. There is a lot of political quota, for example, in the port and even in DIAN itself [. . .], not to mention the customs police such as POLFA and other actors related to taxation, customs, and foreign exchange. I see this political representation as closely connected with issues of drug trafficking and with aspects of our culture [. . .]” (A2, entrepreneurs, personal communication, 21/09/2024).

In summary, institutional deterioration and the capture of governance in Colombia can be defined as a systemic model of public power management, represented by institutional capture, legal simulation, the deviation of the general interest, and the normalization of illicit or immoral practices within state administration. This model is sustained by formal and informal networks that corrupt the functioning of institutions, blur the principle of legality, and replace public ethics with a utilitarian rationality that privileges particular interests. It manifests itself at multiple levels of government and is expressed through systematic patterns of impunity, opacity, citizen exclusion, and the deterioration of public value.

4.1.2 Cultural and ethical mutations of society

This line addresses the set of practices, values, norms, and shared meanings that, either explicitly or implicitly, sustain, justify, or allow the reproduction of corruption in Colombian society [25, 26]. In this context, one interviewee points out that:

“The main factor is the loss of the notion of the public: in Colombia, we don’t see State funds as belonging to all of us, but rather as belonging to ‘no one’ [. . .]. That is why people feel more affected if someone steals \$100,000 pesos from their pocket than by the loss of \$70 billion in a corruption scandal [. . .]. This lack of education about respecting public resources combines with a political culture that has profited from public funds for decades [. . .]. We have even had presidents who minimize corruption, reinforcing social permissiveness. [. . .]” (A6, policymakers, personal communication, 28/09/2024).

Another interviewee opines:

“It is a cultural issue rooted in upbringing [. . .] since childhood we have been instilled with the mistaken mindset that ‘you have to be clever, and the fool always loses’. [. . .] This culture of taking advantage in any situation [. . .] fuels the mentality of corruption. [. . .] To eradicate it, it is not enough to increase penalties, but rather. . . to educate children through upbringing and example that promote different values” (A4, fight against corruption, personal communication, 01/02/2025).

In this sense, it becomes evident that corruption is not limited to individual legal transgressions but is deeply intertwined with cultural factors, collective behaviors, social structures, and ethical imaginaries that shape both public and private life [27, 28]. In the words of one interviewee:

“Corruption in this country is not recent [. . .] it has been present throughout the entire republican life [. . .] permeating all levels [. . .] and spheres of society. [. . .] It

has become so normalized that those who act with honesty – by returning a lost item or avoiding taking advantage of a public office – are seen as naïve or foolish. [...] The phenomenon is historical and structural, part of the culture and social thought, with examples ranging from small misappropriations to multimillion-dollar embezzlements; for many, what is normal is to participate in corruption, and what is abnormal is to refrain from it” (A5, fight against corruption, personal communication, 28/09/2024).

This line articulates deeply rooted cultural phenomena, flexible or relativistic moral codes, and the normalization of corrupt practices that operate at multiple levels of society. This perspective breaks away from the normative–legal paradigm and delves into the symbolic, affective, and contextual understanding of corruption [29–32]. In the words of an interviewee:

“In Colombia, strong discrimination against ethnic communities persists [...] although the likelihood of accepting a violation of social norms is similar among Afro-descendants, Indigenous peoples, and those who do not self-identify as part of these groups. [...] The country concentrates much of its population in a few urban centers, and its historical, geographical, and climatic diversity influences the way in which the propensity to break social norms is expressed differently in each region, adapting to the local context” (A2, policymakers, personal communication, 30/08/2024).

Corruption is rooted in patterns of behavior that stem from social learning, shared codes, and tacit legitimizations. Thus, in many communities, corruption may be perceived as a strategy for survival, reciprocity, or even as a display of cleverness or power [6, 7]. In the Colombian context, practices such as “rebusque” (informal hustling), political favors, or clientelism may be socially perceived as part of the “natural order of things” rather than as reprehensible conduct. One interviewee notes that:

“It could be argued that, due to those events [...], the State achieved a presence in certain departments and municipalities. [...] The influence of Córdoba politicians during the period 2010–2018 administration made that institutional reach possible – something that otherwise would not have happened” (A1, fight against corruption, personal communication, 12/09/2024).

Another actor fighting corruption believes that:

“One of the least studied characteristics of capitalism is the breakdown of moral and ethical values in social relations [...]. Before capitalism, value was associated with virtues such as honesty, integrity, fraternity, and solidarity [...]. With the primacy of dominant interests, the original meaning of values is replaced: today, it is considered ethical to defend the public interest, which in reality is understood as the protection of market interests – something that differs from the defense of the common good” (A6, fight against corruption, personal communication, 03/10/2024).

Public ethics is often displaced by a situational ethics in which values are relativized depending on role, opportunity, need, or context. Moral responsibility becomes diluted and interchangeable [33]. In the words of one interviewee:

“The eagerness for easy enrichment is linked to the drug trafficking culture in the country [...]. An illustrative example is the statement of a former politician, who claimed that, had he known the public sector generated so much money, he would not have engaged in drug trafficking [...]. (A7, suffer from corruption, personal communication, 04/10/2024).

Social norms are guides for behavior that, when they are permissive toward illegality or even reward it (with status, wealth, or influence), foster a culture conducive to corruption [15]. Corrupt behavior is often based on what people believe others do and expect them to do. In the words of one interviewee:

“Corruption stalls public projects when demands are not met [. . .]. And when they are met, bribes are paid at the cost of poor-quality public works [. . .]. As a result, citizens lose trust in institutions [. . .]. Moreover, influential individuals divert resources to private interests instead of vulnerable communities [. . .]. This generates inefficiency, inequality, and distrust in government. [. . .] The lack of political culture also plays a role: citizens judge candidates by academic credentials rather than public service, enabling corrupt officials to be re-elected [. . .]. Added to this is disinterest and little citizen oversight of taxes, even though everyone pays them [. . .]. This lack of accountability fuels corruption” (A4, policymaker, personal communication, 22/01/2025).

It cannot be ignored that some communities, organizational groups, and specific sectors act as microcultures of corruption, where deviant behavior is internally legitimized. This ranges from practices within universities, professional associations, churches, or political parties to criminal organizations [34, 35]. In the words of an interviewee:

“Although corruption is condemned in discourse across all sectors, no one acknowledges themselves as corrupt [. . .]. Within unionism, two tendencies coexist: a ‘propositive’ one, conciliatory with the employer, and a class-based one, heir to the workers’ struggles of the 19th and 20th centuries, which sought to transform society [. . .]. In Colombia, much of this class-based unionism was either co-opted or annihilated, making the country the one with the highest number of union victims in the world” (A5, fight against corruption, personal communication, 28/09/2024).

Another interviewee points out the following:

“I have [. . .] reported corruption anonymously to entities such as . . . the Attorney General’s Office [. . .]. In my last job. . . at a university [. . .], I discreetly reported irregular acts in the dean’s office, and the response was that my contract was not renewed [. . .]” (A4, suffer from corruption, personal communication, 25/02/2025).

The way corruption is discussed reflects and reproduces its legitimacy or rejection. Phrases such as “it’s not stealing, it’s collecting what is owed to me” or “the fool is the one who doesn’t take advantage” are part of a symbolic repertoire that softens the meaning of the corrupt act [36, 37]. In the words of an interviewee:

“Corruption is related to cultural factors, such as the lack of ethical education from home and school [. . .]. The structure of the political-administrative system also plays a role, where it is common for actions within legislative bodies to be conditioned on exchanges, sometimes in the form of contracts that include gifts, which ultimately result in corruption” (A4, policymaker, personal communication, 22/01/2025).

Another interviewee indicates that:

“In Colombia, there is a culture of ‘the clever one thrives at the expense of the fool’ [. . .], where cheating is celebrated and the easiest path is sought. I consider this mentality to be a cultural problem related not only to the war experienced in the country but also to drug trafficking” (A7, policymakers, personal communication, 03/11/2024).

In summary, this line addresses the processes of corruption that are established, reproduced, and justified in the daily life of social relations. It encompasses

everything from internalized moral values to practices shared by collectives, including cultural imaginaries that reinterpret corruption as a means of advancement, a survival mechanism, or a normalized practice. It highlights the symbolic and ethical dimensions of the phenomenon, emphasizing that, to understand corruption in depth, it is necessary to move beyond a legalistic perspective and explore the cultural and social frameworks in which it acquires legitimacy or moral neutralization. This construct explains why, despite formal controls, clientelistic networks, bribery, favoritism, and the misuse of public resources continue to be socially tolerated or even celebrated.

4.1.3 Processes of oversight and safeguarding of the public good

This line refers to the set of normative, institutional, and social instruments through which the state and civil society regulate, supervise, and distribute public resources, both in their origin, management, and allocation, as well as in their use and outcomes. This construct serves as a backbone for understanding the tensions between democratic transparency and institutional capture in contexts marked by structural corruption and social inequality [38–40]. In the words of one interviewee:

“Citizen oversight should be expanded through watchdogs, control representatives, and mechanisms of deconcentration rather than decentralization. Control should involve citizens, even symbolically, such as youth comptroller offices linked to educational institutions [. . .]. Secondly, information systems must be strengthened: just as cameras issue traffic fines in real time, there should be systems that monitor contracting, acquisitions, social programs, and the implementation of public administration in real time, with observatories [. . .]. Without this, control would only be symbolic” (A2, suffer from corruption, personal communication, 24/02/2025).

Another interviewee, who fights against corruption, indicated that: “The 1991 Political Constitution eliminated oversight control in Colombia and replaced it with comprehensive auditing [. . .], which subsequently evaluates government activities, unlike the oversight control that monitored actions at the very moment of their execution” (A6, fight against corruption, personal communication, 03/10/2024).

This change weakened the preventive capacity and established a reactive logic, as noted by one interviewee:

“Institutions must build a system of transparency and a public ethics focused on common goods and social justice [. . .]. In Colombia, although the State is an important actor, it is often guided by particular interests [. . .]. Moreover, entities such as the Comptroller’s Office, the Attorney General’s Office, and the Ombudsman’s Office fail to coordinate effectively to strengthen this ethics within society” (A2, fight against corruption, personal communication, 03/10/2024).

In relation to oversight, it can be noted that this encompasses the technical and legal procedures that ensure accountability, monitor public management, and identify irregularities in the use of resources. It includes mechanisms such as external and internal audits, fiscal control, social oversight, citizen watchdogs, courts of accounts, comptroller offices, and state supervisory bodies [2, 41]. In the words of one interviewee:

“Corruption is not exclusive to the public sector but also affects the private sector. Its main causes in both areas are related to the lack of prior traceability [. . .], as well

as the absence of direct oversight during resource execution [...]. This results in oversight being delayed and, when carried out, functioning as an ‘archaeology’ of the process, often after the resources have already been lost” (A5, suffer from corruption, personal communication, 06/03/2025).

Another interviewee indicates that:

“The Colombian State is small [...], with limited institutional capacities to prevent, control, and intervene in corruption. There is no strong transparency system, and although the public function performs its work [...], much more is required than what currently exists as a society” (A2, fight against corruption, personal communication, 03/10/2024).

Participation refers to the spaces and processes in which citizens intervene directly or indirectly in decisions regarding public resources. It involves not only consultation or social oversight but also deliberation, codecision, and comanagement of budgets, as in participatory budgeting models, coordination tables, and local planning instances [42, 43]. In the words of one interviewee:

“After the 1991 Constitution, the Colombian State is ‘paradoxical’ [...], since although it is defined as a Social State under the rule of law, it delegates the provision of public goods and services to private actors, creating markets and increasing intermediation. This is partly due to the fact that the economy is small, which generates pressure from private actors to participate [...]. As the chain of intermediaries expands, the resources available to guarantee rights are limited, and if some also seek to gain more than they should [...], those resources are further reduced” (A1, policymaker, personal communication, 11/11/2024).

Another interviewee indicates that:

“The Colombian State has been co-opted by clientelist and contracting logics that create in citizens the feeling that nothing is going to change. [...] Corruption, which takes away nearly 50 trillion pesos every year, is expressed in contracts with cost overruns, breaches, inadequate materials, or deficient services, all under the pretext of saving resources that, in reality, finance bribes” (A5, policymakers, personal communication, 06/09/2024).

The distribution of resources refers to the way in which the state’s economic resources are allocated, redistributed, or concentrated, whether through public policies, contracts, fiscal transfers, territorial investments, or social programs. This construct highlights both the criteria of equity and distributive justice, as well as the patterns of institutionalized inequality that foster clientelistic practices, nepotism, or corruption [25, 44]. In the words of one interviewee:

“Corruption fosters informality across all economic sectors, making it difficult for formal businesses to operate. Moreover, diverted resources are no longer invested, and taxes for companies could be lower if corruption were reduced” (A1, entrepreneurs, personal communication, 11/10/2024).

Another interviewee points out that:

“The factor that has driven corruption in Colombia [...] is political [...]. That corruption extends into the business sphere [...] regarding the tax burden. [...] Another factor that has a major impact is the poor distribution of wealth [...], which translates into corruption” (A1, business professionals, personal communication, 13/02/2025).

This line is associated with concepts such as horizontal and vertical accountability, transparent and equitable public spending, and integrated public management systems. Furthermore, it is linked to the challenges of building

a Social Rule of Law, where participation and oversight are not merely technical mechanisms but forms of political and ethical action that dispute the meaning of the public sphere in the face of corruption [5, 45]. In the words of one interviewee:

“When I began my work as an entrepreneur, I had contacts with public hospitals [. . .]. The director of a hospital in Florida, Valle, asked me to overcharge by 70% in order to distribute money [. . .]. I simply nodded during the meeting, but I never went back nor sent the invoice [. . .]. Later, I found out that another colleague did make that deal with public hospitals in Valle del Cauca” (A4, suffer from corruption, personal communication, 25/02/2025).

“Corrupt politicians reflect the logic of drug trafficking. . . it was even said that politics was more profitable than narco, as happened in Valle del Cauca. [. . .] That easy-money culture permeates everything: from small towns to the national government, and even private life with the ‘CVY’ (what’s in it for me). In my experience, across Latin America only in Colombia have clients asked for extra percentages to close deals. [. . .] This connects to inequality: the economy is concentrated in Bogotá (65% of the country) while the rest is marginalized. [. . .] There is also a lack of qualifications in politics: anyone can govern, while in education and the private sector formal training is required. [. . .] Popular culture reinforces this: people say that to become rich there are two ways, either marry or get votes. [. . .] In short, we have normalized corruption and accept it at all levels by keeping silent” (A3, entrepreneurs, personal communication, 14/11/2024).

In sum, the mechanisms of control, participation, and distribution of public resources are decisive in the degree of corruption or integrity within a political-administrative system. Their design, implementation, and social appropriation reflect the quality of governance, the depth of democracy, and a society’s ethical commitment to the common good.

5. Discussion

The findings confirm that the analysis is validated in the Colombian case through three interpretative lines that articulate institutional deterioration, governance capture, sociocultural dynamics, and the participation and distribution of public resources as a structural, cultural, and systemic phenomenon.

5.1 Institutional configuration and governance of corruption

The mechanisms of control and participation appear more as symbolic than functional devices, coopted by political and economic elites who operate through informal codes (the trick becomes law). Corruption is not situated outside institutional structures but rather articulated from within them, legitimizing clientelist and patronage networks that transform the distribution of public resources into instruments of political control. This pattern reproduces social exclusion, impunity, and state capture, despite reforms such as the 1991 Constitution, thereby displacing citizens from a leading role to a clientelist position. However, this same dimension emerges as a potential space for transformation if reconfigured through ethical and democratic practices.

5.2 Cultural and ethical mutations in society

Corruption appears as a normalized cultural trait: internalized from childhood, reinforced by the figure of the “smart one” versus the “fool,” and justified by a situational ethic that rewards complicity and punishes integrity. Everyday language resignifies the illicit as cleverness and necessity, while the phenomenon takes on territorial variations depending on region and social structure. The commodification of relationships and the advance of the neoliberal model have weakened community values, imposing an instrumental ethic that subordinates the public interest to the private. Corruption is even legitimized as a vehicle for accessing state resources in marginalized territories. Nonetheless, critical voices emerge which, although marginalized, constitute nuclei of ethical resistance.

5.3 Processes of oversight and safeguarding of the public good

Oversight systems have shifted toward ex post audits, weakening accountability and consolidating sophisticated corruption schemes. Institutions such as comptrollers’ offices or inspectorates appear coopted or ineffective, while public–private intermediation amplifies opportunities for cost overruns and clientelism. The distribution of resources, far from responding to equity, becomes a mechanism for reproducing inequality and exclusion. Citizen participation, although recognized in theory, is, in practice, marginal, manipulated, or devoid of binding power. Finally, the business sector denounces corruption as a structural condition for accessing contracts, revealing the fusion between political business and public management. Accountability, stripped of sanctioning effectiveness, is reduced to mere formality, perpetuating impunity and institutional distrust.

Taken together, these variables show that corruption in Colombia is not an accident or an excess, but rather a mode of organizing political, economic, and social power, sustained by weak institutions, permissive cultures, and ineffective control mechanisms. However, the very same spaces identified may also become points of rupture if redefined toward more ethical, inclusive, and democratic practices.

6. Conclusion

Corruption in Colombia emerges as a structural phenomenon reproduced at the intersection of three interpretive lines: a weak institutional framework coopted by elites that turn governance into a mechanism of domination; a social and ethical culture marked by the normalization of illegal practices and the double standards that legitimize corruption as a strategy for survival or social mobility; and mechanisms of control, participation, and resource distribution that, far from ensuring justice and equity, reinforce clientelistic logics and social exclusion. In this context, corruption is not an anomaly of the system but rather a functional and everyday mode of articulation between the state, the market, and society, which undermines public ethics, fragments citizen trust, and perpetuates historical inequalities. Nevertheless, the findings also suggest that the re-signification of ethical values, the genuine democratization of participation, and the strengthening of transparent and autonomous institutions could open cracks to transform this model of corrupt governance into one based on equity, integrity, and social justice.

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Chapter 4

Failures and Policy Transfer of Anti-Corruption Initiatives in Central America: Honduras and Guatemala (2015–2019)

Fredy Enrique Salazar Porras

Abstract

Reducing corruption is a public policy priority for the countries of Guatemala and Honduras. That is why both countries, with the support of the international community, promoted anti-corruption initiatives through the International Commission against Impunity in Guatemala (CICIG) and the Support Mission Against Corruption and Impunity in Honduras (MACCIH). However, what were the main failures encountered during the implementation process of the CICIG and the MACCIH? This investigation looks into the mechanisms involved in the process of transferring anti-corruption initiatives. The study analyzes two factors: (1) sustainability and (2) capacity building. The explanations for the results achieved by the CICIG and the MACCIH are not understood exclusively as the absence of state capacity, even less so as a program design failure of both entities. That is why the study delves into endogenous political contexts, the adaptive process and resilience of client networks, as well as the role of multilevel platforms that impacted both interventions. From the Approach of Transfers (Policy Transfer), the “output side of politics” is studied, which involves analyzing how the policy is executed. This aims to identify implementation flaws and determine lessons learned that can be applied to other Latin American initiatives.

Keywords: corruption, CICIG, MACCIH, political contexts, client networks, policy transfer, resilience

1. Introduction

Guatemala and Honduras have high levels of poverty, estimated at 57.3% and 49.3%, respectively. These figures may increase due to the economic crisis, as well as factors related to extreme violence, the high cost of living, and a lack of job opportunities. These countries rank last in the region in terms of the high penetration and perception of corruption [58, 60].

The governments of Guatemala and Honduras have repeatedly been accused of embezzling public funds, fostering impunity, maintaining links to outlawed

structures, and lacking the political will to make meaningful commitments to implement anti-corruption reforms. For this reason, academics and specialists have investigated the phenomenon of the co-optation of the State by political-economic client networks, which have an impact not only in Central America but throughout the region [10, 21, 22, 33].

The phenomena described above are related to a historical, social, and institutional legacy that has persisted for several decades. However, between 2002 and 2006, Guatemala experienced a wave of violence and considerable inefficiency in the institutions responsible for administering justice.

Faced with this, a group of intellectuals and civil society groups denounced the meddling of organized crime networks within the Guatemalan State. To that end, they launched a campaign aimed at persuading the national government to establish a body to investigate the activities of illegal groups. In early 2003, the Government of Guatemala requested assistance from the United Nations in developing an anti-corruption mechanism, CICIG (2018) [9, 59, 106].

After three years of negotiations, in December 2006, the agreement to establish the **International Commission against Impunity in Guatemala (CICIG)** was signed. The CICIG implemented operations for 12 years, had five extensions, and ended activities on September 3, 2019.

Meanwhile, in March 2015, there were several protests in Honduras due to a corruption scandal involving senior public officials. Therefore, the government invited the General Secretariat of the Organization of American States (OAS) to facilitate a process of national dialog with the aim of building a mechanism to combat corruption and impunity in the country. This effort was consolidated in the **Mission Against Corruption and Impunity in Honduras (MACCIH)**, which began operations in April 2016 and lasted until the end of 2019 [43, 83, 105].

Indeed, the fight against corruption in Central America has, for decades, represented a challenge not only at the national level but also across-borders and as a source of instability in the region. Therefore, the international community has provided economic support, as well as technical and operational assistance, with the objective of reducing levels of impunity, as was the case with the CICIG and the MACCIH [1, 90, 99].

Undoubtedly, both the International Commission Against Corruption in Guatemala (CICIG), “the Commission,” and the Mission to Support Against Corruption in Honduras (MACCIH), “the Mission,” were models of innovative public policies of a particularly critical nature in the world. Both interventions carried out remarkable technical, political, legal, and procedural reforms, as well as contributions to reducing corruption in both countries [84, 105, 106].

These initiatives had some differences in terms of results. Nevertheless, they recorded shared flaws throughout their design and implementation [82, 98, 99]. That is why some critics argued that both mechanisms tried to create extraordinary institutional conditions to be above national laws. Similarly, specialists complained of an alleged duplication of efforts between the Commission and the Mission and their respective national efforts [94, 106].

1.1 Scope of the research

This research arose as part of the interest in analyzing the possible failures that occurred during the implementation phase of two public policies promoted by the

international community at the request of the sovereign states of Guatemala and Honduras. Anti-corruption policies are of enormous importance for Guatemala and Honduras, particularly because, after the closure of the CICIG and the MACCIH, these countries have received strong criticism from the international community for the setbacks in the advances made in the justice system, the reduction in democratic conditions, and the threat to legal and institutional stability.

This research was never intended to be an evaluation of the effects or results of the CICIG and the MACCIH. Thus, the relevant impact of these programs on both countries was outside the scope of this study. The research addressed concerns arising from the author's doctoral thesis regarding the transfer of anti-poverty programs in Colombia and Peru, aiming to identify common patterns in the implementation of public policies that originate from exogenous models and their impact on local territories [49].

Hence, the research focused on the “*output side of politics*,” which involved understanding how politics are executed, as well as identifying the set of activities formulated as a result of the decisions made by policymakers.

With respect to previous academic work on the impact of the CICIG and the MACCIH, incipient literature on the subject was found due to the recent closure of these institutions and the restricted scientific production in Guatemala and Honduras [7, 59, 87]. It is important to clarify that there is abundant material at the level of journalistic articles, essays, and web publications.

There were many elements of the CICIG and the MACCIH that were not considered within the study, both in the design phases and in the implementation, as they will surely be addressed in later, more comprehensive investigations. It should be noted that the study selected the period 2015–2019 due to the characteristics of the institutional contexts, the presence in the field of the CICIG and MACCIH, and the relevance of the two initiatives. Similarly, the research focused on the implementation and closure phases [46, 61, 62].

The study examined two key factors. The first factor focused on the sustainability of the CICIG and the MACCIH, aiming to analyze the political-institutional scenarios. The second factor of analysis centered on the process of capacity building through articulation with technocracies and other technical-operational levels of the State [15, 49, 55, 65].

Consequently, the findings of the investigation showed that the results achieved by international initiatives in the fight against corruption could not be understood solely as a consequence of the lack of coordination between the CICIG and the MACCIH with national entities, nor due to the rivalry established with the powers of the State. Neither could they be explained by the absence of state capacity, and even less so by the design of the programs [10, 41].

Accordingly, the research proposed two alternative explanations that sought to determine the failures or disturbances affecting the CICIG and the MACCIH: (1) the resilience of client networks and (2) the fragility of multilevel platforms (see Annex 1: Summary Table of the Matrix).

The remainder of this chapter is organized as follows: First, the methodology and scientific research instruments applied to the study are detailed. Then, the findings section includes a descriptive part, as well as a section outlining the failures of the CICIG and the MACCIH. The findings and results, based on the two proposed factors, contribute to the debate and discussion on the two alternative explanations.

1.2 Methodology

The central question that guided the research was to clarify what the main failures or errors of the CICIG and the MACCIH were. The objective of the study focused on the process of execution of anti-corruption policies carried out by the countries of Guatemala and Honduras during the period 2015 to 2019 and, specifically, on analyzing how policies that started from similar objectives, with different levels of implementation, ended up presenting common failures.

In this study, comparative historical analysis (CHA) was used. Within this process, the researcher identified the component events that developed over time from the beginning to the end of the theoretically relevant period of analysis (2015–2019). Due to space limitations in the chapter, the entire historical analytical process, which involved the gradual progression of the CICIG's and MACCIH's strategies, was omitted. This historical analysis covered institutional and operational aspects, as well as the evolution of both initiatives and their relationships with various actors.

Mixed techniques were used for the information collection methods adopted in this research. First, the research prioritized a literature review of state-of-the-art policies and programs aimed at combating corruption in Guatemala and Honduras. The primary sources of information included official documents from the Guatemalan and Honduran governments, international organizations, institutional reports, specialized bibliographies, and the review of international conventions and agreements, among other publications. Consequently, more than 70 scientific papers, publications, and articles were analyzed.

Significantly, the information collected in-office was compared with interviews conducted with 36 scholars who were representatives of civil society, technocrats, politicians, international cooperation experts, and public officials in Guatemala and Honduras. Similarly, meetings were arranged with those responsible for the initiatives carried out by the CICIG and the MACCIH.

A biased, non-random sample was selected for fieldwork. In other words, the sample was based on the researcher's subjective and intentional criteria, aiming to collect information from individuals with ample knowledge of these initiatives rather than for statistical validation purposes. For each interviewee, semi-structured questionnaires were prepared based on open- and closed-ended questions.

The criteria for case selection were based on four aspects. First, the definition of the geographical area, similar socioeconomic conditions, and high levels of perceived corruption in the public sector [66, 67]. The second aspect was that the international organizations created to support the fight against corruption (CICIG and MACCIH) had developed operations, services, activities, and programs during the years 2015–2019. The third criterion corresponded to the possibility of accessing institutional information available from CICIG and MACCIH. Finally, the guarantees of security and public order were present in the selected countries.

It is essential to recognize the methodological limitations of the study since both institutions (CICIG and MACCIH) ended their activities at the end of 2019. That is why alternatives were sought to establish a dialog with former officials and managers of these institutions. A second limitation consisted of determining the variables. For the longitudinal exploratory study, a historical information base was required to identify the component events that developed over time from the beginning to the end of the theoretically relevant period of analysis. Hence, it is important to

recognize the omission of essential variables or the misspecification of relationships between variables that may cause problems in the causal analysis [19].

1.3 Policy transfer

The conceptual research is grounded in the Policy Transfer approach. A feature shared by Latin American countries, including Guatemala and Honduras, is that some of their innovations in social policy are based on models designed in other regions. Additionally, associated phenomena, such as the global flow of information, cross-border networks, and the dynamics between multilevel actors, clearly impact the design and transfer of public policies [16, 45].

Theoretically, Policy Transfer is an approach that describes how knowledge about one policy (A) is applied to the formulation of another procedure (B and C) at a different time or location [12, 24, 30, 45]. Likewise, the study of Policy Transfer focuses on analyzing the “Content and Execution” of policies [15, 54, 68, 102].

It is necessary to show that some scholars working on transfer pay attention to “Incomplete Processes” [55]. According to the transfer model theorists, three factors must be considered when analyzing interruptions in transfer processes. They are as follows: (1) Uninformed transfer; (2) Incomplete transfer; and (3) Inappropriate transfer; [51, 69, 71].

It should be noted that there is a substantial body of literature on transference studies, as well as works that analyze the strategies of institutional isomorphism, global public policy (GPP), and phenomena such as transboundary sovereignty, all of which have contributed to our understanding of the topic studied in this research [14, 18, 20, 28, 50].

Additionally, the transfer approach has limitations in terms of analyzing the alternative forms involved in policy formulation, as well as a lack of rigorous tools to assess whether the policy should be transferred [15]. In light of the above, I would like to emphasize that policy transfer studies have a wide range of applications in comparative politics [45, 55]. In the next section of the document, the results achieved by the research are addressed, considering the two factors of analysis, and then the analytical discussion and debate will proceed.

2. Findings

This section discusses the findings. However, before delving into the details of the findings, a summary of the contributions by CICIG and MACCI is presented. The results are then analyzed based on two proposed factors: (1) sustainability and (2) capacity building.

2.1 The international commission against corruption in Guatemala (CICIG)

The agreement establishing the International Commission against Impunity in Guatemala (Comisión Internacional contra la Impunidad en Guatemala – CICIG) was signed with the United Nations in December 2006, ratified by the Guatemalan Congress in August 2007, and entered into force in September 2007. CICIG had three objectives: (1) to investigate the existence of illegal security forces and clandestine security apparatuses that committed crimes affecting the human rights of

Guatemalan citizens; (2) to collaborate with the state in dismantling clandestine security apparatuses and illegal security bodies, and to promote the investigation, criminal prosecution, and punishment of crimes; and (3) to make recommendations to the state of Guatemala for the adoption of public policies and institutional reforms (CICIG Constitution, 2006) [70].

CICIG was tasked with providing technical advice to the Public Prosecutor's Office and the National Civil Police. Additionally, it was empowered to act as a joint plaintiff under the Code of Criminal Procedure, file administrative complaints against public officials, and act as an interested third party. The Commission received five extensions: the first from 2006 to 2009; the second from 2009 to 2013; the third from 2013 to 2015; the fourth from 2015 to 2017; and the fifth and last, from September 2017 to September 3, 2019, the date it ceased operations in Guatemala. The countries that financed CICIG were Argentina, Canada, Chile, Colombia, Denmark, Finland, France, Germany, Italy, the Netherlands, Norway, Peru, Spain, Sweden, Switzerland, the United Kingdom, the United States, Uruguay, and other European countries [11].

2.2 The Mission support against Corruption and Impunity in Honduras (MACCIH)

After several social demonstrations triggered in March 2015 by a corruption scandal in the Honduran Social Security Institute (IHSS), which involved the president and high-ranking authorities, the government invited the OAS General Secretariat to facilitate a process of national dialog to build a mechanism to combat corruption and impunity in the country [13].

MACCIH emerged from the demonstrations of citizens in Honduras. This movement called "*The Indignados*," marched in the streets with torches, a symbol of the independence celebrations. Their peaceful demonstrations were held weekly across the country until the end of September 2015 [6, 40].

The OAS General Secretariat met with the government and various social, economic, and political sectors of the country to propose a set of strategic initiatives aimed at establishing a comprehensive mechanism to combat corruption. Although Honduran "Indignados" initially rejected the government's proposal, insisting on the installation of a commission with a mandate similar to that of CICIG, they did not want an OAS mission and instead demanded one from the United Nations [1, 44].

The proposal was discussed and agreed upon with the Government on November 17, 2015. The Mission was coordinated by the Secretariat for the Strengthening of Democracy of the OAS, with the support of the Secretariat for Legal Affairs through the Technical Secretariat of the Follow-up Mechanism of the Inter-American Convention against Corruption (MESICIC) and various entities, including the Justice Studies Center of the Americas (JSCA).

On January 19, 2016, in the city of Washington, D.C., the MACCIH was created, highlighting the need to strengthen the Honduran justice system. On April 19, 2016, the MACCIH-OAS was installed, initiating operational and logistical procedures. The original donor countries of the Mission were the United States, Canada, Germany, the European Union, Italy, and Peru [13].

In general, the purpose of MACCIH was to combat corruption and impunity in Honduras by strengthening institutions and the participation of civil society. Its most

important mandate was to collaborate with the Honduran justice system in the investigation and prosecution of cases linked to powerful corrupt networks to end a long pattern of impunity. The Mission's lines of action were fourfold: (1) preventing and combating corruption; (2) criminal justice reform and recommendations for the improvement of the justice apparatus; (3) political-electoral reform; and (4) public security to support the generation of institutional capacities Call, 2028, [13].

2.3 Contributions of CICIG and MACCIH

It is important to recognize that both international initiatives were pioneers in the region and in the world. It could be said that the CICIG achieved greater results compared to the MACCIH with respect to judicialized processes, institutional reforms, and policies promoted, as well as in the institutional support obtained and in the capacities installed within the entities responsible for the justice sector [83, 98].

According to official reports, the CICIG directly supported Guatemala's Attorney General's Office in 124 high-impact court cases; more than 1,540 people were charged, and of these, 660 people were prosecuted. The work efficiency rate was estimated at 85%, which was higher than the overall average of other national prosecutors' offices. These trials brought three former presidents to justice, as well as 31 senior public officials, including ministers, congressmen, magistrates, and presidents of state institutions [11, 86].

For its part, the Mission in Honduras, together with the Attorney General's Office, contributed to the prosecution of 133 individuals, the advancement of 14 cases, and, above all, the strengthening of national capacities to combat corruption. MACCIH worked on investigating a corruption plot involving deputies engaged in the illegal appropriation of public funds, known as the "*Network of Deputies*." The network implicated more than 30 non-governmental organizations (NGOs), 60 deputies, and senior officials of the Executive Branch. This was one of the most significant cases handled by the Mission [37, 83, 90].

Regarding reforms to the justice system and the promotion of anti-corruption policies, CICIG contributed to the restructuring of some institutions and participated in reviewing the normative and legal framework. The Commission was involved in 34 proposals for legal reforms. While several reforms were approved by Guatemala's Congress, others remained on the pending agenda. For its part, MACCIH gave impetus to the creation of a National Anti-Corruption Jurisdiction, which was extended to the Judiciary and the Public Ministry of Honduras [11, 77, 82, 86].

Unquestionably, CICIG had a positive impact since its origins were based on civil society initiatives, provoked interesting changes, and generated high levels of optimism during the so-called "Guatemalan Spring." Guatemalans emerged from the narrow circle where everyone had the illusion of exercising control. The CICIG commissioner's independence was vital to ensuring success in prosecuting cases involving the highest levels of power [5, 7].

For former Guatemala Vice President Eduardo Stein, among the great successes of CICIG was its support for the practice of criminal investigation, the constitution of criminal cases, and the opportunity to be part of the accusatory team of prosecutors in his capacity as a joint plaintiff. Another contribution was facilitating

the leap from the identification of Illegal Security Groups and Clandestine Security Organizations (CIACS) as instruments of illegal business [105].

Moreover, CICIG and MACCIH played an active role in the transfer of capacities and the advocacy of legal frameworks in Guatemala and Honduras. The independence of the supervisory bodies to ensure the proper use of public resources and the punishment of corruption crimes guaranteed the legal framework. Institutional strengthening in Honduras was conceived as part of the Mission's mandate, giving it an advantage over other international missions [6, 59, 92].

In short, the creation of the Specialized Fiscal Units against Corruption in Guatemala (FECI) and Honduras (UFECIC, later called UFERCO) was a fundamental element in establishing trusted partners to work on the investigations that CICIG and MACCIH determined [80, 99, 104].

2.4 Failures

The research analyzed the failures that occurred during the implementation phase of CICIG and MACCIH. To this end, disruptions were identified during the literature review phase and, subsequently, this information was compared with the interviews conducted during the fieldwork. First and foremost, the analysis focused on several prioritized errors [55].

The study found that some original design flaws had impacts and implications throughout the developmental and exit phases of CICIG and MACCIH. Overall, **55 types of faults or disruptions** were found. However, for this research, **35 were prioritized**, of which 10 were associated with design problems (nature, approaches, institutional engineering) and 25 with errors in implementation (operation, prioritization, leadership, political advocacy, communication, coordination with the state, capacity building, client networks, civil society platforms, and others).

Some of these disturbances or failures did not depend exclusively on the responsibility of CICIG and MACCIH but on exogenous elements. However, they evidently had a significant impact on the implementation strategy and results.

According to the researchers, there are three areas to analyze the errors in the processes of transfers: (1) uninformed transfer, when a country adopts a policy or program without sufficient information; (2) incomplete transfer, when not all elements are transferred; and (3) inappropriate transfer, which occurs when elements of the social, political, and institutional context are not considered, leading to an impact on the transfer (Evans, 2009; [45]; Sobaci, 2009; [51, 54]). See Annex 2: Table of design flaws; Annex 3: Table of implementation flaws.

2.5 Factor 1: Sustainability of anti-corruption initiatives

The first factor in explaining the possible failures of CICIG and MACCIH corresponded to their political-institutional sustainability. In a timely manner, the institutional dynamics in Guatemala and Honduras were analyzed through an understanding of political contexts, the relations established with the powers of the State, and decision-makers. Interaction with Congress was also examined, along with the contributions of CICIG and MACCIH to the transformation of the State, as well as the strategies developed by elites and power groups in response to these external initiatives.

2.5.1 Political contexts

Regarding the adaptation of CICIG and MACCIH to local political contexts, several points of view were found in the revised literature. Both initiatives were the product of an internal reflection in Guatemala and Honduras, as the illicit structures or corruption networks had reached such levels of development and penetration capacity that the State was unable to regulate them. This explained why national actors from both countries requested extraordinary international interventions [2, 32, 98].

Undoubtedly, there were political moments that marked the implementation of the CICIG and the MACCIH. Between 2015 and 2016, there was a shift in focus in the CICIG's approach to illegal groups, moving from structures that used corruption practices as part of their business portfolio to political-economic networks. In such a scenario, the best mechanism for co-optation of the state was no longer violence; it was bribery and corruption. This marked CICIG's new direction toward its expansion and mutation [93, 98, 105].

To analyze the Commission's adaptive process in Guatemalan political contexts, it is prudent to recognize that the CICIG was not a secondary actor but had a leading role. That is, the CICIG did not support a movement as in Honduras but created a movement, and to respond to this, it had to increase the standards of action. This was a strength and, in turn, a weakness [5, 92].

The overwhelming majority of interviewees in this study considered that the adaptation of CICIG and MACCIH to political contexts was slow and fraught with many obstacles, hindering their ability to truly create the right conditions to develop their work and even secure enough public officials who could assist in accomplishing this. Additionally, the political junctures of both countries played a significant role in these challenges [75, 85, 99].

From the social movement of 2015 and 2016, there was greater pressure on the political and institutional system, and a lot of discontent was generated. As a result, a tense relationship between CICIG and the president emerged. But why? Because CICIG positioned itself before the citizens and certain elites as a counterweight, as a limit to political power and the unpunished actions that took place within the Guatemalan political system. As an entity questioning why there was no way to stop these actions, fighting for its financial independence and addressing other types of issues, it became a relationship of inter-institutional competition [7, 87].

Meanwhile, within it, the CICIG had to develop an internal learning process that involved, first, the formation of teams of international technicians who became familiar with the organization and initiated the process of transferring capabilities. It could be argued that CICIG's adaptation to political contexts was fragmented, heterogeneous, and divided into phases [77, 81, 94, 98].

Since the MACCIH came with previous CICIG experience, the Mission in Honduras adapted quickly. Some elements that CICIG had done right or wrong served as lessons for MACCIH and the government to contain the social movement that called for concrete actions against corruption. In the dialog with the OAS, it was determined that the Mission in Honduras was not going to be a copy of the CICIG [42, 99, 104].

The Mission got off to a good start and had significant popular support. That is why the original vision was to give it a technical and more academic aspect, but along the way, the vicissitudes of the political context eroded the project. Taking into

consideration the political conditions of Honduras, similar to those of Guatemala, where the system of checks and balances in the state presented an imbalance, the effectiveness of the Mission was eliminated. Therefore, the Honduran political agenda ultimately surpassed it [36, 82, 108].

It is possible that the Mission in Honduras and the Commission in Guatemala have developed mechanisms to adapt to both national and international political contexts and pressures. However, this process was not always positive and was affected by the lack of understanding of the political-institutional environment [80].

2.5.2 Exogenous approaches

Considering the literature analyzed, there was a notable difference between the political-institutional approach of this type of international initiative compared to national approaches. This was corroborated during the fieldwork, as a large proportion of the interviewees considered that the perspective of international bodies, in terms of the fight against corruption, differed from the national perspective, and this negatively impacted the effectiveness of these interventions.

The national perspective, on one hand, can be more attached to reality but can also be more biased by prejudices. Hence, the external gaze is limited because you will not necessarily know all the details of the process. However, an external actor may be more objective and independent in the sense that it will not have as much prejudice as the Central American societies of the middle and upper classes, which are the ones that maintain economic and political power and have a lot of prejudices [87, 92, 101, 103].

Importantly, the introduction of an independent actor with different approaches to the fight against corruption was essential but not sufficient. It was fundamental that it possessed a genuine capacity to achieve results through effective normative and operational instruments. In any case, the CICIG had a legal apparatus and a more robust architecture than the MACCIH, Expediente [17, 26, 97, 108].

The CICIG and MACCIH corresponded to exogenous arrangements motivated by endogenous requests. However, in countries with high levels of impunity and state capture, adding to the systemic competition an exogenous actor to the system that monitors and introduces pressure not dependent on it was very positive because it yielded evidence of how an institution outside the system could contribute to its transparency [77, 93].

Another relevant factor that evidenced the differences in views between external and internal approaches was related to the locals. It was not the same to talk about corruption in the subnational government, such as a municipality or mayor's office, as it was to talk about corruption in the central government [95, 101].

2.5.3 Confrontation with decision-makers

One of the errors identified in the documentation analyzed was that both CICIG and MACCIH generated direct confrontations with bureaucrats, technocrats, politicians, and state decision-makers in Guatemala and Honduras. Similarly, a large majority of interviewees responded that the relationship between international initiatives and those responsible in the Executive Branch of the state was ineffective and confrontational [75, 106, 108].

The Guatemalan Executive Branch is characterized by limited experience in public administration, the existence of groups that respond to vested interests, a tendency to generate ministerial agendas with minimal planning, and attention to opportunistic situations with a propensity to create deals. According to the CICIG, the bureaucratic apparatus was perceived as slow, inefficient, and represented an opportunity for illicit enrichment for those who sought to expand their economic capital through the provision of services to the State [10, 34, 48].

When the CICIG and the MACCIH confronted the decision-makers in the state, a rivalry was generated, and, certainly, this implied risks in terms of diplomacy and relations between the UN system, the OAS, and these member countries. Therefore, being totally independent is relative, since these are small countries with low negotiation capacity before international organizations, and this generates competition, tensions, and defense strategies [81, 110].

The Honduran Executive Branch did not intervene in the actions of the MACCIH, nor did the Mission bring cases against the Executive Branch. Because of this, there was no relationship of tension between the Mission and the Government, as was the case in Guatemala [82, 83, 107].

The change in the relationship between the CICIG and the technocrats and bureaucrats of the Guatemalan state worsened in 2016, when the CICIG Commissioner, the Attorney General, and the U.S. Ambassador stormed Congress. Subsequently, there was a confrontation between the Executive and the CICIG because the Commission announced an investigation of the president for illicit financing [26, 92].

In short, it could be said that the relations between anti-corruption initiatives and decision-makers in the three branches of government in both countries were more about oversight than articulation, and when touching those powers, the reaction was defensive and full of annoyance. However, thanks to the support of international cooperation, social support, and the cases raised with strong evidence, these factors served as a defense mechanism, minimization, and response to the pressure of decision-makers [77, 97, 103].

2.5.4 Relationship with the national congress

The relationship between the anti-corruption initiatives in Honduras and Guatemala and their respective congresses was very controversial and went through various moments of tension. Thus, the majority of interviewees estimated that the interaction between the CICIG, the MACCIH, and the Legislative Branch was ineffective and that there was no significant progress during the period from 2015 to 2019.

Although the Guatemalan Congress approved the creation and operation of the CICIG, it initially coexisted with it until cases involving parliamentarians and congressmen emerged. At first, Congress participated in the management of politics, but the Legislature later became upset because many of its congressmen were among those investigated. At that point, it began to reveal its vested interests [85, 93, 111].

This relationship was always on a very thin line, and it is not just something directly against CICIG or MACCIH, but against any anti-corruption initiative. Initially, Congress had no impediments or blockages to the legislative initiatives presented by the Commission or the Mission. In 2015, the Guatemalan Congress ended, and a new Congress took over; however, to the extent that the criminal

prosecution began to affect the new parliamentarians, they promptly began to maneuver and weave their networks to consequently establish a clear distance from the CICIG [5, 86, 94].

When CICIG began investigations against parliamentarians, relations with the legislature deteriorated. Between 2016 and 2019, Guatemala's Congress blocked any kind of initiative coming from the Commission. Although this deteriorated relationship limited certain individuals from establishing some kind of dialog, it did not prevent the establishment of comprehensive proposals for law reforms [73, 95, 98].

It is likely that the distancing from Congress had been brewing long before, especially after the constitutional reform was proposed by the Commission in 2016. For the first time, Congress opposed the reform with the support of the private sector. From that point, the Legislature felt empowered to reject the CICIG's proposed justice sector reform initiative. Subsequently, the ruling party regained control in Congress, and it did not approve anything further, causing the agenda of the Commission to disappear little by little [31, 36, 87, 92].

Between 2017 and 2018, the Commission promoted and participated in the discussion and consensus of several proposals for legislative reforms in multisectoral spaces within the Security and Justice Table of the Congress of the Republic. However, it was noted with concern that the justice agenda did not advance significantly (Ley 5299 del 31 de mayo de 2017; CICIG-2018).

According to the Center for the Study of Democracy (CESPAD), the phenomenon of corruption in Honduras was concentrated in Congress, together with the Executive, and was constituted among the local caciques, the leaderships of the political parties, the different branches of the State, and the traditional economic groups. Before the MACCIH was installed, laws had been passed that contributed to the persistence of the lack of transparency and accountability [3, 52, 74].

The situation of the MACCIH with the Honduran Congress was analogous to the Commission in Guatemala, as relations with the Legislature worsened when particular interests were affected. The deputies viewed the Mission as an enemy, an imminent threat to their current positions as congressmen. The first action they took became known as "The Impunity Pact", where they presented a speech of unconstitutionality against the agreement between the Public Ministry (PM) and the MACCIH [83, 99].

2.5.5 Traditional elites

The relationship of the anti-corruption initiatives (CICIG-MACCIH) with the traditional elites in Guatemala and Honduras was full of nuances and characterized by much controversy, tension, and confrontation. So much so that, in the literature reviewed and by nearly all interviewees, it was considered that the elites developed new strategies of adaptation and re-establishment.

CICIG and Guatemala's elites had a good relationship, an interest that coincided with both the private sector and the traditional elites. However, just at the time when the names of businessmen and well-known private sector actors involved in corruption scandals began to emerge, there was an attempt by the Guatemalan elite to make a clean slate with the CICIG [75, 85, 97, 103, 109].

So, the argument was that CICIG was ideologically biased against the business community, although at the beginning the business community was clearly in favor.

In 2019, the private sector told the president he had made the right decision not to renew the Commission because it is constitutionally up to him to direct foreign policy. Then there was a clear evolution; before the constitutional reform, there was support for the Commission, and after the constitutional reform of 2016, that support was lost [47, 87, 93].

In Honduras, for its part, there was no confrontation with the business community or the traditional elites, although they did not issue any pronouncement against the departure or termination of the Mission. For their part, COHEP (Honduran Council of Private Enterprise) and the Chamber of Entrepreneurs consistently supported the efforts to keep MACCIH in force in the country. However, in general, there was no notable conflict between MACCIH and private enterprise [52, 82, 83]

It is necessary to emphasize that MACCIH had no impact on the traditional elites. This was one of the questions asked by the ruling party, as they wanted to know what was happening with the corrupt individuals since the Mission did not address a single case. Despite this, the traditional Honduran elites did not demand that MACCIH remain, and those who did were very few [90].

2.6 Factor 2: Strengthening capacities

To understand the disruptions in the implementation of CICIG and MACCIH, a second analytical factor related to strengthening national capacities was identified. This aspect was instrumental in describing the level of ownership of anti-corruption policies, analyzing the technocratic capacity of Guatemala and Honduras – specifically the Special Prosecutor's Offices for the Fight against Corruption (FECI in Guatemala; UFECIC in Honduras) – and the reinforcement of the justice sector. To this end, the processes of capacity transfer were scrutinized. Similarly, aspects related to the institutional engineering of the CICIG and MACCIH were analyzed.

2.6.1 Technocratic articulation

The CICIG's mission was to support the Guatemalan state in confronting the phenomenon of clandestine apparatuses and illegal security forces. Above all, the Commission could not replace the role of government bodies, mainly the Public Prosecutor's Office. In turn, MACCIH, from the beginning, emphasized that it would not supplant Honduran institutions; both the Public Prosecutor's Office and the Judiciary would be responsible for exerting their constitutional powers. It would be the Honduran prosecutors who would carry out the criminal accusations against those accused of corruption crimes [2, 6, 13, 72].

The review of the researched information showed that the technical articulation between CICIG and MACCIH was characterized by a differentiation of levels and degrees of effectiveness. In the case of Guatemala, the relationship of the Commission with the technicians of the State was changing – a relationship which, at some point, was close but later began to distance itself. Starting in 2015, the Commission began to encounter positions of criticism, minimal articulation, and a lack of any type of control mechanism or counterweights with the powers of the State [3, 25, 32, 59].

Specifically, technical coordination between CICIG and the Attorney General's Office was effective, and there was more openness, at least until 2016. However, they did not always have compatibility or agreeability, as these international initiatives also had to contend with local timelines, procedures, or approvals [81, 85, 94].

In Honduras, there were different conjunctures between the articulation of MACCIH and the technocratic levels of the State, with some moments of closeness and others of distance. However, there was always a relationship of respect. At the beginning, the Government believed that the Mission would be a group of diplomats who would only participate in meetings and training, without interference or articulation with the State. However, the Public Ministry requested MACCIH's support in the investigation of acts of corruption, and from this, an effective articulation was achieved [38, 83, 104, 107].

In general, it can be said that the level of articulation of the Mission with the entities of the Honduran State was acceptable. It was in the executive's interest to have good articulation with MACCIH because, both technically and politically, it was profitable to maintain cordial relations. On the contrary, in Guatemala, there was a forced and tense articulation; it was never a complete articulation. Although there were advances with the Public Ministry, this was a complex institution. The same situation occurred with the legislative branch, the Supreme Court, and the Executive [90, 92].

2.6.2 State capacity

Despite some progress made in articulating the two international initiatives with national technocracies, CICIG and MACCIH faced a lack of local capacity and the absence of professionalization among national prosecutors. When the institutional designs of these interventions were carried out, it was established that they not only had to contribute to research but also to facilitate the transfer of knowledge [7], Expediente [17, 97].

Guatemala and Honduras are characterized by technocratic weakness. For this reason, increasing public capacity meant having to reinforce the judicial body and the penitentiary system, which had been neglected. That is, it is more than likely that the efforts of these initiatives were concentrated in the different institutions of the justice sector, which historically have had low capacity [35, 93, 106].

The prevailing perception among interviewees was that the low capability of national entities affected the results achieved by CICIG and MACCIH. However, there is no evidence that these capabilities were strengthened by CICIG. That is, if there had been more strengths in the justice sector, the Prosecutor's Office (PO) would have achieved more results, developed better-structured cases, and CICIG would not have had as much prominence as it did in the end. Instead, it would have been seen as a more collaborative effort that could have truly left these capacities strengthened as evidence [75, 111].

The Public Ministry was an entity with very limited capacities, and thanks to CICIG, it had better structure and resources. The Attorney General's Office was able to take advantage of this improvement. It is worth mentioning that CICIG did not work with the entire Public Ministry; the Commission worked with the Special Prosecutor's Office Against Corruption. However, there were other prosecutors' offices in which they had an indirect impact [93, 102, 104].

For CICIG, the approach of putting Guatemalan and foreign lawyers, police investigators, criminal and financial analysts to work as a team represented an innovative mechanism in the cooperative dynamics between the international community and national justice institutions. In this way, the mutual transfer between prosecutors and national investigators was carried out continuously, allowing the sharing of high standards in the development of research plans, fieldwork, and the application of specialized techniques [9, 11].

Considering the hypothesis that Honduras and Guatemala share a very weak public administration and limited effectiveness due to their patrimonial nature and politicization, this hypothesis reinforces the argument that human resources staff who make up state entities are more likely to pay attention to corruption in weak institutional environments with few controls. Added to this, the absence of an effective civil service career system generates opportunities for inadequate hiring situations, substandard qualifications of implementers, and their constant turnover ([4]; Barrachina, 2016; [25]).

More optimistic positions on state capacity consider that, in Guatemala, the capacity of the Prosecutor's Office and the district attorney offices, as well as the work of the judges, had a positive impact on the results of the Commission. CICIG's key players were the national judges who came from local institutions. In other words, the operational leadership and the people who understood how the administration of justice worked were Guatemalans; they were not international [81, 93].

Similarly, the capacity of the justice sector in Honduras was somewhat solid. In addition, the special Honduran anti-corruption prosecutor's office received a glowing commendation. There were very brilliant and hard-working prosecutors, but it was evident that they lacked real support within their own institution [82, 83, 108].

2.6.3 Strengthening the judicial sector

The judicial system of Guatemala is made up of different bodies, among which are the Supreme Court of Justice, the Judicial Organism (OJ), the Courts of Appeals, the Courts of First Instance, and the Courts of the Peace. Likewise, the Constitutional Court (CC), as the highest court in constitutional matters; the Prosecutor's Office (PO), led by the Attorney General of the Nation (PGN); the Human Rights Ombudsman (PDH); the Ministry of the Interior, responsible for citizen security; the Institute of Public Criminal Defense (IDPP); and the Guatemalan Bar Association are also part of the system.

For its part, the judicial system of Honduras is constituted by the Supreme Court of Justice as the highest authority, the Courts of Appeals, the Civil Courts, and the Courts of Peace, with 15 magistrates elected by the National Congress. Likewise, the Prosecutor's Office of Honduras is part of the judicial system.

The system of administration of justice in the two countries is very broad and comprises a complex network of institutions. According to some experts, such a system lacks the political will to prosecute those responsible for acts of corruption and deliver justice. Hence, both the CICIG and the MACCIH selected, as a strategy, to increase capacities and coordination mechanisms through the creation of specialized prosecuting units in the fight against corruption [1, 3, 26, 44].

Both CICIG and MACCIH determined that the most efficient way to carry out their work and fulfill their objectives was to create specialized units within the Prosecutor's Offices of both countries. Hence, in Guatemala, the Commission and the Judiciary created the Special Prosecutor's Office Against Impunity (FECI), and in Honduras, the MACCIH and the Judiciary created the Specialized Fiscal Unit Against Corruption Networks (UFECI, later called UFERCO).

The Special Prosecutor's Office Against Corruption in Guatemala received the appropriate powers, resources, and capacities to take on the challenge. It is possible that the FECI was the best-equipped of all the prosecutor's offices, as it received intense and beneficial training, resulting in remarkable advances in criminal investigation [81, 84].

Similarly, in January 2017, within the framework of the agreement established between the Judiciary Power and MACCIH, the Special Prosecutor's Unit Against Impunity for Corruption in Honduras (UFECIC, now UFERCO) was created. Thanks to this Prosecutor's Office, the Mission achieved the legal powers to work on cases together with Honduran prosecutors, but unlike CICIG, MACCIH could not develop separate cases and had to do so together with national personnel [38, 82].

Thanks to this support, UFERCO had the human resources to direct investigations without the need for international agents. MACCIH brought in experts who trained and strengthened the established capacity of Honduran prosecutors, and that group of prosecutors was the one that generated the cases to prosecute them [80, 83].

Both CICIG and MACCIH developed training activities, bringing international personnel for specialized courses, seminars, workshops, and training; but above all, they focused on training in the execution of work for prosecutors and investigators [82, 97, 105].

Some experts stated that the FECI, the Police, or the Prosecutor's Office were not transferred the necessary capabilities. The FECI did not retain the knowledge because the Commission left quickly, leaving the Prosecutor's Office alone, without political support and lacking logistical or technical capabilities [36, 75, 87, 94].

Likewise, in the case of UFERCO in Honduras, once MACCIH left the country, a sense of abandonment was evident as its powers and support were taken away. At present, UFERCO is weaker than it was before, and the anti-corruption prosecutor's office has fewer resources. That is, the capacities for investigation and follow-up of cases probably remain, but without the political and financial support, Expediente [17, 99, 104].

2.6.4 Engineering of CICIG and MACCIH

During the period 2015–2019, the CICIG's priority was to formalize the relationship with the government, provide the criminal justice system with tools against organized crime, and determine new lines of investigation. CICIG was structured into substantive, administrative, and security units, such as the Investigation and Litigation Department, the Information and Analysis Unit, and the Commissioner's Office. The latter was responsible for pressreleases, legal reforms, hiring policy and administrative assistants, and accountability of financial contributions, among other tasks [11].

For its part, the OAS planned a mission of 70 people, including international and local experts. In the year 2016, the personnel selection mechanisms, the logistics

apparatus, the requirements that the institutional headquarters should have, and the provisions for organizational adjustments were determined. A strategic plan, communication strategy, and security and operations plans were created. The plan was designed to obtain the funds needed by the mission and the management tools for the Multilateral Basket Fund mechanism [1, 6].

It's important to note that the documentary review of the available research determined that some criticisms of both initiatives were related to the alleged enormous structures established in terms of personnel, logistics, and the human and financial resources. In light of this, some experts mentioned that there was never transparency regarding the invested resources in CICIG; thus, a cost comparison of achievable results with the established government structure cannot be determined [73, 106].

For the Guatemalan Human Rights Ombudsman, the structure deployed by CICIG was insufficient, as it would have been very positive to have CICIG at the subnational level, because corruption was not only central but also municipal [101].

According to the Director of the organization Judges for Democracy in Honduras, although the structure was adequate, it would have been necessary to deepen the links between MACCIH and the rest of the judiciary, the different agencies of the justice sector, and the organized sector of the population. [108]

The Commission always covered its own costs; however, there was a budget that the Guatemalan state donated to the Commission. This money came from international cooperation and not from the state. It is important to highlight that this amount of money was considered a left over that the State of Guatemala decided to give to the Commission. This money did not come from public funds [103].

For its part, in Honduras, criticism of the OAS regarding the establishment of MACCIH was negative. Within MACCIH, there were two structures: a national one that developed with the advice of MACCIH and the structure that persisted afterward. The structure of MACCIH was typical of international technical assistance, with staff receiving high salaries, some of whom lacked adequate training [80], Wesley (2020).

3. Aspects to discuss

Considering that the findings of the research analysis partially answered the questions and fulfilled the objectives of this research, in this last section, I will explore some alternative explanations that help us understand the failures or shortcomings of the anti-corruption initiatives implemented in Guatemala and Honduras during the period 2015–2019.

Hence, to analyze the first factor, institutional political sustainability, I will rely on the concept of “resilience” to describe the adaptive processes of the client networks. Likewise, I will propose a set of elements for discussion. It should also be mentioned that the second factor analyzed, capacity building, will be addressed from the platforms that accompanied both initiatives, based on elements linked to the cross-border architecture and the role of the international community.

3.1 Sustainability and resilience

With the purpose of complementing the explanation of the sustainability factor, I will take up one concept from biology. It corresponds to “*resilience*,” understood as

the capacity of communities and ecosystems to resist disturbances and regenerate through adaptive measures or strategies. Aspects related to resilience are also connected to models and types of approaches.

3.1.1 Patronage networks

In countries such as Guatemala and Honduras, the strategies of client networks exhibit similarities. There are indications that organized crime has developed the capacity to influence democracies and to use sophisticated processes of criminal learning, wherein illicit organizations have expanded their repertoire of behaviors that impact the state. These behaviors range from corruption and violence against officials to supporting political campaigns and advocating within the three branches of government [63].

Probably, in both countries, the client networks of family, friends, companies, and all kinds of networks, both legal and illicit, are doing business with the state. These practices are rooted in the political party system, the electoral system, the justice system, and the entire governmental structure. Additionally, such networks are the only means of accessing public goods and services [25, 52].

Faced with this context, it is highly possible that the actions of anti-corruption initiatives will serve as motivators for clientelist networks to decide to join and generate new alliances. Obviously, there is a high capacity for clientelist networks to adapt to external threats, as they are more flexible and resilient structures than bureaucracy and governmental, national, or international technocracy [79, 89, 96].

Suppose that, when CICIG or MACCIH began to jeopardize the operations and profits of the client networks, they became significant threats. So much so that the commission's work of persecution came to focus on all these sectors – conservatives, military, businessmen, corrupt politicians, and drug-dealing politicians – in a common front [81, 94].

It is imperative to understand that the client networks of Guatemala and Honduras are sophisticated structures with intelligence capabilities, operational resources, training, and significant influence in various areas of the state. Thus, such penetration capabilities are powerful instruments of politics and economics. To ignore this is to confront a problem without truly understanding it [76, 91].

Client structures mutate because they understand that their resources, capabilities, intelligence, organizational structure, logistics, operations, and their strategic positioning in functional areas of the state give them a great advantage. Therefore, they develop the logic of accumulation in economic terms, and this implies a permanent mutation [89, 100].

Taking into consideration the above, I propose that CICIG, MACCIH, the Prosecutor's Office, and, in general, the public institutions of the two countries were the ones that had to mutate, not the other way around. That is, it is incorrect to say that, due to pressure from CICIG or MACCIH, the client networks had to mutate. Actually, it is the State and international initiatives that must be resilient and transformed, as illicit networks become more dynamic [98].

In fact, adaptive capacity is not only demonstrated in terms of actions or direct responses to legal or operational interventions; it is also evident in the construction of narratives and messages that reach citizens and institutions, generating significant confusion and affecting the sustainability of any program or initiative that threatens their interests [81, 99].

Finally, another important factor to consider is the length of time that clandestine networks have been in operation. They have operated for decades with total impunity. In addition, it is essential to recognize the Central American and Latin American people's cultural approach to these problems; either they seem not to care about them or they choose to remain silent [75, 78, 88, 100].

Next, the second alternative explanation linked to capacity building is developed from the cross-border architecture, multilevel platforms, and the role of the international community.

3.2 Multilevel platforms

To understand the failures of CICIG and MACCIH, based on the capacity-building factor, and given the insufficiency of the arguments found in the findings of the investigation related to the inefficient relationship of these missions with the state, low technocratic capacity, incomplete processes of capacity transfers, and aspects related to institutional engineering. I will next develop some alternative explanations of the errors. These explanations are linked to the weakness of the consolidated platforms, the cross-border architecture, and the role of the international community in addressing problems that exceed national capacities and are consolidated as priority topics on the public agenda.

3.2.1 Platforms against corruption

The consolidation of a civic culture against corruption is possibly one of the most controversial aspects of CICIG and MACCIH. Therefore, considering the available literature, I start from the premise that both interventions had to generate broadly participatory, plural, and democratic processes to incorporate different actors and sectors of society, allowing the consolidation of platforms against corruption [8, 9, 13].

On the part of the Commission in Guatemala, processes and meetings were conducted to strengthen the culture of legality. Likewise, innovative themes such as damage reparation and the creation of an inter-institutional justice network were incorporated, as well as efforts to coordinate with social movements such as *La Plaza*, *Justicia Ya*, the *Semilla* political movement, among others [9, 103].

From this perspective, CICIG sought to promote a network of alliances among very diverse civil society organizations, including human rights organizations, civil society groups, the organized private sector, indigenous organizations, and universities throughout the country. The Commission took advantage of the multitude of organizations to act as public multipliers of its work, emphasizing its validity as well as advocating respect for and protection of prosecutors and investigators [75, 77, 84, 101].

For their part, in Honduras, civil society organizations and the population in general expressed their disagreement; before MACCIH entered into operations, they had expected a different institution. Therefore, since its inception, MACCIH decided to work with civil society organizations on a system of criminal justice observatories to build proposals aimed at improving justice [39, 53].

The majority of interviewees indicated that there was progress in building a civic culture against corruption, thanks to CICIG and MACCIH. Both initiatives managed to revive the concern of civil society organizations, arouse the interest and awareness

of the population toward political issues, and promote a message of non-tolerance to corruption [80, 81, 83, 87, 108].

However, despite these efforts, during the years 2016 to 2019, social movements were decreasing in presence and prominence. After the marches of 2015 and 2016, civil society support in Guatemala and Honduras has been weak, passive, and divided in the fight against corruption. This was reflected in their inability to support CICIG or MACCIH during crucial moments of crisis. That is, there is evidence of a certain weariness and lack of leadership on the part of social platforms. This is not the responsibility of either of the international initiatives, but it does relate to the possible disruptions identified in the implementation [23, 95].

Unfortunately, the relationship between CICIG and MACCIH with civil society was not as consistent. On one hand, the Commission did not view these platforms as essential elements of a process of social change and supplanted the leadership that national groups should have had. On the other hand, the Mission in Honduras did not have experienced staff working with civil society [7, 99].

In short, and beyond the work of building and accompanying multilevel platforms advised by CICIG and MACCIH, citizens felt supported by the media presence. However, this support was ephemeral, and it was not possible to build relationships or strengthen these spaces. As a result, at present, civil society has not been able to sustain the movement against corruption and intolerance; on the contrary, it has regressed [75, 92].

3.2.2 Cross-border architecture

We will now briefly examine a fundamental aspect that contributes to understanding the nature of the interaction between the heterogeneity of local actors from different sectors and their engagement with international specialists involved in the process of designing, managing, and implementing policies on a more regional and global scale.

Therefore, a set of new actors involved in the process of transferring public policies are identified, among which traditional actors stand out, as well as lobbyists, transnational corporations, consulting firms, opinion leaders, journalists, supranational and subnational governments, regional mechanisms, impact NGOs at the ground level, local leaders, and global spokespersons, among others. This is referred to as the “Cross-Border Architecture” [27, 57, 64].

The Cross-Border Architecture approaches aim at comprehending: (1) transnationalization processes, (2) repositioning the role of the government in policy implementation, and (3) state dislocation from the pinnacle of policymaking, in which supranational and subnational actors play an essential role [56].

Based on this perspective, the following questions warrant further investigation: How does national sovereignty diminish or strengthen in the context of an experiment such as CICIG or MACCIH? Can action be lost in the international arena but gain independence in the domestic sphere? According to experts, initiatives such as those in Guatemala and Honduras do not violate sovereignty because the same countries requested international assistance [92, 111].

Within the framework of Cross-Border Architecture, it cannot be denied that the authority and validity of nationalism remain significant, since public policy is a competence of the States and is executed within their borders. The power and

vitality of the nation-state as a political unit remain unquestionable. However, the global problems, geopolitics, and political processes that countries face persist [29].

Initiatives such as CICIG and MACCIH demonstrate the existence of a transnational network of officials, managers, judges, experts, administrators, advisors, decision-makers, academics, analysts, and others. A public architecture working on cross-border issues is called trans governmentalism [29].

To clarify some ideas and thoughts, this research does not delve into the concept of transgovernmentalism as a characteristic of complex modern states. However, problems such as corruption, poverty, environmental deterioration, among others, are consolidated as part of the Agenda of Global Public Policy (GPP).

Both the GPP and the concept of trans governmentalism inevitably lead us to the issue of sovereignty. This was another controversial argument used by critics and opponents of both international initiatives (CICIG and MACCIH). In the case of the absence of sovereign power at the global, regional, and transnational levels, the notion of the public acquires other dimensions, since globalization presents unprecedented challenges to national sovereignty [29].

Initiatives such as CICIG and MACCIH do not have to affect sovereignty because it was the same countries that asked for international help; both states are so co-opted that it is difficult for an internal actor not to have a conflict of interest. Therefore, an external commission is necessary; it was what was requested, and it was what they gave us [75, 94, 99].

In summary, the alternative explanations for the failures presented during the strengthening process are related to the inefficiencies in the consolidation of platforms around the fight against corruption in both countries, as well as failing to recognize that these processes require being approached from a broader perspective, through a cross-border architecture, since the problems of corruption are part of the Global Public Agenda and cross-border sovereignty that exceed the limits of traditional notions of the nation-state.

4. Conclusion

Finally, to answer the central question that guided this investigation: what were the main failures or errors of CICIG and MACCIH? The findings identified 55 types of faults or disturbances. However, the study prioritized 35, of which 10 were associated with design problems (nature, approaches, institutional engineering) and 25 with implementation errors (preparation, prioritization, leadership, political advocacy, communication, coordination with the state, capacity building, client networks, civil society platforms, and others).

Despite the failures or errors, neither of the international interventions can be classified as failures, as they undoubtedly made significant contributions to strengthening the administration of justice, prosecuting cases, reinforcing legal and institutional skills, and, above all, raising awareness about the phenomenon of corruption and its impact on the quality of life of the population.

With respect to the selected theoretical framework, *Policy Transfer*, it is prudent to recognize that it is a flexible approach that incorporates new conceptual perspectives, including transfers, isomorphism processes, replication, and the analysis of errors that occur during implementation. Likewise, it allows for the incorporation of new theoretical perspectives, such as the notion of trans

governmentalism, GPP, and cross-border architecture. Therefore, it is expected that this study will contribute to the generation of jobs through the application of Policy Transfer to public policies in Latin America.

With respect to the selected cases, the CICIG and the MACCIH, it should be noted that they are unique models of political innovation designed for both countries. Hence, their enormous wealth of information and potential to draw lessons learned.

Regarding the applicability of the study in similar cases in the region, it can be perfectly replicated in any other country in the region with similar phenomena in terms of state capture and the phenomenon of clientelism.

As indicated, the research sought to validate and corroborate phenomena that occur in other public policies, such as poverty alleviation programs in Latin America. From the cases, it can be evidenced that the variables were indeed corroborated.

In particular, the study found the need to contextualize the behaviors of actors affected by the policy and exogenous and endogenous innovations from their territories. Likewise, the study delved into the perspective on the tension generated between policy models and the adaptive processes of technocratic systems, platforms, and local nodes.

In this way, the case of CICIG and MACCIH allows us to validate the applicability of the alternative explanations proposed by the dissertation (resilience of client networks and the fragility of multilevel platforms), focused on the need to deepen the study of contexts and their relevance for the execution of public policies. This makes it possible to understand the causes that explain the gap between the planning of interventions that originate from transfers promoted by international or state leadership and the landing of differentiated transfers in these territories, due to a set of factors linked to the context.

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Chapter 5

Implications of Changes to the Corruption Eradication Commission (KPK) Regulations on Accelerating the Eradication of Corruption in Indonesia

Sukmareni and Ujuh Juhana

Abstract

As a state entity, the KPK is immune from the influence of any authority in the performance of its functions and authorities, in accordance with the Corruption Prevention Commission (KPK) Law No. 30 of 2002, Article 3. This independent position was changed in 2019 through Law No. 19 (Revision of the KPK Law 2019), by placing the KPK's role in the executive branch as a state entity cluster, as a central government institution, a portion of the government's authority, and part of the executive power 2002 whose duties and authority lie in the prevention and elimination of crimes related to corruption. With this change, the independence of the KPK, which was the main principle on which the KPK was formed, automatically disappeared, along with several other changes. This greatly affects the performance of the KPK in accelerating the eradication of corruption in Indonesia. Most of the politicians involved in the amendment of the KPK Law have achieved their target, as seen in the period from 2019 to 2025. The implications for the KPK's work in uncovering major corruption cases have decreased considerably. This is evident from Indonesia's declining CPI score, which has fluctuated and failed to reach its highest score since 2019, when the KPK Law was intensively revised. Even today, what is more prominent is the performance of corruption elimination by the police and the prosecutor's office, which is inversely proportional to the years prior to the 2019 KPK Law amendment.

Keywords: implications, KPK, regulation, eradication, corruption, Indonesia

1. Introduction

The development of corruption and the development of regulations regarding corruption crimes are always interesting to study, because as a developing country with a large population and the nature of the state as a country of law, both in terms

of its substance, institution, and legal culture, as well as the level of corruption that occurs, these aspects are deeply interconnected. Law No. 19 of 2019 contains the second modification to Law No. 30 of 2002 pertaining to the Corruption Eradication Commission (KPK Law). The revision of the KPK Law in 2019 is among the most talked-about because it provides a substantial influence on how the KPK's duties to eradicate corruption function within the criminal justice system in Indonesia. This is because the KPK's independence, which was the primary basis for its formation, was automatically lost, along with a number of other changes made to the organization. This has a significant impact on how well the KPK performs in hastening the eradication of corruption.

This received attention and rejection from various circles, including corruption activists, students, academics, and even law professors, and even then urged the Constitutional Court to be asked to conduct a judicial review of the KPK Law's Second Amendment [1].

According to Zainal Arifin Mukhtar, from a philosophical standpoint, Law No. 31 of 1999 on the Eradication of Corruption's incorporation of Article 43 was essentially a response to the erosion of public trust and the inadequacy of anti-corruption efforts carried out by the then-existing institutions, namely the Prosecutor's Office and the Police. This provision laid the foundation for the Corruption Eradication Commission's formation (KPK) as a more effective body to address corruption [2]. One of the reasons is that the Prosecutor's Office and the Police are not independent institutions in the implementation of their duties because they are still under executive power. Thus, the KPK was formed with the hope that it could become an autonomous state organization that is unaffiliated with any branch of government, including the legislative, executive, and judicial, which can later help accelerate the eradication of corruption, which is already an ordinary crime in Indonesia.

Apart from Article 43 of the 1999 TPK Law, the mandate to establish the KPK is also regulated in Article 1 and Article 2, point 6, letter b of the Recommendations for Policy Directions in Fighting and Preventing Corruption, Collusion, and Nepotism (MPR Decree No. VIII/MPR/2001). Article 1 states that MPR Decree No. XI/MPR/1998, concerning the Realization of a State Devoid of Nepotism, Collusion, and Corruption, along with several related regulations, was deemed ineffective. Meanwhile, Article 2, point 6, letter b emphasizes the necessity of drafting a new law and its implementing provisions to strengthen corruption prevention measures:

- a. The Commission for the Eradication of Corruption (KPK);
- b. Safeguarding victims and witnesses;
- c. Criminal organization;
- d. Liberty of information;
- e. Governance ethics;
- f. Money laundering crimes;
- g. Ombudsman Commission.

Thus, one of the mandates for the establishment of the KPK originates from recommendations for policy directions in the eradication and prevention of corruption, collusion, and nepotism, as stated in MPR Decree No. VIII/MPR/2001. This corresponds to the principle that part of the substance of laws may derive from provisions mandated by the 1945 Constitution or by an MPR Decree.

This desire is realized with the establishment of the KPK under the KPK Law of 2002. The KPK has demonstrated its performance and role in the implementation of its duties, functions, and authorities in exposing corruption crimes across various sectors, with perpetrators including individuals and corporations, ranging from politicians, executives, legislative and judiciary members, and even academics. This can be observed from the development of Transparency International's results on the Corruption Perceptions Index, which is a measure used to assess the perception of the degree of corruption in the public sector of a nation. There has been an increase in Indonesia's CPI score since the formation of the KPK in 2002. With the KPK effectively operating from 2003, Indonesia's CPI has strengthened every year from 2004, reaching its highest score of 40 in 2019. Although there was a decrease of one point in 2007, from 24 to 23, the score remained the same in 2009 and 2010 at 28, and in 2012–2013 at 32. The rest of the scores showed an upward trend [3].

However, the performance of the KPK did not receive the same positive response from all parties, especially those who felt very disturbed by the performance of the KPK, so they began to make efforts to revise the 2002 KPK Law, particularly related to the independence of the KPK, dealing with corruption activists who did not want change and wanted to maintain the independence of the KPK.

The creation of the KPK brought significant changes to the examination and prosecution of instances involving corruption. Previously, the power to conduct such investigations was solely under the control of the Prosecutor's Office and the Police, but this authority was later extended to the KPK, which functions as an independent body with broader powers. These include the ability to carry out wiretapping and to take over Police or Prosecutor's Office corruption cases under the conditions outlined in paragraph (2) of Article 8 and Article 9 of the KPK Law. Beyond this, Articles 11 and 50 of Law No. 30 of 2002 further define additional powers granted to the KPK. The scope of these authorities has also contributed to calls for revisions to the KPK's mandate, alongside various political considerations.

In 2019, despite widespread opposition, the House of Representatives approved the government's proposal to revise the 2002 KPK Law. The amendment brought substantial consequences for the Commission's role and authority. Among the most notable shifts were the reclassification of the KPK from an independent body to one positioned under executive control, the establishment of a Supervisory Board, the restriction of wiretapping powers, and tighter regulation of investigative authority. These adjustments have profoundly affected the institution, eroding its independence as an Anti-Corruption Agency (ACA) and limiting its operational freedom due to its subordination to the executive branch.

An evaluation conducted through the ACA Assessment revealed a sharp downturn in the KPK's performance following the legal amendment. The steepest drop was recorded in the Independence and Status category, which fell by 55%. This was followed by a 25% decline in the Cooperation and International Relations category and a 22% decrease in Investigation and Prosecution. The remaining three areas – Human Resources and Budget, Accountability and Integrity, as well as Prevention, Education, and Outreach – also showed noticeable reductions [4].

Based on the above, the author will try to elaborate on this by conducting a study on the implications of the shift in the independence of the KPK in existing and current regulations on the acceleration of removing corruption from Indonesia. This writing is based on a normative study of the amendment of the KPK Law through updates to the 2019 KPK Law, linked to the results of monitoring the KPK's performance before and after the revision of the KPK's independence status, using a legal approach and qualitative analysis of legal materials and data obtained.

2. Discussion

2.1 The establishment of the KPK as an independent institution in accelerating the eradication of corruption in Indonesia

2.1.1 Definition of KPK as an independent institution

Miranda Risang Ayu explains that, in essence, the establishment of supporting institutions or independent state bodies stems from two main factors: first, the growing complexity of state functions and powers, which necessitates the presence of autonomous institutions capable of handling such responsibilities; and second, the intention to strengthen the roles of updating current state organs by the establishment of new organizations that are more specialized and structured. In this context, the notion of independence is directly connected to government institutions such as the KPK, which serves as a state auxiliary agency [5].

Miranda further explained that a support institution is said to be independent if it meets the following criteria:

- a. Clearly stated within legislation enacted by Congress is that the body holds independent status.
- b. The President does not possess unrestricted authority to remove the institution's leaders.
- c. Leadership is exercised collectively rather than by a single figure.
- d. No single group or party has dominance over the leadership structure.
- e. The commissioners' terms of office do not conclude at the same time but end in a staggered manner.

According to Kartika, quoting Black's Law, independence is defined as "independence the state or condition of being free from dependence, subjection, or control" [6]. The independence referred to here does not mean that the institution is free from supervision. In an independent state institution, the internal supervision mechanism is strengthened to minimize the need for external supervision. This is because improper external supervision can give rise to interventions that reduce the independence of the state institution [7]. Moreover, in connection with the KPK's status as an autonomous body, Zainal AM asserts that, in principle, it should embody eight defining features of independent state institutions, which are outlined as follows [8]:

- a) Not being part of the existing branch of power;
- b) Selection through selection;
- c) Its election and dismissal are based on the underlying regulations;
- d) Membership, election, and reporting are brought closer to the people;
- e) Collegial collective leadership;
- f) Not a major state institution;
- g) Possesses the authority to establish its own regulations that hold general applicability;
- h) Established by constitutional or legal legitimacy.

Here, it can be seen that what distinguishes independent institutions from ordinary state institutions is that independent institutions are founded on the principles of freedom, independence, autonomy, and are not subject to institutional or personal dominance. The exercise of free will is achieved when decisions or policies can be made without substantial external pressure that might alter their position. An ideal state auxiliary body is one that operates independently, functioning as a Commission or state institution separate from the legislative, executive, or judicial branches of government [1]. Similarly, the KPK, as an auxiliary body tasked with advancing Indonesia's battle against corruption, is ideally required to function with full independence.

2.1.2 Legal basis of the KPK as an independent institution

The provisions that can be referred to in order to ensure the independence of an organization that fights corruption in carrying out its functions are found in the United Nations Convention against Corruption (UNCAC), Articles 6 Number 2 and 36. Article 6 Number 2 of the UNCAC reads as follows:

“Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principle of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions should be provided.”

Then Article 43 of the 1999 KPK Law reads as follows:

- (1) Two (2) years after this law's passage, the Corruption Eradication Commission must be formally established.
- (2) As stated in paragraph (1), the Commission will carry out responsibilities and exert power in coordination and supervision, which includes conducting inquiries, investigations, and prosecutions in line with the applicable legal provisions.

- (3) The composition of the Commission, as mentioned in paragraph (1), shall consist of representatives from both the government and the community.
- (4) Matters concerning the establishment, organizational framework, working procedures, scope of responsibilities, functions, powers, and membership of the Commission, as stated in paragraphs (1), (2), and (3), shall be determined by law.

The creation of the KPK is further outlined in the general elucidation of the 1999 KPK Law, particularly in its concluding paragraph, which states that the law mandates the establishment of the Commission to eradicate corruption. This Commission is to be regulated under a separate statute in no more than two (2) years following the enactment of the law. Its membership is comprised of representatives from both the government and the public.

Furthermore, this KPK regulation is also strengthened by Article 12C of the 2001 TPK Law, which reads:

- (1) If the beneficiary of the gratuity notifies what they have received to the Corruption Eradication Commission, the provisions mentioned in paragraph (1) of Article 12 B will not be applicable.
- (2) A report like that, as stated in paragraph (1), must be submitted by the beneficiary of the gratuity within thirty (30) working days prior to the day the gratuity was obtained.
- (3) Within thirty (30) working days of receiving the report, it is necessary for the Corruption Eradication Commission to decide whether the gratuity is to remain with the receiver or be designated as the property of the state.
- (4) The law on the KPK will govern the processes for filing reports, as specified in paragraph (2), and determining the status of gratuities, as specified in paragraph (3).

In point 3 of the preamble to the 2002 KPK Law, it is emphasized that, pursuant to Article 43 of the 1999 TPK Law, as amended by the 2001 TPK Law, the establishment of an independent KPK is required, vested with the duties and powers to combat corruption. This principle is further reinforced within KPK Law Article 3, which declares that “The Corruption Eradication Commission is a state institution that, in carrying out its functions and authority, shall remain independent and free from the influence of any power.”

The elucidation of the 2019 KPK Law’s Article 3 clarifies that the term “any power” refers to influences capable of interfering with the KPK’s functions or the authority of its members, whether originating from the executive, judiciary, legislature, parties connected to incidents of corruption, or arising under specific conditions, circumstances, or for any reason.

The stipulations in Article 3 are reinforced by Article 7, paragraph (2). According to the 2002 KPK Law, the Commission’s responsibility is limited to submitting reports to the Financial Supervisory Agency, the Regional Representative Council, and the President. This provision underscores the KPK’s independence, as its

accountability to the House of Representatives and the President pertains solely to activity and financial reporting. Further support comes from Article 20 under the KPK Law of 2002, which specifies that “the KPK is accountable to the public for the execution of its duties and shall submit its reports openly and periodically to the President, the House of Representatives, and the BPK.” Importantly, the requirement to report to the President does not imply that the KPK is subordinated to or directly accountable to the President.

Furthermore, Article 24, paragraph (1) of the 2002 KPK Law stipulates that KPK personnel are Indonesian citizens appointed based on their expertise, rather than as government employees (State Civil Apparatus), provided they fulfill the qualifications and appointment criteria outlined in Article 2, paragraph (3).

From the provisions outlined above, it is evident that the KPK functions as an independent body (a self-regulatory institution) tasked with supporting the acceleration of corruption eradication in Indonesia, working alongside other law enforcement organizations such as the Police and the Prosecutor’s Office, which had this ability before the KPK Law was passed. Many people believe that the KPK is an extra-constitutional organization that is autonomous and unaffected by any body of government (executive, legislative, or judicial). Such an arrangement is permissible and does not conflict with Indonesia’s constitutional framework, as state institutions may be established through three mechanisms: (1) those mandated by The Republic of Indonesia Constitution of 1945, (2) those created by statute, and (3) those formed by Presidential Decree [9].

2.1.3 Position of the KPK after the Second Amendment of the KPK Law 2002 in Law No. 19 of 2019

Article 1, point 3, of the 2019 amendment to the KPK Law stipulates that a governmental agency housed under the executive branch is the Corruption Eradication Commission (KPK), also known as the KPK, mandated to prevent and fight corruption in compliance with this law’s requirements. This provision is reinforced under the same amendment’s Article 3, which states: “The Corruption Eradication Commission is a state body within the executive branch which, in exercising its functions and powers, operates independently and is free from the influence of any authority.” The elucidation of Article 3 further clarifies that the term “state body” refers to an auxiliary state institution categorized under the executive sphere. Meanwhile, the phrase “any authority” is interpreted as any form of power that could interfere with the Commission’s tasks and powers, whether directed at the institution as a whole or at individual members, including interference from the legislative branch, the executive branch, the courts, any parties involved in corruption proceedings, or other external events.

Paragraph (3) of the explanatory section of the KPK Law’s 2019 amendment firmly establishes that the KPK is a central government body whose responsibilities and powers relate specifically to preventing corruption and eliminating it. Furthermore, paragraph (6) explains that the institutional framework of the KPK must be aligned with the Constitutional Court’s No. 36/PUU-XV/2017 decision, which affirmed that the Commission forms a component of the government power structure. Accordingly, the KPK is classified within the domain of executive authority, commonly referred to as a governmental institution (*regeringsorgan* or *bestuursorganen*).

The objective of this clause is to clarify the KPK's status within Indonesia's constitutional framework, specifically within the executive branch. With this adjustment, the KPK is expected to function as a governmental agency that, alongside the prosecutor's office and the police, undertakes coordinated and systematic measures to combat and prevent corruption. This arrangement also seeks to minimize disparities in the interaction among law enforcement bodies by ensuring that the KPK does not monopolize or fragment the purposes of inquiry, prosecution, and investigation.

Article 24, paragraphs (2) and (3) of the KPK Law's 2019 amendment explicitly state that personnel of the Corruption Eradication Commission are members of the Indonesian public servants' professional corps, in line with statutory provisions. Furthermore, paragraph (3) affirms that the procedures for appointing KPK employees must be carried out in compliance with the relevant laws and rules.

The aforementioned rationale leads to the conclusion that, in accordance with the 2019 KPK Law revision, the Commission's status is defined as a state body within the executive branch. As an institution of the central government, it is positioned as part of the governmental power structure, specifically under the scope of executive authority, with responsibilities and powers directed toward the prevention and eradication of corruption.

3. Implications of the change in the status/position of the KPK from an independent institution to a state institution within the executive power cluster on the acceleration of the eradication of corruption in Indonesia

3.1 Opinion of legal experts

According to Jovial Falah Farama, the reclassification describing the KPK as an executive branch state institution indirectly places the Commission under the executive structure, meaning it can no longer be regarded as fully independent but is instead accountable to higher executive authorities, namely the President and Vice President. The shift in personnel status to that of State Civil Apparatus (ASN) also affects KPK investigators. According to Article 1 paragraph (1) and Article 6, investigators consist of police investigators as well as certain designated civil servant officials (PPNS). This raises concerns that KPK investigators, once categorized as ASN, may effectively be transformed into Civil Servant Investigators/PPNS operating under the supervision and power of the National Police, as stipulated in Criminal Procedure Code Article 7 paragraph (2) [10].

Rido Susanto emphasized that in a state governed by law, every activity of the state must be grounded in prevailing legal norms, including the establishment of independent commissions. Such independent bodies are considered to hold equal status and function with other state institutions, as they are often compared to supporting agencies created by the executive. In general, government institutions can be classified into four types: (1) executive departments mentioned in the constitution, led by cabinet officials who oversee them; (2) sub-agencies that operate within these departments but are structurally distinct; (3) institutions that are separate from executive departments; and (4) bodies established with a degree of independence by the judiciary, commonly referred to as regulatory agencies [1].

I Gusti Ayu E. Yuliantari contends that the 1945 Constitution of Indonesia does not explicitly designate the KPK as a state institution. Nevertheless, outside the constitutional provisions, there exist entities that may be classified as state commissions or auxiliary state agencies, established through specific laws or other legal regulations. The KPK is one such institution, created by statute. However, in the Indonesian context, the constitutional framework has not yet provided a clear conception that ensures the formal recognition and protection of the KPK and other similar auxiliary state institutions [11].

Meanwhile, Gunawana Tauda argues that the KPK is more suitable to be an autonomous organization that, according to the doctrine of separation of powers, is distinct from the legislative, executive, and judicial branches [12].

Intervention in the performance of the KPK, according to Ahmad Rofiq, is not only to change the KPK Law's Article 3 but also to be implemented through the establishment of a Supervisory Board, perhaps removing its autonomy. By itself, it eliminates the privilege of the KPK in performing its responsibilities and authority because everyone needs to have the Supervisory Board's approval [13].

Ahma Bajuri asserts that while the independence of the KPK is legally established, it is not absolute due to overlapping responsibilities with other organizations, including the Prosecutor's Office and the Police, in combating corruption. The Commission's independence is, therefore, limited and primarily formal or doctrinal, being defined and protected by law. In practice, however, the KPK's operational freedom is constrained, as certain actions – such as conducting wiretaps – require special authorization [14].

Komariah Emong Sapardjaja, a criminal law scholar from Padjadjaran University, during the trial on November 21, 2006, participated as an expert under Case No. 012-016-019/PUU-IV/2006, the Constitutional Court's material examination of the KPK Law. The case questioned whether the KPK Law's Article 3, which declares that "The Corruption Eradication Commission is a state institution which, in exercising its duties and authorities, is independent and free from the influence of any power," infringed upon the constitutional rights of Petitioners II and thus conflicted with the 1945 Constitution. In his written statement, Sapardjaja clarified that the KPK is recognized as an independent body, often categorized as a state Commission. Such independent commissions are designed to operate autonomously, outside the traditional branches of executive, legislative, and judicial power, yet perform functions that combine aspects of all three. Based on comparisons with similar institutions in other countries and the views of various scholars on the characteristics of independent state commissions, the expert concluded that the KPK meets these criteria. Consequently, the KPK is not outside the constitutional framework; on the contrary, it is legally integrated within it.

PUU-XVII/2019 Constitutional Court Decision No. 70 addresses the reclassification of the KPK under Article 1, number 3, redefining it from a self-governing organization to an executive organization that is unaffected by outside forces. This positioning of the KPK within the executive branch has significant implications for corruption eradication efforts in Indonesia. Critics argue that this duality creates a constitutional ambiguity: The KPK is a component of the executive and potentially exposed to interventions, raising questions about its impartiality; on the other hand, it is claimed to be independent. Such a situation clearly introduces legal uncertainty.

Denny Indrayana, serving as the Expert Petitioner in Case 59/PUU-XVII/2019, filed by 25 advocates, argued that independence is a core principle of the KPK. He contended that the KPK Supervisory Board's formation in the amended KPK Law represents an attempt to undermine this principle. With the KPK now positioned within the executive branch, it is no longer fully independent. The Supervisory Board, particularly through its authority over coercive measures such as wiretapping, searches, and other investigative powers, is seen as encroaching on the Commission's independence. According to Indrayana, such a supervisory model is unprecedented in law enforcement agencies in other countries. Therefore, the inclusion of the KPK Law's Supervisory Board amendment requires careful and in-depth examination, beyond mere textual interpretation, to assess whether it constitutes a legitimate legal policy or an open-ended legal policy [15].

3.2 Analyst author

An examination of Article 3 of the 2019 amendment to the KPK Law reveals a dual characterization of the Commission: it is simultaneously described as part of the executive branch and as an independent body. This duality conflicts with theoretical frameworks in the study of state institutions, since true independence implies immunity from interference by any other state organ, whether legislative, judicial, or executive. As a component of the executive, the KPK is naturally accountable to the highest authority in that branch, namely the President as Head of State. According to Artidjo Alkostar, as cited by Ari Wibowo, the notion of independence carries two distinct interpretations [16]: 1) institutional independence, which refers to an organization being autonomous and protected from interference by external actors outside the institutional framework; 2) functional independence, which relates to the ability to perform its duties and functions without undue influence. In this context, it is difficult to reconcile how the KPK, as part of the executive branch, can maintain freedom from interference by the very government (executive) to which it belongs.

The change in the status of Corruption Eradication Commission (KPK) employees from independent employees to civil servants (ASN) will require them to comply with the rules set by their superiors, in this case, the executive leadership, namely the President. The KPK is no longer independent and free as an independent institution, especially in investigating allegations of corruption by the executive leadership itself. Ideally, according to Gunawana Tauda's opinion in a previous discussion, the KPK is better suited to be an independent institution that is not affiliated with the executive, legislative, or judicial branches. The KPK should be truly independent, free from the influence and pressure of anyone, in accordance with the basis for the initial formation of the KPK in Article 43 of the 1999 Corruption Crime Law.

This approach appears inconsistent with the stated purpose of the 2019 KPK Law revision, which aimed to strengthen the institution and enhance its ability to carry out its duties and authorities more effectively and comprehensively. In reality, the adjustment in the KPK's status seems intended primarily to position it as a government agency that works in coordination with the prosecutor's office and/or the police to execute coordinated and structured anti-corruption efforts. It does not necessarily serve as a mechanism to accelerate corruption eradication. After all, how can corruption eradication be expedited if the KPK's role is limited to coordinating and integrating with law enforcement bodies that have historically struggled to effectively combat corruption?

Particularly in light of Article 24, paragraphs (2) and (3), which stipulate that KPK staff members belong to the professional corps of the State Civil Apparatus (ASN) of Indonesia, subject to statutory regulations regarding appointment and other procedures, questions arise about their ability to operate independently. With the transition from KPK employee status to ASN, these personnel must follow civil service protocols in performing their duties, similar to other government employees, which may limit their operational autonomy.

The reclassification of KPK employees as ASN could make them susceptible to influence and oversight by the government. All aspects of personnel management – including planning, recruitment, career advancement, transfers, as well as training and development – would necessarily align with government policies. This arrangement contradicts the principles of the UNCAC, which emphasizes that the staff of anti-corruption agencies should operate independently.

It is evident that the 2019 amendment to the KPK Law, in the author's view, has altered both the philosophical and sociological foundations upon which the KPK was originally established. The Commission was intended to accelerate the eradication of corruption, which is seen as a particularly serious offense due to its pervasive impact on all aspects of society – not merely state financial losses or the national economy. Consequently, a specialized institution with extraordinary authority was necessary, as existing law enforcement efforts have not fully addressed corruption. Effective corruption eradication requires sustained, intensive, and operationally robust action, given its detrimental effects on state finances, economic stability, and national development. If the KPK possesses only the same authority as other law enforcement agencies, it ceases to function as an extraordinary instrument.

As is known, the sociological basis for the formation of the KPK can be seen in the consideration of letter b, which claims that “government institutions that deal with corruption crimes have failed to eradicate corruption in an effective and efficient manner crimes.” There is an institution that used to be referred to here, namely the State Official Wealth Audit Commission (KPKPN), which is considered not to be functioning. Therefore, this foundation states the need to form a new institution. Ideally, the new institution that is formed, of course, also has extra ordinary authority. Naturally, only independent institutions can achieve this, which has been realized in the mandate of the KPK Law's Article 3.

Moreover, this approach contradicts the general explanation of the KPK Law, which emphasizes that the unchecked rise of corruption poses a serious threat not only to the country's economy but also to the country's and state's larger life. Corruption has become widespread and systematic, infringing upon the economic and social rights of the public, and is therefore classified as a particularly serious offense. Its eradication requires exceptional measures, as conventional methods have repeatedly proven insufficient due to various obstacles. This necessitates the establishment of a specialized body endowed with broad authority, operating independently and free from external influence, to combat corruption in a manner that is optimal, intensive, effective, professional, and sustainable.

Ensuring the independence of the KPK means that it is not subject to any external authority in performing its duties, which is crucial to prevent hesitation or doubt among its officials. This is particularly important in light of Article 11 of the KPK Law, which identifies that the individuals most likely to be subject to KPK scrutiny, whether through investigation, inquiry, or prosecution, are law enforcement officers or state officials. These are individuals who hold or exercise governmental power,

making the KPK's autonomy essential for impartial and effective action. Now, it can be imagined how KPK employees, who are part of the executive power, can conduct checks on those who hold and exercise state power independently if their positions are also part of the executive power or the state organizer itself.

Therefore, if the KPK's current status as part of the executive branch remains unchanged, the consequence is that its ability to carry out its duties and exercise its authorities will be inherently weakened, deviating from the original mandate and structure established under the 2002 KPK Law. All of this has been studied and analyzed by observers, academics, experts, and legal practitioners, but what is the power of all the inputs, suggestions, criticisms, and even resistance made by students of all Indonesian universities who are members of the Student Executive Body? Despite having gone to the field several times, they are still unable to resist the desire of the government, and the 2019 KPK Law Revision will be further ratified by the House of Representatives. It is sad indeed because Indonesia's fight against corruption is back to the era before the release of the 2002 KPK Law, so much so that Indonesia's corruption index has increased again (the ranking of corrupt behavior has been higher) in recent years.

Ideally, the KPK's status aligns with the view of Busyro Muqoddas, who served as Expert Petitioner in the 70/PUU-XVII/2019 case, submitted by Fathul Wahid and colleagues. He emphasized that corruption eradication must be conducted in an intensive, professional, and sustainable manner, as corruption undermines state finances, impedes national development, and impoverishes the population in a structured, large-scale, and systematic way. In this framework, the KPK, as an independent body, should hold equal standing with the executive, legislative, and judicial branches within the broader scope of contemporary constitutional governance [17].

It is crucial to undertake legal reforms to reinstate the KPK's independence, in line with the original vision behind its establishment, if the acceleration of corruption eradication is to be achieved. Such legal reforms aim to ensure that adequate and coordinated efforts are made to prevent and eradicate corruption, to help stop and lessen the increasing losses to the state brought on by corruption [18].

The clear implications for the elimination of corruption are evident from the decline in the Corruption Perceptions Index since the issuance of the KPK Law's 2019 revision. The index fluctuated from a score of 40 in 2019 to a score of 37, with a rank of 110 in 2020. In 2021, it increased by one point to a score of 38, with a rank of 96, but it was still lower than in 2019. In 2022, the score dropped to 34, with a rank of 110, and in 2023, it fell again to a score of 34, with a rank of 115. In 2024, the score rose to 37, with a rank of 99. This means it can be concluded that, with the change in the KPK Law, corruption in Indonesia has not decreased but has worsened, as reflected in the measures used to assess perceptions of the degree of public sector corruption in Indonesia [3].

The author concurs with Zainal Arifin Mukhtar's view, who expressed skepticism about the near-term prospects for effective corruption eradication, noting that no concrete measures have been taken to restore the KPK's independence. Proposals to amend the KPK Law have not been addressed by the President-elect. He further emphasized that, rather than placing excessive reliance on a single institution, efforts should focus on strengthening supporting institutions and improving the overall system, thereby reducing the tendency to depend solely on one agency to resolve all existing issues [19].

However, efforts to accelerate eradication must still be pursued, if not through existing institutions, at least by controlling and supervising through existing supporting institutions, including corruption activists both from universities and other external institutions, such as the Indonesian Corruption Watch, Transparency International, Corruption Info, Corruption Activist Institutions from KPK Partner Universities, Integrity of the KPK, I Am an Anti-Corruption Woman (SPAK), as well as international institutions related to the avoidance and elimination of crimes related to corruption [20] and more.

4. Conclusion(s)

The change in the position and status of the KPK as an institution that is no longer independent after the enactment of the 2019 KPK Law Revision, particularly with the change in the status of KPK employees to becoming part of the executive branch, has greatly affected the implementation of the KPK's duties and activities. The clear implications for the eradication of criminal acts of corruption can be seen from the decline in the Corruption Perception Index score since the enactment of the 2019 KPK Law Revision to date, compared to the score before the enactment of the 2019 KPK Law Revision, as well as the decline in the disclosure of major corruption cases in the period from 2019 to 2025. Currently, the Attorney General's Office is more prominent in its performance in eradicating corruption. This situation will change, and the KPK's role in eradicating corruption will be strengthened again if criminal law is reformed and the KPK's position as an independent institution is restored to what it was when it was first established, so that it can work independently and freely without interference from any party in helping to accelerate the eradication of corruption.

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Perspective Chapter: Judicial Power vs. Political Corruption – National and International Experience

Serhii Prylutskyi

Abstract

This study examines political corruption and its destructive impact on judicial independence. The author argues that political corruption poses one of the most serious threats to the stability of the national legal system and the democratic order of the state. At the domestic level, it results in the usurpation of power, legal arbitrariness, and the risk of authoritarian or totalitarian governance. At the international level, its most dangerous consequences include instability, conflicts, and wars.

The paper asserts that political corruption and judicial independence are fundamentally antagonistic phenomena: an independent judiciary cannot exist under systemic political influence, just as political corruption cannot fully develop within a genuinely independent judicial system. Therefore, overcoming corruption entrenched in public administration remains one of Ukraine's key strategic priorities on its path toward full membership in the European Union.

The author analyzes the role of judicial practice through the study of “historical” or transformative court decisions at both national and international levels. These decisions are viewed as manifestations of “active judicial policy” that establish exemplary standards of the rule of law and judicial justice, which should guide both courts and public authorities. In particular, the paper examines the decisions of the Supreme Court of Ukraine concerning the 2004 presidential elections, the judgment of the European Court of Human Rights in *Oleksandr Volkov v. Ukraine*, and the case law of the Court of Justice of the European Union regarding judicial reforms in Poland.

It is emphasized that international courts have developed effective legal standards for assessing the conformity of national judicial systems with the principles of the Council of Europe and the European Union. These standards function as an important supranational source for strengthening judicial independence. Based on this historical and international experience, the study confirms that a strong and independent judiciary, grounded in the rule of law, is the most effective mechanism for countering political corruption and preventing the usurpation of state power.

Keywords: court, judiciary, justice, Judicial Independence, political corruption, judicial policy

1. Introduction

Historical, political, legal, and international preconditions for establishing the judiciary in an independent Ukraine.

More than three decades after declaring independence, Ukraine has yet to modernize its legal system significantly. This is largely due to the duality of the country's previous foreign policy and international development strategy, which hindered progress with its two-pronged approach. The confrontation between the pro-European component of Ukrainian society and citizens who continue to view the Soviet era nostalgically has also hindered progress. This primarily affected the formation of central government bodies and local self-government.

Corruption, deliberately cultivated by internal and external opponents of an independent and democratic Ukraine, was deeply entrenched in the public administration system. Overcoming it became crucial to asserting national sovereignty.

All of these trends directly or indirectly influenced the development of the judiciary in independent Ukraine, shaping the context in which the justice system has evolved from its early stages to the present day.

The previous experience of judicial reforms in Ukraine since its independence prompts us to pay attention to the historical, social, political, and legal processes in which the Ukrainian political nation developed. Thus, as it is seen, *“the formation of Ukraine as a sovereign state after the collapse of the USSR was a strategically difficult task. In fact, in the early 1990s, there was no mass ‘passionate explosion’ of the Ukrainian people as a political nation, since, at that time, the post-totalitarian Soviet legacy still dominated the national mentality, and the young political nation of independent Ukraine was only beginning to gain weight in society. In fact, Ukraine began a process of economic, political, and historical rejection of a system of government that was already dying but had deep roots. That is why, for quite a long time, our country continued to bear the “label” of a post-Soviet republic with the corresponding traditions and experience of the past, including legal science.*

Ukraine's unique geopolitical position at the crossroads between Europe and Asia has led to each of these regions, represented by the EU and the Russian Federation respectively, seeking to draw it into its sphere of influence. Ukraine's choice of a specific strategic course did not simply involve joining certain (European or Eurasian) intergovernmental integration structures, but above all was a factor in choosing one of the models (Western or Eastern) of state and legal development with its inherent institutions, principles, system of worldview values, etc. In essence, it was about determining the civilizational vector of Ukraine's further development in the long term.

For some time, Ukraine managed to adhere to a policy of so-called ‘multi-vector balancing’: on the one hand, European integration was declared a priority in foreign policy, and on the other hand, Ukraine participated in some integration projects in the CIS and built bilateral relations with other former Soviet republics on the basis of good neighborliness, cooperation, and partnership. One of the goals of this balancing act was to obtain political and economic preferences and international financial assistance. At the same time, Ukraine became a strategic corridor for the transit of energy resources from the East (the Russian Federation) to the EU countries, including the states of Eastern Europe,

which determined its position on the “political map” for a long time and influenced the course of reforms, in particular in the field of the judiciary.

However, after the Orange Revolution (2004–2005), and especially after the Revolution of Dignity (2013–2014), Ukraine enshrined in its constitution that its priority direction for further development and integration is European [1]. Thus, in 2018, our country renounced its international “neutrality” and constitutionally proclaimed the “European identity of the Ukrainian people and the irreversibility of the European and Euro-Atlantic course” [2]. Due to such fundamental changes in the geopolitical strategy, one of the main ways for our country to implement it is to reform “the justice system (in the direction of democratizing it and increasing its efficiency, while overcoming corruption dependence) to stabilize the internal situation in Ukraine and prevent possible social crises in the future [1, 3].

It should be noted that 2024 was, without exaggeration, a historic year for Ukraine in terms of its European integration course, as it was in that year that the First Intergovernmental Conference in Luxembourg officially opened negotiations on Ukraine’s accession to the EU. Our country made every effort to achieve this goal.

The large-scale update of the provisions of Ukraine’s Basic Law in 2016 was aimed at forming constitutional foundations for the democratization of socio-political life in Ukraine, bringing the national political and legal system closer to European values and principles, and improving the domestic legislative framework. These are changes that have long been on the agenda in the context of constitutional reform in Ukraine. However, these are also the constitutional reforms that the European Union insisted on, considering them a necessary condition for the further development of associative relations with our state and the realization of its European integration aspirations [1].

This approach is directly reflected in the text of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community, and their Member States, on the other hand (hereinafter referred to as the Association Agreement). Thus, Articles 3 and 6 of the Agreement define the aspirations of Ukraine and the EU to cooperate in order to ensure that “their domestic policies are based on principles common to them, in particular, such as the stability and effectiveness of democratic institutions, the rule of law and respect for human rights and fundamental freedoms, good governance, market economy, balanced development, etc.” [4]. Specifying these provisions, Article 14 of Section III “Justice, Freedom and Security” provides that, “within the framework of cooperation in the field of justice, freedom and security, the Parties shall attach particular importance to establishing the rule of law and strengthening institutions at all levels in the field of governance in general and law enforcement and judicial authorities in particular. It is emphasized that, among other things, the Parties’ cooperation will be aimed at strengthening the judiciary, improving its efficiency, ensuring its independence and impartiality, and combating .” [4]

Ukraine has adopted a number of important European integration laws and implemented a series of reforms affecting all areas of Ukrainian society, primarily judicial reform and the fight against corruption.

However, domestic civil society signals that corruption consistently ranks among the three main problems facing the judiciary. Ukrainians consider corruption to be the biggest problem after the war. [5]

Thus, protecting Ukraine’s state sovereignty from external and internal threats, as well as our country’s full-fledged accession to the EU, poses a number of difficult challenges for Ukraine. One of these fundamental tasks is to overcome corruption,

which is deeply entrenched in the system of public administration and is destroying it from within. To this end, Ukraine must clean up and reform its judiciary, specifically its corps of judges, to achieve institutional independence and functional capacity. These tasks appear to be interrelated.

This paper focuses primarily on such research topics as the independence of judges (the judiciary), political corruption, and the revolutionary nature [or historicity] of judicial decisions. The aim of this study is to clarify the interdependence and mutual influence that these legal phenomena have on the foundations of national statehood and entry into the civilized legal space.

2. Political corruption is a key threat to the Independence of the judiciary

Of all the generally recognized manifestations of corruption (bribery of national public officials; bribery of foreign public officials and officials of intergovernmental organizations; money laundering; embezzlement of property in the private sector; bribery in the private sector; illicit enrichment; abuse of office; abuse of influence; embezzlement, misappropriation, or other misuse of property by a public official; concealment or continuous retention of property obtained through corruption) [6], in my opinion, political corruption poses the greatest threat to the state and society.

There is currently no official definition of the concept of “political corruption” at the level of either national or international legislation, but this category has independent legal content and wide application, both in science and practice.

In particular, the international organization Transparency International understands “*political corruption – manipulation of policies, institutions, and rules of procedure in the allocation of resources and funding by political decision-makers who abuse their position to maintain power, status, and wealth*” [7]. At the same time, the international non-governmental organization ESCWA (operating within the framework of the UN) “defines political corruption as the misuse of public or political office and resources for illegitimate, usually secret, private gain [8]”.

In Ukrainian legal science, political corruption is understood as an informal institution that leads to the unlawful use of power resources by political actors for purposes other than the public interest [9].

At the same time, as Professor Mykola Melnyk rightly points out, any corrupt acts committed by representatives of state power (local self-government) have political content and can be considered political corruption, which is determined by the status of the subject, the focus of their illegal activities, and the nature of their consequences.

Persons who are directly involved in the development and organization of state policy in various spheres and at various levels can be classified as subjects of political corruption.

Political corruption is aimed at abusing power for political purposes, in particular: obtaining power, retaining it, strengthening it, or increasing it (expanding powers).

In fact, this refers to the illegal seizure of state power, its capture through the appointment of “their” people to political and state positions, and the establishment of a system of power based not on democratic and legal principles but on personal loyalty and political affiliation. As a result, a situation is created in which political

and state institutions, while formally retaining their social status, are, in fact, exploited in the interests of individuals or certain political forces.

If certain subjects of power corruptly appropriate powers not delegated to them, assume a part of power that cannot naturally belong to them, and concentrate state power in their hands, violating the legal principle of separation of powers, then they are, in fact, usurping power [10].

Unfortunately, Ukraine's modern history has been marred by large-scale political corruption, including in the formation of the judicial branch of government. The politicization and secrecy of this process created the conditions for political corruption to exert a stronger influence on the formation of the judiciary, resulting in the fatal destabilization of the judicial system and its dependence on the ruling authorities, who were able to usurp state power.

Without a doubt, political corruption seeks to draw as many judges as possible into its orbit and bring them under its control, especially those of the highest courts or those with special judicial specialization, such as administrative judges, turning them into "their own/the right judges". Such judges potentially become dependent on political patronage or blackmail and, as a result, become accomplices in corruption schemes when making politically expedient decisions.

At the same time, as Diego García-Sayán rightly points out, *"corruption undermines the core of the administration of justice, generating a substantial obstacle to the right to an impartial trial and severely undermining the population's trust in the judiciary."*

Corruption has a variety of faces, bribery being only one of them, another being political corruption, much more unattainable and imprecise. Its broad range of action enables it not only to influence the judicial system but also all the sectors of state administration as well [11].

Forms and methods of political corruption have various manifestations. In particular, *"corrupt methods of staying in power include fraudulent manipulation and weakening of institutions to create impunity for those in power. "Bribery" of officials from various oversight and control institutions, such as courts, auditors general, members of anti-corruption agencies, etc., is a widely used tool of political corruption."*

This selected or purpose-fit allocation of resources makes the political power-holders into active bribers. The initiative is taken by the power-holders, and it is clearly in their personal interest (individual and group benefit) to preserve their power positions. Furthermore, in the same way as the corrupt use of funds distinguishes power-preserving political corruption from other forms of misuse of state power, the corrupt methods of power preservation distinguish it from a democratic distribution of favors (and burdens), as the decisions are made by the few and for the benefit of the few [12].

Political corruption actors often use various tools to manipulate public opinion through controlled media to discredit judicial and anti-corruption bodies that are not subject to political "bribery". Loud public accusations of inefficiency in the judicial system are one of the ways to weaken the judiciary.

According to A. Aydin-Cakir and E. I. Akarçay, when faced with *"corruption scandals, governments often resort to a blame-shifting strategy in an attempt to divert public attention from the allegations."*

However, these attacks can have lasting consequences, gradually weakening judicial authority and legitimacy. At this critical juncture, the media plays a key role as the primary conduit between the public and the government. By shaping public perception, media coverage can amplify or mitigate the negative effects of verbal attacks on the judiciary [13].

Another instrument of political corruption, often used to weaken the justice system, is the unsystematic and permanent changes to legislation regulating the organization of the judiciary, the status of judges, legal guarantees of their immunity and irremovability, funding of the judiciary, and remuneration of judges and judicial officers, etc.

It is believed that the ruling political forces, which have received a mandate of trust from the voters to implement the relevant legislative reforms in the field of justice, should strictly adhere to them without the right to go beyond such election programs. The boundaries of the judiciary reform should be clearly regulated to prevent political manipulation of the judiciary.

In such a confrontation, the judiciary either actively resists unlawful interference with its independence or becomes part of the “system of political corruption”, serving its interests.

In this context, the Opinion № 21 (2018) of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on preventing corruption among judges *“rightly pointed out that corruption among judges is one of the main threats to society and the functioning of a democratic state. It undermines judicial integrity, which is a fundamental principle of the rule of law and a core value of the Council of Europe. Judicial integrity is the most important prerequisite for effective, efficient, and impartial national justice systems. It is closely linked to the concept of judicial independence: the latter ensures integrity, and integrity reinforces independence [14]”*.

At the same time, the CCJE rightly emphasizes that whenever there is a prolonged structural imbalance or violation between the three branches of government, and where the system of checks and balances is weak or ignored, there is a serious threat to the independence, impartiality, and integrity of the judicial system.

At the same time, *“effective prevention of corruption in the judicial system largely depends on the political will in the country concerned to genuinely and sincerely provide institutional, infrastructural, and other organizational guarantees for an independent, transparent, and impartial court. The state must implement the necessary legislative and regulatory frameworks to prevent corruption within its specific judicial system. It must also take all necessary measures to guarantee and promote a culture of judicial integrity, a culture of zero tolerance for corruption at all levels of the judiciary, including court staff, and the development of a culture of respect for the specific role of the judiciary [14]”*.

In our view, political corruption poses the greatest threat to the rule of law and the affirmation of judicial independence.

3. Countering political corruption through the Justice System: National and Supranational (International) levels

One way to combat political corruption is to establish an independent, competent, and impartial court. Such a court is the main means and guarantee of the democratic development of societies and the establishment of the rule of law. At the same time, it is an extremely effective and efficient anti-corruption tool, as it is capable of legally correcting any political distortion, stopping specific manifestations of political corruption, and restoring law and order in the political and legal sphere [10].

It is judges who bear the burden of ensuring and upholding the ideals of the rule of law. In doing so, they face various challenges and threats.

As Professor Hans Petter Graver rightly points out: *“The institutional organization of the judiciary is not sufficient to ensure the rule of law. Experience shows that the rule of law requires the presence of people who are able, capable, and willing to defend it when necessary.”*

The rule of law is an attractive ideal. However, it loses its popularity when it seems to interfere with necessary policies aimed at achieving important goals, such as defeating communism or Islamic terrorism, protecting the welfare of a socially oriented state, or preserving national values. In such cases, it is very easy to mobilize the necessary support to circumvent the rule of law.

It is in such cases that the rule of law needs heroes capable of defending its ideals, which are threatened with extinction because the authorities or the masses resort to illegal measures.

Judges have a duty to defend the rule of law as a last resort, and it is judges who must determine whether the measures taken by the authorities are based on the law and whether their decisions are made within the law. Courts are independent of the legislative and executive branches, and for this reason, judges must not show allegiance to them.

Research into the activities of judges reveals the essence of the relationship between power, law, and morality. Civic courage and a desire to uphold the rule of law are very important in all public offices, but the work of judges requires more.

Both law and morality require judges to form a barrier to resist demands from either the government or citizens to violate the law.

However, there are many other cases in history that prove the opposite. When demands relate to social processes, judges bend. In other cases, the law may be in significant conflict with fundamental moral values. What do we expect from judges when the law is completely evil? Must they still abide by it regardless? Judges tend to position themselves as champions and defenders of the rule of law, but when they have to choose between the law and the ideals of justice, they somehow tend to choose the law, even if it is completely unjust [15].

Speaking in a historical context, I propose to focus on court decisions and judges who have changed and continue to change the course of history. In this regard, it is appropriate to speak of the “revolutionary nature of a court decision,” which can be imbued with both positive and negative connotations.

In a positive sense, a “revolutionary court decision” is a decision that, contrary to an unlawful legal norm or contrary to an established unlawful tradition, embodies the rule of law. Such a decision effectively annuls an unlawful norm or, within the framework of judicial law-making, introduces a new legal norm in a legal vacuum. This is known as judicial law-making.

In a negative sense, an unlawful judicial decision becomes a catalyst for social upheaval and can lead to civil disobedience, revolution, and war.

Both variants of such “revolutionary” judicial decisions are known in the recent history of Ukraine.

In the context of this work, we will provide three illustrations from domestic and international judicial practice which, in our opinion, were decisive in the formation and affirmation of the rule of law and its key element – the independence of the court.

Cases heard by courts of general jurisdiction are traditionally much further removed from politics. However, even these cases are now often taking on a political

dimension. This is particularly true of cases involving administrative justice. Among these, cases concerning the prohibition of citizens' associations, compliance with electoral law, etc., are particularly politicized. Court decisions in such cases take on political significance beyond the will of their authors, significantly influencing political processes.

Moreover, courts are forced to become involved in this process during periods of acute political crisis. At such historical moments, they find themselves at the epicenter of politics, becoming active participants in it. It is the courts that often decide the fate of the country in these situations.

The Supreme Court of Ukraine was forced to carry out such a mission when it issued decisions on 3 December 2004 and 20 January 2005 in cases involving complaints by the authorized representatives of the candidates for the office of President of Ukraine, V. Yushchenko and V. Yanukovich, regarding the inaction, actions, and decisions of the Central Election Commission [16].

During the 2004 presidential election campaign, dirty tricks, compromising information, bribing voters, pressure from various criminal-oligarchic groups and clans, forceful persecution, and large-scale use of the so-called administrative resources were all used to secure victory for certain candidates.

This could not help but cause a negative reaction in civil society. Therefore, the civil protest resulted in mass demonstrations, which are commonly referred to as the "Orange Revolution" [16].

Thus, in 2004–2005, in addition to the political opponents in the election race, civil society and the state entered into an open confrontation. The procedure and method of resolving this socio-political conflict were of crucial historical importance for Ukraine.

Of course, the political events taking place in the country could not help but affect the course of the court proceedings regarding the above complaints. The Supreme Court of Ukraine found itself in a particularly difficult political situation when considering the first case after the second round of voting on 21 November 2004. In fact, it was given a function that is generally the prerogative of political authorities: to control the political situation, which was becoming increasingly aggravated and explosive. In this regard, the Supreme Court of Ukraine had to look for ways to expedite the consideration of the case and the adoption of a decision, while adhering to complex legal procedures that are inherently prone to slowness.

The Supreme Court of Ukraine also could not ignore the political consequences of its decision. After all, one of the main purposes of justice is to resolve a conflict, not to preserve it, let alone inflame it.

Finally, and most importantly, judges should resolve any political conflicts, even the most acute ones, exclusively by legal means, within the law and through the law, blocking their own political sympathies and beliefs. Otherwise, there is a danger that the court will become an appendage of other branches of power, an instrument for executing orders dictated by the political situation [16].

Summing up the analysis of the socio-political events of 2004–2005, which changed both the course of national history and the consciousness of every Ukrainian, Professor Mykola Kozyubra rightly notes that we have witnessed a not-quite-usual manifestation of the true independence of the judiciary and its transformation of the rule of law from the abstraction it was perceived as before into reality [16].

It is believed that it was thanks to the position of the judges of the Supreme Court of Ukraine in these historic court cases related to the 2004 election process that Ukraine managed to postpone for one decade the socio-political breakdown and war into which our country was forced to plunge at the end of 2013.

Another striking example of a historic judgment that was of revolutionary importance for Ukraine and became a prerequisite for reforming the Ukrainian judiciary and establishing standards of an independent judiciary is the ECHR judgment of 9 January 2013 in the case of Oleksandr Volkov v. Ukraine [17]. In this judgment, the international court revealed systemic flaws in the politicization of the judicial system and the corresponding impact on the independence of judges in Ukraine.

In our opinion, this judgment clearly establishes the standard by which judicial independence should be protected from political interference, including potentially corrupt ones.

Thus, in its judgment, the ECtHR stated that, in order to establish whether a court can be considered “independent” within the meaning of Article 6(1) of the Convention, attention should be paid to the manner of appointment of its members and the term of their powers, the existence of guarantees against external pressure, and the question of whether the body creates the appearance of independence.

The ECtHR also openly pointed to obvious conflicts of interest and risks of political corruption arising from the judicial legislation in force at the time of the judgment.

In particular, the court stated that, according to Article 19 of the Law on the High Council of Justice (1998), only four members of the High Council of Justice (hereinafter referred to as the HCJ) worked there on a permanent basis. The other members worked and received their salaries outside the HCJ, which inevitably meant that they were financially, hierarchically, and administratively dependent on their main employers, thereby threatening both their independence and impartiality [17].

The third example, which is closely related to international judicial practice in combating political corruption and the usurpation of power, stems from the activities of the Court of Justice of the European Union (hereinafter – the EU Court).

The legal dispute between the EU and Poland over the judicial reform that the latter carried out in 2017 has gained significant international resonance. The reason for the dispute was Poland’s apparent deviation from the standard of ‘judicial protection sufficient to ensure an effective remedy’ in the adopted amendments to the judiciary legislation. Thus, certain changes to the organization of the judiciary in Poland have sparked a large-scale confrontation both within the country and with key EU and Council of Europe institutions.

It all started when, in 2017, the European Commission asked the Council of the EU to determine whether there was a “clear risk of a serious breach of the rule of law” by Poland, in accordance with Article 7 of the TEU. According to the Commission, the judicial reform has subjected the courts to the political control of the ruling majority, and “the lack of judicial independence has raised serious doubts about the effective application of EU law”. The EU Commission recommended that Poland respect the rule of law by amending the Law on the National Council of Justice and the Law on the System of General Courts, restoring the independence and legitimacy of the Constitutional Tribunal, and amending the Law on the Supreme Court so that the lower retirement age does not apply to sitting judges, abolishing the President’s discretionary powers to extend the term of office of Supreme Court judges [18].

In this regard, in 2019, the EU Court of Justice ruled in Case C-619/18 (European Commission v Poland), in which it stated that Polish legislation that reduced the retirement age of Supreme Court judges violated the principle of irremovability of judges and independence of the judiciary [19].

As Professor John Moraine rightly noted in this regard, analyzing the judgment of the Court of Justice in the above case (619/18, CJEU, 2019), the requirement of judicial independence that Member States must ensure in relation to national courts, which are called upon to decide on issues related to the interpretation and application of EU law, has two aspects.

The first aspect (external) requires that the court concerned exercise its functions in a fully autonomous manner, without any hierarchical restrictions or subordination to any other body, and without receiving orders or instructions from any source. It should be protected from external interference or pressure that could affect the independent judgment of its members and influence their decisions.

The second aspect (internal) is related to impartiality and is aimed at ensuring that an equal distance is maintained between the parties to the proceedings and their respective interests in relation to the subject matter of the proceedings. This aspect requires objectivity and the absence of any interest in the outcome of the proceedings, except for strict adherence to the rule of law.

In particular, the freedom of judges from any external interference or pressure, which is important, requires certain guarantees necessary to protect those entrusted with the task of adjudicating a dispute, such as guarantees against removal from office [20].

Almost simultaneously with the previous judgment, the EU Court of Justice delivered judgments in the joint cases C-585/18, C-624/18, and C-625/18 concerning the National Council of Justice (hereinafter – NCJ) and the Supreme Court (SC), noting that it is the SC that should verify the independence of the new Disciplinary Chamber of the SC to determine whether it can consider disputes regarding judges. It also noted that the NCJ, which makes recommendations to the President on the appointment of a judge to the position, will be able to do so objectively, but only if it is sufficiently independent from the legislative and executive branches and from the President himself [19].

Subsequently, in 2020, the EU Court of Justice ordered Poland to immediately suspend the application of national provisions regarding the jurisdiction of the Disciplinary Chamber of the Supreme Court.

The European Commission's request for interim measures was the result of the ruling Polish authorities' disregard for the decisions of their own Supreme Court of 05.12.2019 and 15.01.2020, which stated that *"the Disciplinary Chamber, due to the circumstances of its establishment, the scope of its powers, composition, and participation of the newly appointed HCJ in its establishment, cannot be considered a court either in the sense of EU law or Polish law"*.

It is worth noting that, in its confrontation with the Polish government, the EU has resorted to the use of economic leverage to ensure that Poland complies with the judgments of the EU Court of Justice. In particular, in 2022, the CJEU dismissed Poland's complaint against EU Regulation 2020/2092 on the general regime for the protection of the EU budget, under which the Council of the EU was granted the right to reduce or even stop the allocation of funds through EU Member States' funding programs if they were found to be in breach of the rule of law.

In 2021, the EU Court of Justice issued an interim judgment ordering Poland to immediately suspend national legislation relating to the powers of the Disciplinary Chamber of the Supreme Court. As Poland failed to do so, the CJEU imposed a continuing fine of EUR 1 million per day for refusing to suspend the controversial judicial reform provisions. Due to the continued failure to comply with this judgment of the EU Court of Justice, the European Commission, as of 27 October 2022, deducted seven tranches of fines from Poland, totaling EUR 267 million.

In 2023, the Grand Chamber of the Court of Justice of the European Union issued Judgment C-204/21, *which reaffirmed the position that the legal order of the Member State concerned must include safeguards capable of preventing any risk of political control over the content of judgments, or pressure and intimidation of judges, which could, inter alia, lead to a lack of independence or impartiality on their part that could damage the confidence that justice in a democratic society governed by the rule of law must inspire in the people.*

In this regard, the Court recalled that the fundamental right to a fair trial means, inter alia, that whenever serious doubts arise in this regard, every court is obliged to check whether it has a proper composition. Domestic courts may, in various other circumstances, be required to review compliance with the above requirements, and such review may relate, in particular, to whether a breach of the procedure for appointing a judge may lead to a violation of this fundamental right. In such circumstances, the fact that a national court performs the tasks assigned to it by the Treaties and complies with its obligations under those Treaties by giving effect to provisions such as Article 19(1) of the EU Treaty and Article 47 of the Charter cannot, by definition, be regarded as a disciplinary offense without violating these provisions of EU law [21].

It is worth noting that on 29 February 2024, the European Commission decided to unblock Poland's access to €137 billion from various EU funds, which Poland had previously been unable to receive due to issues with the judiciary and the rule of law.

On 6 May 2024, the European Commission announced that it had completed its analysis of the rule of law situation in Poland and considered that there was no longer a clear risk of a serious breach of the rule of law within the meaning of Article 7(1) of the EU Treaty [22].

Commenting on the situation regarding the interaction between national courts and the CJEU, John Moraine notes that “*courts in the EU are responsible for the proper implementation of EU law in their country. Given that courts in different countries may interpret EU laws differently, and if a judge of a national court of any instance has doubts about the interpretation or legal force of an EU law, he or she may, and sometimes must, seek advice from the Court of Justice [20] ”.*

These illustrations from the case law of national and international courts clearly show that courts are active participants in political processes, and their decisions can have both progressive and regressive impacts on the historical development of not only individual nations or countries but also far beyond their borders.

The independent position of the judiciary, based on the rule of law, is an effective tool in combating political corruption and the usurpation of state power.

Therefore, active defense of the independence of the courts is a requirement of the present. It is believed that in today's realities, the requirement for judicial impartiality and neutrality should not limit the ability of judges to be active defenders of their independence, especially in relation to political processes of

reforming judicial systems, the status of judges, guarantees of judicial independence and immunity, etc.

At certain historical moments, when communication between the judiciary and the political authorities comes to a standstill, it may be necessary to use more radical or effective forms and ways of being heard than the conventional ones. It seems that, in order to defend judicial independence and to be heard, judges have the right to political protest. Of course, such a protest by judges attracts attention not only from political opponents but also from wide sections of both national society and foreign or international political actors.

What are the limits of political protest by judges?

The International Commission of Jurists, analyzing the issue of “Freedom of expression, unions and associations of judges and prosecutors, peaceful assembly”, stated that: “International law and standards recognize the particular importance for judges (and prosecutors) to be able to exercise their freedoms of expression, association, and assembly in order to address threats to the independence of the judiciary; threats to judicial integrity; fundamental aspects of the administration of justice; or to otherwise promote and protect universally recognized human rights and fundamental freedoms and the rule of law. As such, there is very limited scope for any authority to restrict the exercise of these freedoms for these purposes, or to impose disciplinary or other consequences for having done so. This is true whether or not the matter is otherwise seen as politically controversial [23]”.

In this regard, the UN Special Rapporteur’s view is also correct, as he supports the possibility of “judges and prosecutors engaging in peaceful demonstrations to protect their professional interests (e.g., to improve and protect their conditions of service and remuneration) or to protest against justice system reforms that may undermine the independence of the judiciary and the separation of powers [24]”.

I would like to point out that, in Ukraine, judges are prohibited by law from participating in any political actions, rallies, or strikes.

At the same time, judges in many countries (the USA, Mexico, France, Spain, Italy, Poland, Slovenia, Greece, etc.) have already had experience with political protests and strikes in defense of their independence.

However, the issue of political protest by judges as a means of combating political corruption requires special attention and further research. In particular, it is necessary to develop a clear ethical and legal framework that defines the limits and procedures of “institutional protection” for the judiciary. Such a framework should serve as a guide for judges, providing them with a legitimate tool to protect the rule of law without compromising their independence.

4. Conclusions

1. Political corruption carries the greatest risks of destabilizing the national legal system and the democratic order in the country. While at the national level, the worst consequences of political corruption are the usurpation of state power, legal anarchy, and the introduction of authoritarian or totalitarian regimes, the worst consequences of international political corruption are international conflicts and wars.

2. Overcoming corrupt influences on the processes of organization of the judiciary is a crucial goal on the way to establishing an independent judiciary in the country. Just as an independent judiciary cannot exist in conditions and under the influence of political corruption, political corruption cannot actively develop in the space of an independent judiciary. “Independent judiciary” and “political corruption” are antagonistic to each other.
3. National and international judicial practice, through relevant “revolutionary (historical) decisions,” creates exemplary standards of the rule of law and judicial justice, which require mandatory study and application by courts and public authorities.
4. International courts within the Council of Europe and the European Union have developed effective practices and legal positions on the compliance of the judicial systems of member states with the laws of the Council of Europe and the EU. This judicial practice is a separate source for implementing international standards on judicial independence and access to justice. It is believed that Ukraine should take into account the practices of the ECtHR and the CJEU when adapting national legislation to EU law in the field of the judiciary, particularly in terms of ensuring the right to effective and impartial judicial protection and preventing legal regulation mechanisms that may endanger the independence of judges and the judiciary through political corruption.
5. At the same time, as the national judiciary is in the process of transformation, this process is conditioned by the need for a constitutional transformation of the foundations of national sovereignty in the direction of “shared/pooled sovereignty”. Ukraine’s conscious choice of pro-European worldview values in the form of relevant standards requires our country to “weaken” national sovereignty by “transferring powers” or “jointly exercising sovereign rights” in order to inculcate supranational institutions and legal forms.

Finally, the European integration transformation of Ukraine’s judiciary in the context of a full-scale war is a colossal and unprecedented challenge for the Ukrainian people, who are forced to simultaneously defend their sovereignty from external threats, destroy internal corruption structures that undermine statehood from within, and reform their legal system for EU integration.

6. Permanent reform of the judicial system and legal regulation of the status of judges can be a significant tool for political corruption in terms of subordinating judicial independence to political influence. The “suspended” status of judges, due to such ongoing reforms, is a significant lever of influence on the independence of the judiciary.

It is believed that, in a state governed by the rule of law, there should be reasonable limits to the reform of the judiciary. The judicial system needs stability in its development, as well as organizational and institutional certainty. Legal reforms should be planned in advance, primarily in response to

public demand, and their results should be predictable and clear, legitimized by public support and recognized by the judiciary itself.

7. It seems that judicial disobedience, in the form of political protest, can be a distinct form of legal counteraction to the abuse of undue political influence (political corruption), as well as a manifestation of judicial activity in defending the independence of the judiciary. However, such measures, in my opinion, should be a last resort in communication with the political authorities and should be used only after all other forms of negotiated communication have been exhausted, and as an immediate response to a gross violation of the judiciary's independence by the ruling elites seeking to usurp power.

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What Motivates Participation in Corruption and How Does Such Participation Affect Firm Performance?

Carl Greppin and Yunmei Wang

Abstract

What motivates local executives to participate in corrupt behaviors, to what extent do external factors such as bureaucratic constraints affect bribery, and does bribery affect firm performance? To answer this question, we conduct a mixed-methods study where we interview 21 executives in Kyrgyzstan and Georgia and quantitatively analyze World Bank Enterprise Surveys data for triangulation and complementary findings. Generally, the findings shed light on what motivates local executives in corrupt environments to decide to participate in bribery – it pays off and is commonly viewed as acceptable. Interestingly, many qualitative findings differ from quantitative findings. Interviews suggest that informal competition has no effect on bribery or firm performance, whereas quantitative analysis indicates that informal competition has a statistically meaningful effect. Findings from the interviews complement past research suggesting that bribery improves firm performance, supporting a “grease the wheels” theory. Overall, the study adds insights into the nascent literature on corruption – especially in former Soviet Republics – and can inform policy makers and practitioners on means for reducing corruption.

Keywords: corruption, bribery, informal competition, bureaucratic constraints, economic constraints, firm performance, institutional theory, ethical theory, social norm theory

1. Introduction

The study of executive decision-making in countries with a pervasive culture of corruption is important for three reasons. First, in such settings, executives constantly face situations that test their ethics [1]. Second, corruption is widely considered to be damaging to the country’s economy, civic behavior, and the legitimacy of public institutions [2]. Third, bribing activity positively affects firm performance [3]. This suggests that even though corruption is bad for countries and

institutions, it can be good for individuals and firms, creating tensions in policy making.

This study specifically examines the mechanisms and reasons behind individual decision-making that incites bribery. We are particularly interested in the challenges executives face in upholding ethical integrity when operating in corrupt environments. Our problem of practice focuses on how external factors influence bribery activity and how bribery activity impacts firm performance. Our research questions are: 1) what motivates executives in two former Soviet Republics – Kyrgyzstan and Georgia – to participate in corruption; 2) to what extent do bureaucratic constraints, economic constraints, and informal competition, as perceived by executives, influence their reasoning around corrupt behaviors; and 3) does such participation improve the firm's performance?

To answer these questions, we follow an embedded mixed-method design containing a concurrent quantitative strand and qualitative strand. The quantitative strand examines the level of corruption and the extent to which bureaucratic constraints, economic constraints, and other factors influence executives' bribing behaviors. We use World Bank data covering corrupt activities in 14 former Soviet republics [3]. The qualitative strand employs semi-structured interviews and seeks to reveal executives' experiences in situations where they (non)commit to corrupt behaviors. We also probe the extent to which bureaucratic constraints and other factors weigh on their decisions. The qualitative strand helps us uncover executives' reasoning that guides their behaviors. Overall, we deploy mixed methods for triangulation and complementary purposes, as well as to identify the need to explain contradictory quantitative and qualitative findings. This approach improves the validity and reliability of the study [4–6].

By studying differences in the level and antecedents of corruption at the executive level in Kyrgyzstan and Georgia, the study also addresses an important gap in the current literature. While scholars have extensively reported on the level and causes of corruption in the former Soviet republics [7, 8], and several studies have deployed similar models and firm-level data to explain corrupt behaviors [9, 10], to our knowledge, there are no comparative studies addressing firm-level corruption in two countries with different corruption levels and a quite similar past history.

The remainder of the paper is organized as follows: we start with a literature review that provides a theoretical framework to analyze corruption, and we highlight pertinent empirical studies on corruption. Next, we outline the study method and research design. This is followed by a report on the findings. We conclude with a triangulation of the study's theories vis-à-vis the findings and detail the implications, future research, and limitations.

2. Main body

2.1 Literature review

2.1.1 Theoretical framing

Three interrelated strands of literature – institutional theory [11–16], social norm theory [17, 18], and ethical theory [19, 20] – have sought to shed light on why and how bribery is enacted and routinized as a way of doing business. These theories address critical facets of our research questions: institutional theory illuminates

how external constraints affect bribing activity, while social norm theory and ethical theory illuminate what motivates executives to participate in bribing. We next use these theories as sensitizing devices to understand why executives and firms often have difficulty upholding ethical integrity when operating in corrupt settings. **Figure 1** depicts the theoretical framing of the study.

2.1.2 Institutional theory and corruption

Institutional theory explains why people are likely to act corruptly, as their economic choices are ultimately enabled and constrained by complex configurations of institutions consisting of norms, beliefs, and rule systems [13, 14]. Institutional theory posits that people act corruptly by complying with institutional pressures in order to avoid additional effort or punishment. Bribery forms an institution in itself by being deemed legitimate and acceptable in some settings, but not in others. Given the presence of pluralistic institutions, perceptions of such legitimacy will change over time [21].

Institutions (such as bribery) both constrain and enable executives by creating incentives and opportunities that are conducive to creating favorable environments for seeking personal gains. Several scholars [22, 23] have argued that where legitimate institutions taking strong stances on the legitimacy of corruption remain weak, such settings are more prone to corruption. These settings are characterized by processes and behaviors that are bureaucratic [24–26] and build up economic constraints [24, 27–31]. Consequently, in such settings, informal competition is strong (Ali and Najman, 2014; González and Lamanna, 2007; Schneider and Enste, 1999). Scholars have shown that in bureaucratic environments [32, 33] with onerous economic structures [34, 35] and significant informal competition [7, 8], executives are more likely to engage in bribery.

2.1.3 Social norm theory and corruption

Social norm theory accounts for why executives are likely to act corruptly at the individual level by following a practice that is socially accepted, though morally or ethically wrong [18]. By explaining why people act corruptly if such behaviors are accepted as a social norm, social norm theory addresses the research question,

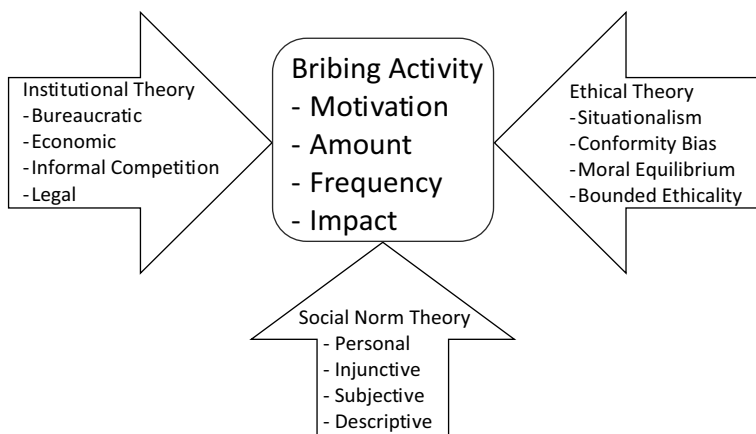


Figure 1.
Theoretical framework.

“What motivates executives to participate in corruption?” Social norms are “rules and standards understood by members of a group, and that guide and/or constrain social behavior.” [36, 152]. Four types of social norms are distinguished: personal norms (individuals’ standards for behaviors and ethical beliefs), subjective norms (expectations of close others), injunctive norms (general societal expectations of behavior), and descriptive norms (standards that emerge from observation of others’ behavior) [36] (see **Table 1**) [37, 453].

Under social norm theory, people behave corruptly if there is a sufficient number of others behaving similarly [17]. Dong et al. argue that the decision to become corrupt depends on the frequency of observed corrupt acts and how other people react to them. Engaging in corrupt acts results in guilt, which negatively influences others. Yet, the more people engage in corruption, the lower the disutility for additional individuals to participate in corruption [17]. Such social norms, therefore, reduce the individual’s costs of corrupt behaviors and encourage more corruption [38]. Indeed, Greppin recently showed that executives draw upon social norms when making decisions about getting involved in corruption [39].

2.1.4 Ethical theory and corruption

Ethical theory explains why executives continue to act corruptly by seeking to ethically rationalize their corrupt behaviors [19, 20]. By explaining why people act corruptly through ongoing individual rationalization, ethical theories address the research question, “What motivates executives to decide to participate in

	Descriptive norms	Injunctive norms	Subjective norms	Personal norms
Description	The perception of what other people do in a given situation. Watching others provides information about what is “normal” in a novel or ambiguous situation.	The perception of what people think others should do in a given situation specifies what should be done and represents the moral rules of the group.	The perception of what those who are important to an individual think he or she should do in a given situation.	The perception of what an individual believes he/she should do in a given situation is based on self-standards arising from internalized values.
Social goals are achieved by conforming to norms.	Desiring to be accurate in one's choices and behaviors is important.	Building and maintaining social relationships.	Building and maintaining social relationships.	Managing self-concept.
When will they matter?	When the source of reference is similar to us, we are most likely to rely on it when the situation is novel, ambiguous, or uncertain.	When norms motivate behavior by promising social rewards or punishments, they become more influential when made salient.	When people are motivated to comply with the norms of “referent” others, they align their behavior to meet the expectations of those they admire or consider influential.	When enforced through the anticipation of self-enhancement or self-deprecation.

Note: Adapted from [37] Bobek et al. (2007).

Table 1.
Social norms.

corruption?” Such explanations come in multiple forms. Situationalism suggests that, in the case of executives' corrupt behaviors, circumstances play a larger role than the individual's character [40]. People feel they have little choice but to behave in corrupt ways given the circumstances. When executives participate in corruption, they do so because they feel they have to. They are reactive and realistic in what they accomplish. By paying bribes, they are able to get materials out of customs, secure new business, and avoid retaliation, which enables their companies to thrive or prevents their companies from being shut down. Conformity bias suggests that people take cues for unethical behavior from the actions of others rather than relying on their own judgment [41]. With moral equilibrium, individuals may use moral compensation and moral licensing to justify unethical behaviors [42]. Executives who participate in corporate social irresponsibility are most likely to also participate in social responsibility initiatives [43]. With bounded ethicality, organizational and psychological pressures cause people to make decisions inconsistent with their ethics [44, 45]. In a sense, people are rational, but only boundedly so [46]. Obedience to authority means that people behave unethically as a way to please authority figures [47]. Moral myopia suggests that people rationalize their bad behaviors to reach their goals [48]. With moral disengagement, people turn off their ethical judgment when they feel a psychological need to do something [49].

Overall, several scholars argue for the “sand in the wheels” theory, which suggests that, ultimately, bribery lowers firm performance [32, 50]. Other scholars posit the “grease the wheels” theory, where bribery activity has a positive effect on firm performance [51, 52].

We do not know the specifics of these effects in specific settings or to what extent the unique historical and economic contexts shape such outcomes. We also know less about why countries perform differently in terms of corruption levels over time. This calls for a more nuanced analysis, as stated in our research questions. Hence, the following study is motivated by the gaps in the comparative understanding of country differences and the lack of nuanced analyses of such differences.

2.2 Method

To address the research questions, we apply an embedded mixed-method design that involves a concurrent quantitative strand and qualitative strand [4–6]. The study uses a fixed design, where the methods are determined beforehand. The use of mixed methods is motivated by the need to triangulate, obtain complementary perspectives, and explain potential contradictions between quantitative and qualitative findings [4–6]. The qualitative study is the dominant study in that it explains, expands, and interprets the findings of the quantitative strand. This helps address how different corrupt behaviors are manifested in sampled settings.

The study endeavors to answer the research questions in a specific setting by asking: 1) what motivates executives in Kyrgyzstan and Georgia to decide whether to participate in corruption, 2) to what extent present bureaucratic constraints, economic constraints, and informal competition, as perceived by local executives, influence their reasoning that shapes their participation in corrupt behaviors, and 3) how such participation affects their firm's performance? Georgia and Kyrgyzstan are well-suited as study settings for the goals of a comparative study. According to Transparency International's 2019 ranking, Kyrgyzstan was more corrupt than 70% of the 180 ranked countries, while Georgia was more corrupt than just 31% of the 180 ranked countries [53].

Generally, corruption was endemic across the Soviet Union [54]. As one executive said, “It started at birth. You gave from birth to death. At kindergarten students give cards to teachers. You gave at births, school, weddings, jobs, funerals.” This tradition of giving was a deeply ingrained and socially accepted practice that persisted when the republics became independent in 1991. In Kyrgyzstan, little has changed in terms of corruption [55, 56]. Georgia was also highly corrupt when it gained independence [57, 58]. In 2003, before the Rose Revolution, Georgia was ranked as the 133rd least corrupt country in the world [59], and the Georgian “Thieves in Law” were the most powerful mafia in the former Soviet Union [60, 61]. As one executive stated, “Before Rose Revolution, bribing was every day at every level.” After the Rose Revolution, the government implemented dramatic changes to reduce corruption [62, 63] and by 2018, Georgia had significantly improved, ranking as the 41st least corrupt country [64].

2.2.1 Quantitative data and analysis

This study uses World Bank Enterprise Surveys (WBES) data from 2019 for 342 firms in Kyrgyzstan and 510 firms in Georgia [65]. The WBES employs a standardized survey instrument and uniform sampling procedures to minimize measurement error and provide comparable data across countries and regions. The survey instrument offers detailed information on this study’s key external factors: bureaucratic constraints, economic constraints, informal competition, bribing activity, and firm performance. WBES participants include small firms (fewer than 20 employees), medium firms (20–99 employees), and larger firms (100 or more employees). The firms are registered with the government and are part of the formal economy. Business owners and top managers are surveyed. World Bank researchers, rather than government agencies or organizations associated with the government, collect the data. The unit of analysis in the data set is the firm. Please see **Appendix A**: constructs summary for construct definitions and all WBES questions.

An exploratory factor analysis (EFA) was conducted using SPSS to assess whether the observed variables loaded together as expected, were adequately correlated, and met the criteria for reliability and validity [66]. From the WBES, 60 items were chosen across seven factors based on theory. Forty items loaded cleanly into the seven factors (bribing payment, bribing impact, gift expected, economic constraints (capital), economic constraints (revenue use), bureaucratic constraints, and informal competition).

Sampling adequacy was evidenced by a Kaiser-Meyer-Olkin (KMO) measure of sampling adequacy of 0.825, which is beyond the 0.50 threshold suggested by [66]. Bartlett’s test for sphericity fell within the acceptable range and was significant at 0.000. The communalities for all variables ranged from 0.283 to 0.970. Convergent validity was established by verifying that all the items loaded above 0.50 and were significant [66]. Discriminant validity was assessed by observing no problematic cross-loadings on the pattern matrix [66]. The total variance explained by the model was 70.8%, with all factors ($N = 8$) having eigenvalues greater than 1.0. Consequently, the model was advanced for CFA.

Using AMOS 28.0, 40 items comprising eight factors (bribing payment, bribing impact, gift expected, economic constraints [capital], economic constraints [revenue use], bureaucratic constraints, informal competition, and the dependent

factor firm performance) were submitted for CFA to verify that the factor structure was valid and reliable. The CFA revealed that the model had adequate fit: CMIN = 2096.82, DF = 498, CMIN/DF = 4.210, GFI = 0.886, AGFI = 0.864, CFI = 0.928, RMSEA = 0.061, Pclose = 1.000, and SRMR = 0.0422 [67–70].

Per **Table 2**, composite reliability was confirmed for all seven factors, which had critical ratios (CR) over 0.70 [66]. Convergent validity was demonstrated for six of the seven factors, which had average variance extracted (AVE) greater than 0.50 [66]. The AVE of bureaucratic constraints = 0.343) was less than 0.50. discriminant validity was shown for all seven factors, with AVE greater than maximum shared values (MSV) for each factor [66].

We conducted a common method bias test using a model that included a marker variable (which has no relationship with the factors in our model based on our analysis) with four items: percent (reversed) land owned, percent land rented or leased, percent (reversed) buildings owned, and percent buildings rented or leased. We compared the unconstrained model to the equally constrained and zero-constrained models. For the unconstrained model, DF = 603 and $\chi^2 = 4826.6$. For the equally constrained model, DF = 636 and $\chi^2 = 4902.3$, and for the zero-constrained model, DF = 637 and $\chi^2 = 4902.9$. We found evidence of common method bias – the P value of the chi-square difference test between the unconstrained model and the zero-constrained model was less than the threshold of 0.05, indicating that method bias is a concern [71].

Because we had common method bias, we retained the model by imputing composites in AMOS 25.0 with the marker variable present, thus generating common method bias-adjusted factor values that accounted for the method bias within all eight factor scores. We used these imputed results for the structural analysis (**Table 3**).

We conducted invariance tests between multigroup samples to demonstrate measurement invariance at the configural level, which indicates that all groups share the same basic factor structure [66]. There was partial invariance at the metric level. We used multigroup analysis to compare the significance levels of antecedents to firm-level corrupt behavior.

2.2.2 Qualitative sample and analysis

Interviews were conducted in-country with 21 local executives who work for local companies in Kyrgyzstan and the Republic of Georgia. Ten interviews were conducted in Kyrgyzstan, and eleven were conducted in Georgia. People with good business connections in both countries arranged the meetings. To obtain a representative sample, we used the following criteria to select participants: 1) owners or CEOs of firms with up to 1,000 employees or who were VPs with decision making authority at firms over 1000 employees, 2) the interviewees had been in the current role for longer than 1 year, 3) represented multiple sectors in manufacturing and services, 4) represented firms of different size, 5) the firms that had been operating for at least three years, and 6) were available to participate in the research. All sampled executives at companies with fewer than 1,000 employees had profit-and loss authority. At companies with more than 1,000 employees, the executives were department heads for a function such as finance or operations. No interviews were conducted with more than one individual from any one organization.

Appendix B illustrates characteristics of the firms and interviewees, such as gender, age of interviewee, industry, size of company, and age of company.

	CR	AVE	MSV	Economic constraints (capital)	Gift expected	Economic constraints (revenue use)	Bureaucratic constraints	Bribing impact	Informal competition	Bribing payments
Economic constraints (capital)	0.802	0.521	0.018	0.722						
Gift expected	0.917	0.647	0.338	0.135	0.804					
Economic constraints (revenue use)	0.971	0.851	0.008	-0.046	-0.090	0.922				
Bureaucratic constraints	0.757	0.343	0.227	0.108	-0.244	-0.057	0.585			
Bribing impact	0.869	0.689	0.227	-0.023	-0.264	-0.004	0.476	0.830		
Informal competition	0.843	0.732	0.105	0.018	-0.324	0.002	0.290	0.169	0.856	
Bribing payments	0.910	0.721	0.338	0.021	-0.581	-0.016	0.365	0.317	0.304	0.849

Table 2.
Result of reliability, convergent, and discriminate validity testing.

Factor	Mean	Standard deviation	Correlations							
			Informal competition	Bureaucratic constraints	Economic constraints (capita	Economic constraints (revenue)	Gift expected	Bribing impact	Bribing payments	Firm performance
Informal competition	1.013	1.323	1.000							
Bureaucratic constraints	0.553	0.654	0.320**	1.000						
Economic constraints (capital)	(58.404)	30.671	0.019	0.118**	1.000					
Economic constraints (revenue)	5.600	41.691	0.002	(0.067)*	(0.049)	1.000				
Gift expected	2.199	0.136	(0.352)**	(0.259)**	0.144**	(.094)**	1.000			
Bribing impact	0.252	0.620	0.189**	0.527**	(0.024)	(0.004)	(0.292)**	1.000		
Bribing payments	0.121	0.238	0.327**	0.393**	(0.022)	(0.017)	(0.619)**	0.347**	1.000	
Firm performance	26.908	6.746	(0.020)	0.122**	0.179**	0.152**	0.331**	0.068*	(0.128)**	1.000
**Correlation is significant at the 0.01 level (two-tailed).										
*Correlation is significant at the 0.05 level (two-tailed).										

**Correlation is significant at the 0.01 level (two-tailed).

*Correlation is significant at the 0.05 level (two-tailed).

Table 3.
 Correlation matrix.

Interviews were conducted in May 2019, guided by an interview protocol. All interviews were conducted face-to-face, either at workplaces or in coffee shops. In Kyrgyzstan, an interpreter was present for 8 of the 10 interviews, and in Georgia, for 6 of the 11 interviews. During each interview, we took careful notes, which were later summarized into a Word document. To ensure anonymity, the names of individuals, schools, and companies were removed. (The interview protocol is available upon request from the authors.) We informed participants that their names would not be shared and that the content of their interviews would be kept confidential.

The analysis applied relies on induction and focuses on executives' actual experiences of corruption [72]. To this end, we openly coded their reported accounts of corrupt behaviors and settings to identify key themes characterizing and accounting for executives' participation in corrupt behaviors. We compiled all relevant quotes as examples of corruption, and for each of the 54 identified incidents of corruption, we coded for antecedents, behavior, motivations, and outcomes. We coded each incident as an example of participating in corruption or not participating in corruption; whether they were first hand (personally experienced), second hand (experienced by a colleague, friend, or relative), or general examples that were public knowledge; whether they involved bureaucratic constraints, economic constraints, or informal competition; and how they affected participation in corruption and whether the participation affected firm performance. We used concrete examples to find differences between Georgia and Kyrgyzstan if there were differences in responses to constraints. We also triangulated qualitative findings with quantitative study findings and looked for both convergence and divergence.

2.3 Findings

We will first report quantitative findings and then augment and expand them with qualitative findings.

2.3.1 Quantitative strand

We conducted second-order structural equation modeling. The **Table 4** summarizes the structural equation model applied and the P values of chi-square tests for the structural models.

It identifies no significant differences for two of the seven theorized effects – bureaucratic constraints on firm performance and informal competition on firm performance. For four effects (bribing activity on firm performance, bureaucratic constraints on bribing activity, economic constraints on bribing activity, and informal competition on bribing activity), both relationships were significant, and the chi-square difference test was significant. For one effect, economic constraints on firm performance, the chi-square difference test was significant, and the group difference test indicated that one country had significant postulated effects while the other country did not: Georgia had a significant relationship, but Kyrgyzstan did not have a significant relationship.

Figure 2 illustrates Kyrgyzstan's results for the quantitative strand.

For Kyrgyzstan, six of the seven postulated relationships have P-values less than 0.001, 0.01, or 0.1 and are significant. Similarly, **Figure 3** illustrates the results for Georgia in the quantitative strand.

Effect of:	Country	Regression weight	P value	Significant Yes/No	P-value of χ^2 difference test	Similar different
Bribing activity on firm performance	GA	0.44	***	Yes	0.00	Significant relationship for KYR is stronger than for GA, and the chi-squared (χ^2) test shows the difference is significant.
	KYR	0.46	0.00	Yes		
Bureaucratic constraints on bribing activity	GA	0.75	***	Yes	0.00	Significant relationship for GA is stronger than for KYR, and the chi-squared (χ^2) test shows the difference is significant.
	KYR	0.72	***	Yes		
Bureaucratic constraints on firm performance	GA	-0.22	0.00	Yes	0.74	No difference
	KYR	-0.24	0.04	Yes		
Economic constraints on bribing activity	GA	0.39	***	Yes	0.00	Significant relationship for KYR is stronger than for GA, and the chi-squared (χ^2) test shows the difference is significant.
	KYR	0.57	***	Yes		
Economic constraints on firm performance	GA	-0.27	***	Yes	0.08	Significant relationship for GA, but not significant for KYR. However, the chi-squared (χ^2) test shows the difference is not significant.
	KYR	-0.11	0.29	No		
Informal competition on bribing activity	GA	0.28	***	Yes	0.00	Significant relationship for GA is stronger than for KYR, and the chi-squared (χ^2) test shows the difference is significant.
	KYR	0.19	***	Yes		
Informal competition on firm performance	GA	-0.11	0.02	Yes	0.62	No difference
	KYR	-0.11	0.05	Yes		

Table 4.
 Comparison of quantitative results.

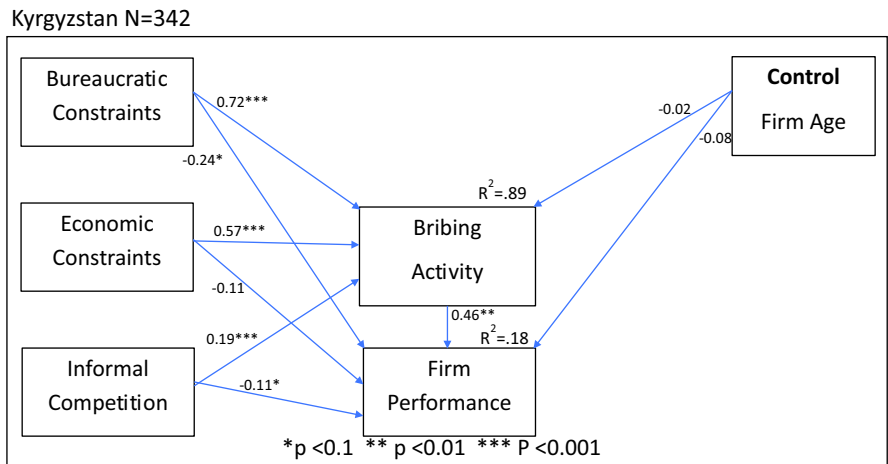


Figure 2.
Kyrgyzstan structural equation model.

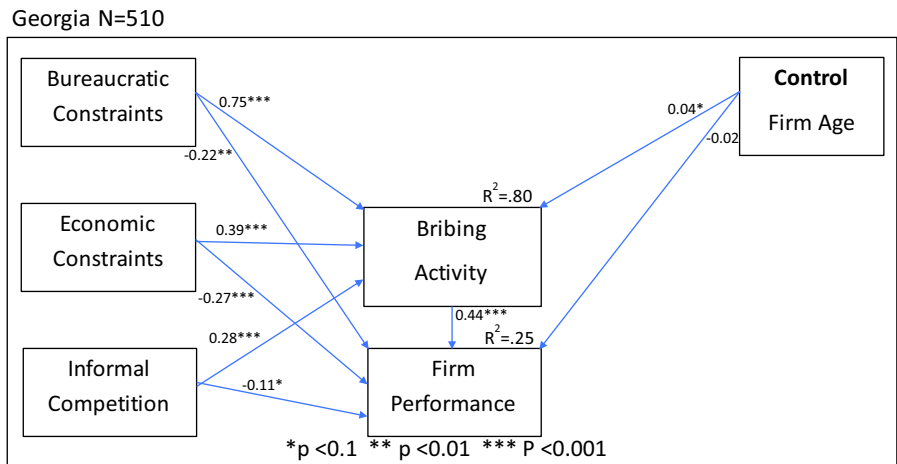


Figure 3.
Georgia structural equation model.

For Georgia, all seven of the postulated relationships exhibit significant correlations.

2.3.2 Qualitative strand

Triangulating qualitative and quantitative findings. The qualitative study revealed in more detail how bureaucratic constraints, economic constraints, and informal competition affected participation in corruption. It also reported how participation in bribing activity was perceived to affect firm performance. Interestingly, many findings were not consistent between the quantitative study and

the interviews. **Table 5** below compares findings from the quantitative study and findings from the interviews conducted in Kyrgyzstan. Overall, four of seven findings were similar, and three of seven findings were different.

For the four similar findings (bribing activity on firm performance, bureaucratic constraints on bribing activity, bureaucratic constraints on firm performance, and economic constraints on bribing activity), there was a significant relationship in the quantitative study, and this presence was also confirmed in the interviews. For one different relationship, economic constraints on bribing activity, the quantitative study indicated there was no significant effect, but the interviews suggested there was a relationship. For two of the different relationships, informal competition on bribing activity and informal competition on firm performance, the interviews indicated there was no relationship present, but the quantitative study showed a significant effect.

Table 6 summarizes findings from the quantitative strand and the qualitative strand for Georgia. Overall, three out of seven findings were similar, and four out of seven findings were different.

For the three similar findings – bribing activity on firm performance, economic constraints on bribing activity, and economic constraints on firm performance – there were significant relationships identified in the quantitative study, and the presence of these relationships was also revealed in the interviews. For the four different relationships – bureaucratic constraints on bribing activity, bureaucratic constraints on firm performance, informal competition on bribing activity,

Kyrgyzstan effect of:	Quantitative finding			Presence revealed by interview Yes/No	Quantitative and interview results similar/different
	Regression weight	P value	Significant No/Yes		
Bribing activity on firm performance	0.46	0.00	Yes	Yes	Similar
Bureaucratic constraints on bribing activity	0.72	***	Yes	Yes	Similar
Bureaucratic constraints on firm performance	-0.24	0.04	Yes	Yes	Similar
Economic constraints on bribing activity	0.57	***	Yes	Yes	Similar
Economic constraints on firm performance	-0.11	0.29	No	Yes	Different
Informal competition on bribing activity	0.19	***	Yes	No	Different
Informal competition on firm performance	-0.11	0.05	Yes	No	Different

Table 5.
Comparison of Kyrgyzstan's quantitative and qualitative strand.

Georgia effect of:	Quantitative finding			Presence revealed by interview Yes/No	Quantitative and interview results similar/different
	Regression weight	P value	Significant No/Yes		
Bribing activity on firm performance	0.44	***	Yes	Yes	Similar
Bureaucratic constraints on bribing activity	0.75	***	Yes	No	Different
Bureaucratic constraints on firm performance	-0.22	0.00	Yes	No	Different
Economic constraints on bribing activity	0.39	***	Yes	Yes	Similar
Economic constraints on firm performance	-0.27	***	Yes	Yes	Similar
Informal competition on bribing activity	0.28	***	Yes	No	Different
Informal competition on firm performance	-0.11	0.02	Yes	No	Different

Table 6.
Comparison of Georgia's quantitative and qualitative strand.

and informal competition on firm performance – the interviews indicated that no relationship was present, but the quantitative study revealed significant effects.

How constraints affect corruption. The interviewees in both countries provided detailed accounts of how bureaucratic constraints, economic constraints, and informal competition influenced and shaped their reasoning about corruption, how such participation was believed to affect firm performance, and ultimately what led people to bribe. These accounts address the research questions concerning the detailed motivations and reasoning behind bribing. The **Table 7** summarizes qualitative findings of bribing accounts in Kyrgyzstan.

In Kyrgyzstan, bureaucratic constraints were a significant driver of corruption. Red tape caused delays, which could be reduced by bribing; there were multiple regulations that were no longer applicable but needed to be circumvented; and tax inspections took a long time unless they were “sped up” through bribery. These bureaucratic constraints promoted the supply side of corruption as a means to cut through red tape and speed up decisions. As one interviewee said, “Bribes are to get things done.” Economic constraints also contributed to corruption. Salaries of government workers were low, and civil servants used bribes to supplement their income. This increased the demand for corruption because people decided to bribe as a means to mitigate economic constraints. For example, people bribed loan officers to get loans at lower interest rates. One executive said, “He bribed to get a privileged rate from the Russian-Kyrgyz Development Fund.” Informal firms, however, did not exist, and they had no effect on how formal firms operated: “Informal competition is not an issue. All firms are registered.” Interviewees also stated that firms that do not bribe do not grow like firms that do. One executive described this as follows: “He gave a 7% bribe to get the government contract for building the school.”

KYRGYZSTAN			GEORGIA	
Constraint	What interviewees think about constraints	What interviewees think about why people decide to bribe	What interviewees think about constraints	What interviewees think about why people decide to bribe
Bureaucratic constraints	There are many legacy regulations that are no longer applicable. Red tape causes delays that need to be addressed promptly. Tax inspections take a long time to process.	Bureaucratic constraints are a major driver of corruption. People offer bribes to bypass outdated regulations and to expedite decisions: “Bribes are to get things done.”	Regulations not stifling There is no need to offer bribes to mitigate bureaucracy.	Bureaucratic constraints are not a driver of corruption. People do not need to bribe to address bureaucracy: “There is now a ‘one stop shop’ to handle all your documents...there is no need to bribe.”
Economic constraints	Salaries are too low for government workers, so they seek bribes. Hard to borrow, so people raise money from friends and family.	Economic constraints are a major driver of corruption, and people resort to bribery to mitigate them: “We got the \$5 million loan because of a close personal connection and gifts to the loan officer.”	Hard to borrow money Consumer loans are more common than commercial loans. Some borrow from pawnshops.	Economic constraints are a significant driver of corruption, and people resort to bribery to mitigate them: “Commercial bank loans are hard to get so people bribe to get them.”
Informal competition	Informal firms do not exist and have no effect on the operations of formal firms. Informal firms do not affect bribing activity or performance.	People do not need to resort to bribery to address issues with informal competition: “Informal competition is not an issue. All firms are registered.”	Informal firms do not exist and have no effect on the way formal firms operate. Easy to register companies Informal firms do not affect bribery activity or firm performance.	People do not need to resort to bribery to address issues with informal competition: “Easy and cheap to register. Can’t compete if not registered.”
Bribing activity->firm performance	Don’t grow as fast if you don’t bribe. You don’t get as much revenue if you don’t bribe.	Bribery helps firm performance. People bribe to garner revenue and to make their firms grow: “A firm paid a 7% bribe to get an award for building a \$1 million school.”	Could grow much faster if provided with bribes. If you bribe more than your competition, you can generate more revenue.	Bribery helps firm performance. People bribe to garner revenue and make their firms grow: “I financed the education of a buyer and he gave me business.”

Table 7.
Accounts of the effects of constraints in Kyrgyzstan and Georgia.

In Georgia, interviewees provided detailed accounts of how bureaucratic constraints, economic constraints, and informal competition affected participation in corruption and why people decided to offer bribes. **Table 7** summarizes these accounts.

Georgian interviewees noted that bureaucratic constraints did not contribute meaningfully to corruption. As one executive said, “There is now a ‘onestop shop’ to handle all your documents. You can pay more, officially, for expedited service. There is no need to bribe.” Economic constraints did have an effect on corruption levels – it was hard to borrow money, and consumer loans were more common than commercial loans. People bribed to mitigate their economic constraints by, for example, getting commercial loans instead of more expensive consumer loans. “Commercial bank loans are hard to get so people bribe to get them.” Interviewees consistently indicated that informal competition did not affect either bribing activity or firm performance. It was easy to register firms. One interviewee stated, “Easy and cheap to register. Can’t compete if not registered.” Generally, if firms bribed, they could get more business and would grow faster. One executive noted, “I financed the education of a buyer and he gave me business.”

2.3.3 Differences between Kyrgyzstan and Georgia

Examples of high levels of corruption were more prevalent in Kyrgyzstan. Kyrgyzstan had most of its examples of participation and non-participation in the middle range of \$100 to \$100,000 for levels of corruption, and the second most examples in the high range of greater than \$100,000. Georgia had most of its examples of participation and non-participation in the middle range of \$100 to \$100,000 for levels of corruption, and the second most examples in the low range of less than \$100. Kyrgyzstan had few examples of corruption involving amounts less than \$100, and Georgia had few examples with levels of corruption greater than \$100,000. Since Kyrgyzstan has higher levels of corruption, it is not surprising that the examples provided by the interviewees reflect this difference. Kyrgyzstan had more examples of participation in corruption [20] than Georgia [17].

Kyrgyzstan had fewer examples of not participating in corruption [6] than Georgia [9]. While the sample is small and no valid statistical inferences can be made, Georgia’s larger number of examples could be explained by the fact that interviewees in Georgia were excited about their country’s transition from being highly corrupt in the past to being less corrupt. They were more expressive about not participating in corruption. Indeed, the interviewees in Georgia were often interested in demonstrating how they had been in situations where they could have acted corruptly but instead chose not to. In Georgia, incidents only illustrated that it was costly to refrain from acting corruptly, while in Kyrgyzstan, there were four such incidents. In Georgia, 14 incidents described how there still was corruption in the country’s government, commerce, and institutions. In Kyrgyzstan, 25 incidents illustrated how there is corruption in the country’s government, commerce, and institutions.

2.4 Discussion

2.4.1 Qualitative findings versus quantitative findings

As illustrated in **Tables 5** and **6** in the findings above, in Kyrgyzstan, four of seven effects were similar and three of seven effects were different, and in Georgia,

three of seven effects were similar and four of seven effects were different. The interview results, therefore, provided additional reliability and interpretive validity for the quantitative findings. For example, the quantitative study found that, in Kyrgyzstan, bureaucratic constraints have a significant and positive effect on bribing activity. The interview findings aligned with this result. One interviewee described how her firm bribed government officials as an expedient way to obtain work permission for foreign employees. Institutional theory explains why business people act corruptly by suggesting that economic choices made by managers are constrained by complex institutions [13, 14]. It makes economic sense for an executive to bribe a government official to reduce complexity and bureaucratic constraints.

The quantitative study found that in both Kyrgyzstan and Georgia, economic constraints have a significant and positive effect on bribing activity. Interview findings confirm this – in Kyrgyzstan, an interviewee said, “We got the \$5 million loan because of a close and personal connection and gifts to the loan officer,” and in Georgia, an interviewee said, “Commercial bank loans are hard to get so people bribe to get them.”

For both Kyrgyzstan and Georgia, the quantitative study indicated that bribing activity had a significant effect on firm performance. Interview findings aligned with this – interviewees stated that bribing activity meaningfully contributed to better performance. One Georgian interviewee said, “My company is growing at 5% to 10% per year. But if I gave green light to bribe, we could easily grow at 20% to 30%”. Per institutional theory, it makes sense to provide bribes, but in this case, per ethical theory, the actor did not commit to such behavior as the manager rationalized his (non-corrupt) behavior in an alternative way [19, 20]. Social norm theory [18] also illuminates why the executive did not pursue bribing activity. Since the Rose Revolution, Georgian interviewees expressed that non-corrupt behavior is now a social standard, and the expectation is not to bribe. They now follow injunctive norms (general societal expectations of behavior).

When the qualitative results differed from the quantitative results, one of the seven dissimilarities across both countries was a situation where interviews suggested a presence, but the quantitative study indicated no significant effect. In Kyrgyzstan, the quantitative study indicated that economic constraints did not have a significant effect on firm performance. However, interview findings suggested the opposite – interviewees stated that economic constraints meaningfully lowered firm performance. Kyrgyz interviewees often described situations where banks did not have enough capital for low-interest loans, and business owners had to bribe bank officials to obtain such loans. Per institutional theory, it made economic sense for business owners to offer bribes in order to secure loans.

In six of the seven situations where qualitative results differed from the quantitative results, the interviews indicated no significant effect, but the quantitative study indicated there was a significant effect. These differences can be partially explained by the small samples and possible sampling bias. In addition, the people we interviewed were owners and CEOs, whereas for the World Bank quantitative study, lower-level managers as well as CEOs were interviewed. Finally, we asked different questions than those used by the World Bank.

2.4.2 Qualitative findings and past research

Table 7 summarizes detailed accounts of how bureaucratic constraints, economic constraints, and informal competition affected participation in corruption. The table illustrates multiple and vivid accounts provided by interviewees about why they bribe. Next, we discuss how these accounts align with previous explanations. Higher levels of bureaucratic constraints are likely to increase corruption [33, 73–75] and lower firm performance [24–26, 76]. This aligns with what interviewees stated. Especially in Kyrgyzstan, interviewees discussed the value of paying bribes to cut through red tape. One executive noted that, to avoid waiting two weeks to register a car, he bribed officials to get it registered in two hours. Descriptive social norms (standards that develop from observation of others' behavior) justified his corrupt activity. Before the Rose Revolution, interviewees in Georgia often paid bribes, which, per institutional theory, makes sense. For example, one executive discussed paying his first bribe to a police inspector to get a driver's license. As a child, he had watched his father place money in the hands of a policeman to avoid traffic tickets and had a feeling that paying bribes was appropriate. Now, due to changes introduced after the 2003 Rose Revolution, Georgians do not expect to pay bribes to get simple things done.

People act corruptly because economic choices are ultimately constrained by complex configurations of institutions [13, 14]. Additionally, perceptions of bribery as legitimate and acceptable behavior change over time [21]. Interviews with executives in Georgia vividly illustrate such effects. Before the Rose Revolution, executives felt it was socially appropriate, ethically permissible, and economically sensible to bribe. After the Rose Revolution, it was no longer socially and ethically acceptable to bribe, though economically it might still pay off.

Increased economic constraints are likely to increase corruption [34, 35, 77] and reduce firm performance [24, 27–31]. This aligns with what interviewees stated. Because of shortages of bank funds, executives in Georgia and Kyrgyzstan resorted to either paying higher interest rates for consumer loans or borrowing from friends and family. One Kyrgyz executive described how his firm obtained a \$5 million loan from a bank not because of creditworthiness but because of a close personal relationship that his firm's CEO built with a bank loan officer by providing gifts. This activity reflects some principles of institutional theory – it made sense for the executive to pursue getting the loan given the institutional expectations. It also reflects social norm theory – subjective norms (expectations of close others), in this case his colleagues and family, allowed the executive to act corruptly. And it aligns with ethical theory – situationalism [40] contributed to his activity.

Firms facing informal competition are more likely to participate in corruption [7, 8, 10, 78] and suffer in performance if they do not [79–81]. On this topic, our findings are inconclusive. In Georgia and Kyrgyzstan, interviewees consistently stated that there was no informal competition.

Generally, bribing activity has been found to significantly affect firm performance, either negatively in line with the “sand in the wheels” theory [32, 50], or positively in line with the “grease the wheels” theory [51, 52]. In Kyrgyzstan and Georgia, executives stated that firms would have more revenue and grow faster by bribing. In Kyrgyzstan, an executive described how he paid for a graduate school education for a government buyer and was subsequently awarded business

from that buyer. This reflects principles of institutional theory – it aligned with the expectations of both parties to bribe the buyer. Interestingly, the executive did not feel that paying for graduate school was actually bribing, though this fits the definition of it: “The quid pro quo exchange between local firms and government officials in which cash, favors and gifts are provided to obtain illicit advantage in the allocation of state resources and services.” [82]. The example illustrates that, per injunctive norms, bribing can become acceptable behavior and that firm managers are likely to comply with institutional pressures to bribe. Per institutional theory, institutions boost firm performance by creating incentives and opportunities to be exploited. Per ethical theory, managers bribe to enhance the firm’s performance by succumbing to situationalism [40] and conformity bias [41].

2.4.3 Kyrgyzstan versus Georgia

Differences between Kyrgyzstan and Georgia were reflected in the qualitative interviews. In Kyrgyzstan, there remained inefficient bureaucracy and bureaucratic constraints, while in Georgia, the bureaucracy is now more efficient, and constraints are no longer oppressive. In Georgia, in nine incidents where people decided not to act corruptly, it was always for ethical reasons. In Kyrgyzstan, interviewees were more pragmatic. In the six incidents of not acting corruptly, half of the reasons were based on business practicalities. For instance, a firm refused to pay a Kyrgyz customs official a bribe to have a container imported into Kyrgyzstan. Instead, the firm appealed to higher authorities and managed to import the shipment without paying. The shipment was delayed, but the firm did not want to set the precedent of paying because they would be expected to pay bribes in the future.

Another difference between Kyrgyzstan and Georgia was the interviewees’ views on corruption. In Kyrgyzstan, interviewees appeared fatalistic about the prevalence of corruption. They consistently indicated that corruption was a problem and that it would not go away. One executive said, “Corruption will not decrease. Won’t happen. Is nature of people, rich and poor. Does not matter.” Another interviewee said, “Bribes are to get things done. Part of Soviet culture, the fabric of society. They are appropriate and needed. It is rude if you do not give.” There is social acceptance of corruption. The mother of one executive said to him, regarding a family friend, “He works in Customs. He built a house. He bought a car. Why don’t you?” Corruption is ingrained as a societal norm, and people do not feel a need to act differently.

In Georgia, the Rose Revolution produced an institutional shock that changed social norms [62, 63]. Corruption was no longer considered a problem, and it was not deemed acceptable. Interviewees were optimistic that the status of corruption had greatly improved. People mentioned with pride that, along with the reduction in corruption, there were many indicators of social progress. They stated that drinking and driving was no longer an issue, that everyone wore seatbelts, that cars now waited for pedestrians when they crossed the street, and that petty theft was less common. According to one executive, “Before Rose Revolution, I had to hide my gold wedding ring while driving or police would try to take it. After Rose Revolution, I could leave it in my unlocked car.”

Though the Georgian’s statements aligned with reality, they were also overly optimistic. The interviewees stated that they did not participate in corruption, yet

examples of engaging in corruption were commonly mentioned. The Georgian's views on drinking and driving, seat belts, and pedestrian crossings were also optimistic. Drinking and driving is still endemic [83], and petty theft remains a problem [84]. During our interviews in Georgia in May 2019, we observed that the majority of drivers were not wearing seatbelts, and crossing the street was hazardous. These statements can be explained by a societal tendency toward optimism [85]. Georgians still provided examples of firsthand experiences with corruption. One executive said, "I did not bribe. I financed education for the buyer. The buyer improved himself and he is now CIO." Another executive said, "The government required three tenders, so I created two companies to bid against me."

2.5 Implications

This study has important implications for policy makers, corruption researchers, and practitioners. First, because bureaucratic constraints increase bribing activity, more bureaucracy is not likely to reduce bribing activity. Hence, policies to reduce corruption by broadening government oversight may be counterproductive. Additional bureaucratic constraints to gain more oversight may actually increase corruption. This provides an important insight into how transition economies should be managed – what is needed, rather than simply more bureaucracy, are solid and simple institutions that effectively regulate and direct behaviors.

Economic constraints increase bribery activity and reduce economic performance. Both of these effects are undesirable. However, as countries' economies improve, they can reduce constraints on credit, leading to less cause for firms to engage in bribery. There are, of course, many benefits from economic growth, but reducing the likelihood of bribery activity and increasing firm performance are important advantages. Policy makers can improve economies by building effective market-supporting institutions that make it easier and cheaper to deal with governments [86]. In the former Soviet states, there is a need to improve access to capital and to make the process of applying for capital more transparent [10].

Finally, even though bribing activity has negative effects on national economies [87], bribing enhances firm performance. If the expected gains from bribing are greater compared to the expected penalty and the probability of being caught, then it becomes a rational choice to pursue bribing [88]. Changing the cost-benefit ratio by making the costs of bribing higher would make bribing less attractive. Recognizing that it is individuals who decide to participate in corruption, it would behoove policy makers to increase the likelihood that infractions are caught and to impose stricter legal penalties, such as fines and prison time. At the firm level, it would be helpful to conduct firm audits to increase the likelihood that infractions are detected and to enforce corporate penalties, such as termination, for the infractions.

The expected gains from bribery could be reduced if bribers did not trust government officials to execute promised deals. Policy makers could increase trust in government by implementing staff rotations in bureaucracies [10]. Newly appointed bureaucrats would be less likely to honor illicit agreements than their predecessors, who had already received illegal payments. Reducing the gains of bribery while increasing the costs could make participating in bribery an irrational choice.

Policy makers should work to align the values of executives with the laws and regulations governing bribery [51]. With a “responsive regulation” approach, harmful bribing activity can be reduced through a combination of engaging firms to self-regulate and refrain from bribery, providing incentives to firms to avoid bribing, and, finally, using punitive measures to stop bribery [89]. Since not everyone will respond to appeals to morality, compliance with the law needs to be secured through punitive sanctions [9]. Using a “slippery slope framework” [90], both voluntary and enforced tools can be employed to improve trust in authorities by making formal institutions more effective and empowering authorities to detect and punish bribery [91].

2.6 Limitations

The study does have limitations. Given the sensitivity of corruption, it is possible that respondents were not forthright in their discussions. They may not have trusted me and could have provided answers they felt would keep them safe, or they might have succumbed to social desirability bias and provided answers they thought were appropriate rather than honest.

A second limitation is that one of the authors has lived and worked in countries with high levels of corruption, such as Uzbekistan, Kyrgyzstan, Armenia, Russia, Pakistan, and India. He has encountered corrupt demands and may have inadvertently imposed his personal perspectives on the data interpretation. It is difficult to avoid subjectivity [92].

A third limitation is that, although the 21 interviewed executives came from a wide range of industries and company sizes, they were not a random sample. Rather, they were chosen by local business people with strong connections. In addition, the sample may have been too small to provide a good representation of executives in Kyrgyzstan and Georgia.

A fourth limitation is that this study covered only two former Soviet republics. Like all former Soviet republics, Kyrgyzstan and Georgia have new governments and are evolving from planned economies to market economies, and they may perform differently from countries in other regions. Given the relatively narrow scope of this study, the findings may not be as generalizable as those from studies with broader regional scopes.

2.7 Future Research

It would be interesting to conduct a qualitative study with a larger sample size and explore additional criteria with a more statistically robust sample. A larger sample size would enable the study of why interview results did not always align with quantitative results, such as the circumstance in Georgia, where the quantitative study indicated that informal competition had a significant positive effect on bribing activity, whereas none of the interviews indicated that informal competition occurred. Since Kyrgyzstan and Georgia have suffered from corruption for a long time [56, 93–95] and the behavior manifests path dependency [96], there would be value in adding new time periods in a longitudinal analysis. Conducting interviews in the future would enable us to examine how bribing activity is trending over time and to determine the strength of path dependency. Using longitudinal data can improve reliability and validity [97, 98].

3. Conclusions

This study offers insights to scholars of the literature on corruption, to policy makers, and to practitioners on pragmatic methods for reducing corruption and enhancing firm performance. A quantitative analysis of WBES data for Kyrgyzstan and Georgia shows that bureaucratic constraints, economic constraints, and informal competition have a significant impact on bribing activity and firm performance. Qualitative findings from interviews with 21 executives in Kyrgyzstan and Georgia triangulate the quantitative study. Findings from the interviews complement past research suggesting that bribing improves firm performance, supporting a “grease the wheels” theory. However, many qualitative findings differ from quantitative findings. For example, interviews suggest that informal competition has no effect on bribing or firm performance, whereas quantitative analysis indicates that informal competition has a statistically meaningful effect.

Generally, the findings shed light on what motivates local executives in corrupt environments to decide to participate in bribery – it pays off and is commonly viewed as acceptable. The study also shows that there is a significant positive correlation between bribery activity and firm performance. Firms undertake risk, effort, and expense to bribe, and they do so only if it makes rational economic sense.

This paper makes the distinctive point that policy makers need to recognize that, even though corruption is bad for countries, it can be good for individual firms. As such, policy makers and practitioners need to focus on individuals. They can reduce bribing activity by changing the cost-benefit ratio through making the costs of bribing higher and the benefits of bribing lower. Costs can be raised by increasing the likelihood that infractions are caught by governments and firms, and by increasing penalties, such as jail time or job termination, for infractions. Benefits can be lowered by reducing trust in government officials through implementing staff rotations in bureaucracies. Overall, the study adds insights into the nascent literature on corruption – especially in former Soviet Republics – and can inform policy makers and practitioners on means for reducing corruption.

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Appendices

Appendix A: *Constructs Summary*

Construct	Definition	Items
Bureaucratic constraints	External bureaucratic demands placed on a firm that are outside its control	1) To what extent are tax rates an obstacle to the current operations of this establishment? 2) To what extent is tax administration an obstacle to the current operations of this establishment? 3) To what degree are business licensing and permits an obstacle to the current operations of this establishment? 4) To what extent are safety regulations an obstacle to the current operations of this establishment? 5) To what extent are health regulations an obstacle to the current operations of this establishment? 6) To what extent are environmental regulations an obstacle to the current operations of this establishment? 7) To what extent are labor regulations an obstacle to the current operations of this establishment? Scale: 0 = No obstacle, 1 = Minor obstacle, 2 = Moderate obstacle, 3 = Major obstacle, 4 = Very severe obstacle
Economic constraints	Economic constraints (capital)	Source of funding
	Economic constraints (revenue use)	Cost of inputs as a percentage of revenue
Economic constraints		1) In 2019, what percentage of total annual purchases of material inputs and services was made on credit? 2) In 2019, what percentage (reversed) of working capital was financed from internal funds? 3) In 2019, what percentage of working capital was financed by banks? 4) In 2019, what percentage (reversed) of working capital was financed from all sources?
		1) Purchase price of capital equipment as a percentage of revenue 2) Purchase price of land and buildings as a percentage of revenue 3) Most recent line of credit as a percentage of revenue 4) Cost of electricity as a percentage of revenue 5) Cost of fuel as a percentage of revenue 6) Cost of fuel, labor, and electricity as a percentage of revenue
Informal competition	Presence and effect of competition from unregistered or	1) Does this establishment compete against unregistered or informal firms? (Yes/No) 2) To what degree are the practices of competitors in the informal sector an obstacle to the current operations of this establishment? Scale: 0 = No obstacle, 1 = Minor obstacle, 2 = Moderate obstacle, 3 = Major obstacle, 4 = Very severe obstacle

Construct		Definition	Items
Bribing activity	Bribing payment	Bribes paid or requested to be paid	1) It is said that establishments are sometimes required to make gifts or informal payments to public officials to "get things done" with regard to customs, taxes, licenses, regulations, services, etc. Was a gift or informal payment made? (Yes/No) 2) Was a gift or informal payment expected or requested? (Yes/No) 3) Was a gift or informal payment expected or requested? (Total number of incidents)
	Gift expected	Informal gift or payment expected	1) When applying for an operating license, was an informal gift or payment expected or requested? (Yes/No) 2) When applying for an import license, was an informal gift or payment expected or requested? (Yes/No) 3) When applying for a construction permit, was an informal gift or payment expected or requested? (Yes/No) 4) When clearing goods through customs, was an informal gift or payment expected or requested? (Yes/No) 5) When applying for a water connection, was an informal gift or payment expected or requested? (Yes/No) 6) When applying for an electrical connection, was an informal gift or payment expected or requested? (Yes/No)
	Bribing impact	Impact of paying bribes	It is often said that firms make unofficial payments, gifts, private payments, or other benefits to public officials to gain advantages in the drafting of laws, decrees, regulations, and other binding government decisions. To what extent have the following practices had a direct impact on this establishment? 1) Payments, gifts, or benefits to parliamentarians to influence their votes. 2) Payments, gifts, or benefits to national government officials intended to influence the content of government decrees. 3) Payments, gifts, or other benefits to local or regional government officials to influence their votes or the content of government decrees. Scale: 0=No impact, 1=Minor impact, 2=Moderate impact, 3=Major impact, 4=Very major impact
Firm performance		Three-year sales and productivity growth	1) Real sales growth between 2016 and 2019, taking inflation into account. 2) Real productivity growth (number# of employees per sales) between 2016 and 2019, taking inflation into account.
Firm age (control)		Number of years firm incorporated	1) In what year did this establishment begin operations?

Appendix B: Firm and Interviewee Characteristics

Criteria	Characteristics	Number		
		Kyrgyzstan	Georgia	Total
Total		10	11	21
Gender	Male	6	10	16
	Female	4	1	5
Industry	Services	4	5	9
	IT		4	4
	Construction	4		4
	Finance	1	2	3
	Manufacturing	1		1
Role at company	Owner	6	4	10
	CEO	4	4	8
	Partner		2	2
	VP		1	1
Size of company	Small <100	6	7	13
	Medium 99–999	3	2	5
	Large >1,000	1	2	3
Age of company	3–5	4	4	8
	6–10	2	2	4
	11–20	2	4	6
	Over 20	2	1	3
Age of interviewee	<40	2	2	4
	40–49	3	9	12
	50–59	5		5
Educational attainment	Bachelors	6	3	9
	Masters	3	6	9
	JD		1	1
	PhD	1	1	2
Western education	No	7	7	14
	Yes	3	4	7
Interpreter	No	2	5	7
	Yes	8	6	14

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Section 3

Sectoral Challenges and Policy Applications

Chapter 8

Anti-Corruption Framework for the Ghana Police Service Reform

Ilham Dwi Hatmawan

Abstract

Corruption remains a pervasive challenge within the Ghana Police Service (GPS), undermining public trust and institutional legitimacy. Despite past reforms, including salary increases, corruption persists, manifesting as bribery, extortion, and case brokering due to systemic pressures, opportunities, and rationalisations embedded in organisational culture. This chapter proposes an anti-corruption framework for GPS reform, integrating new public management (NPM) principles and Cressey's Fraud Triangle to address structural, cultural, and psychological dimensions of corruption. The framework adopts a 'palace' metaphor, with trust and legitimacy as its crown, supported by pillars including new values and norms, meritocracy, disclosure and reporting, rules and procedures, and digitalisation. Foundational elements include capacity building, recruitment, and acknowledgement of corruption. Challenges such as political resistance, capacity gaps, and entrenched patrimonial norms are acknowledged, but opportunities exist through Ghana's National Anti-Corruption Action Plan (NACAP), digitalisation, and civil society engagement. The chapter advocates for pilot testing and longitudinal research to refine the framework, emphasising holistic, culturally attuned reforms to restore GPS integrity and public confidence.

Keywords: anti-corruption, new public management, public sector reform, fraud triangle, police, Ghana

1. Introduction

This chapter identifies a chronic problem of corruption in all branches of the Ghanaian public sector, particularly in the Ghana Police Service (GPS). In 2018, Transparency International (TI) released a report indicating that the Ghanaian police were the most corrupt organisation in Ghana [1]. The GPS faces a public trust challenge that can reduce compliance and create social dysfunction due to an integrity problem, which calls for reform within its organisation [2, 3]. Efforts have been made to raise officers' salaries to reduce petty corruption, but this initiative inadvertently led to more severe corruption, including bribery, extortion, selective enforcement, and case brokering [1, 4]. A study by the International Growth Centre (IGC) revealed that after the GPS doubled its officers' salaries in 2015, police officers increased their bribery demands rather

than feeling fulfilled and ceasing corrupt practices [1, 5]. TI concluded that the reason for this situation in the GPS is a combination of family pressure, limited oversight, and small incentives, which create numerous opportunities for corruption [6]. The Fraud Triangle [7], comprising pressure, opportunity, and rationalisation, will be used together with the new public management (NPM) approach to develop a holistic strategy for preventing corruption in the GPS by addressing its structural, psychological, and cultural dimensions. This chapter argues that the GPS requires holistic organisational reform and proposes a culturally tailored anti-corruption framework to reduce corruption within the organisation.

This chapter begins by defining key concepts, including corruption, anti-corruption, public sector reform, and organizational culture, to establish a shared vocabulary and contextualize the GPS's challenges. Next, it explores theoretical foundations, combining NPM and Cressey's Fraud Triangle to analyse corruption's systemic drivers, such as pressure, opportunity, rationalization, and reform levers, like efficiency and accountability. The subsequent section proposes an anti-corruption framework, modeled as a 'palace', with trust and legitimacy as its ultimate goals, supported by actionable pillars, including new values and norms, meritocracy, disclosure and reporting, rules and procedures, and digitalisation. Lastly, the foundational steps, like capacity building, recruitment, and acknowledgement that can become sources of implementation challenges, which involve political resistance and capacity gaps, are then weighed against opportunities like Ghana's National Anti-Corruption Action Plan (NACAP) and public demand for change. The chapter concludes by advocating pilot testing and future research to refine the framework, emphasizing culturally attuned, evidence-based reform to restore GPS integrity.

2. Concepts

This chapter employs four key concepts, including corruption, anti-corruption, public sector reform, and organisational culture. Through these concepts, this chapter emphasises the importance of addressing corruption within the GPS through a more holistic organisational and cultural transformation in the organisation.

First, corruption in the Ghanaian Criminal Offences Act (Act 29) of 1960 is defined as conduct performed by a person as an officer, juror, or voter 'influenced by the gift, promise, or prospect of any valuable consideration to be received by that person or by any other person, from any other person' [8–10]. The working group behind Ghana's NACAP evaluated that this definition is too narrow, as corruption under Act 29 commonly identifies bribery. Hence, in NACAP, and later used to understand corruption in the Ghanaian government after the document was released in 2011, it is defined as 'the misuse of entrusted power for private gain... (that includes) bribery, embezzlement, misappropriation, trading in influence, abuse of office, abuse of power, illicit enrichment, laundering of proceeds of crime, concealment, obstruction of justice, patronage, nepotism, and conflict of interest' [8, 10].

Second, the Ghanaian government [2, 8], through NACAP, understands anti-corruption as an integrated action to 'fight against corruption' across the country, as reflected in the strategic action plans endorsed by the public and private sectors

during the national consultation period. These actions aim to reduce the pervasive problems that have caused corruption to flourish in Ghana, such as a minimal commitment to positive values that promote good governance, like integrity and self-discipline; the culture of gift-giving; ineffective incentive mechanisms; and weak law enforcement in the patrimonial environment, which undermines good governance in favour of maintaining informal relations, like family connections and social reciprocity [8, 11].

Third, public sector reform, as observed by Boyne (2003) and further elaborated upon by Marsh and McConnell [12], encompasses every attempt that includes, but is not limited to, the reorganisation and restructuring of public organisations to deliver better services to the people. Reform is different from changes. Reform refers to deliberate, often externally initiated changes guided by a clear plan aimed at transforming an organisation, whereas change can occur spontaneously as a natural response to new circumstances without a predefined goal [13]. Generally, in the Ghanaian government context, public sector reforms intended to address corruption have faced failures due to several reasons. These include low organisational participation in the formulation and implementation stages, which generated minimal organisational ownership, ineffective coordination across organisations, limited support for strategic implementation by the government, and a simplistic view of corruption as a problem of greed and weak laws rather than a complex combination of economic pressures, weak organisation, cultural norms, and social expectations [8]. This fact invites organisational reform within the GPS that considers a more holistic approach, intervening in the police as both an organisation and as individuals. Tankebe [14] argues that for a successful police reform in Ghana, it should be part of the wider Ghanaian public sector reform. While Pollitt [9] suggests that a successful reform is hard to measure, this chapter defines a successful anti-corruption reform in the GPS as one marked by a consistently declining perception of corruption, as reported by Global InfoAnalytics, which began at 6.43 [15] based on their national poll in 2025.

Fourth, Kroeber and Kluckhohn (1961), in Bouckaert [16, 17], explain that 'Culture consists of patterns, explicit and implicit of and for behavior acquired and transmitted by symbols, constituting the distinctive achievement of human groups, including their embodiment in artifacts; the essential core of culture consists of traditional (i.e. historically derived and selected) ideas and especially their attached values; culture systems may, on the one hand, be considered as products of action, on the other as conditioning elements of future action.' The explanation about culture that this chapter aims to emphasise comes from Adler (1933), as cited in [16], which suggests that culture has an element of heredity. This means that what people in a particular community believe to be acceptable is often a result of learning from the previous generation. Hence, when it comes to organisational culture reform, Bouckaert [16] suggests that organisational culture sometimes shapes the way a professional community, such as the police, behaves and makes decisions. For an effective GPS anti-corruption reform, an understanding of organisational culture helps to examine whether the culture within the organisation, like gift-giving and patrimonial cultures, tolerates corruption. When NAPAC was first introduced in Ghana, the working group acknowledged that this cultural issue must be addressed beyond using formal rules to change Ghanaian officers' behaviour that inclines them towards an anti-corruption mindset.

3. Theories

This chapter assumes that corruption in the GPS is deeply embedded in its organisational culture, which is influenced by patrimonial norms and individual preferences that tolerate and normalise corrupt practices. To understand and potentially reform this environment, the chapter draws on the NPM model from the field of public administration and Cressey's [7] Fraud Triangle to assess the problems that the proposed anti-corruption framework for the GPS aims to address.

First, NPM advocates for greater efficiency, transparency, and accountability by applying private sector management principles to the public sector [9, 18]. They mention that the key features of NPM include performance measurement, decentralisation, competition, and customer-oriented service delivery, which characterise how private businesses work. When applied to the GPS, NPM suggests that implementing more measurable outcomes, citizen accountability, and transparency in the reform processes taken within the organisation could weaken the entrenched cultures that permit corruption [19]. However, for NPM to be effective in this context, this chapter argues that it must be implemented with sensitivity to local culture, political dynamics, and institutional constraints; otherwise, it risks becoming another technocratic exercise that fails to influence underlying value systems.

Second, Cressey's [7] Fraud Triangle, on the other hand, identifies three key conditions that must be present for corruption to occur: pressure, opportunity, and rationalisation. First, pressure refers to the motivation or stress that drives someone to commit fraud. In the context of the GPS, pressure commonly arises from low wages and family expectations [8]. Second, opportunity is the condition that allows the fraud to occur. Rahman [1] and the Ghanaian government [8] found that the concerning problem of corruption among GPS officers stems from weak oversight or unchecked discretion. Third, rationalisation involves the fraudster's internal justification, convincing themselves that they deserve the benefit and that their offending behaviours are necessary or harmless within their organisation.

4. Framework overview

This chapter proposes an anti-corruption framework built upon the concepts and theories presented in the previous sections and tailored with a case study from the GPS. The framework employs metaphors such as a crown, pillars, and foundation, likened to a palace-form that is commonly used as an analogy in organisational performance improvement [20], to help users – in this context, the GPS – understand complex ideas around anti-corruption reform by relating them to familiar concepts. Firstly, the crown represents the purpose or outcome that is expected from the reform agenda. Secondly, the pillars depict the primary elements that play key roles in achieving the ultimate goal. Thirdly, the foundation outlines core principles essential for initiating the reform. All the layers work together, from the bottom up, creating a strong base that allows the layers above it to stand firm and be fully realised.

In general, these are the components of each part of the palace. First, the crown is built on trust and legitimacy as the purpose of anti-corruption reform within the GPS. Second, the pillars contain new values and norms, meritocracy, disclosure and

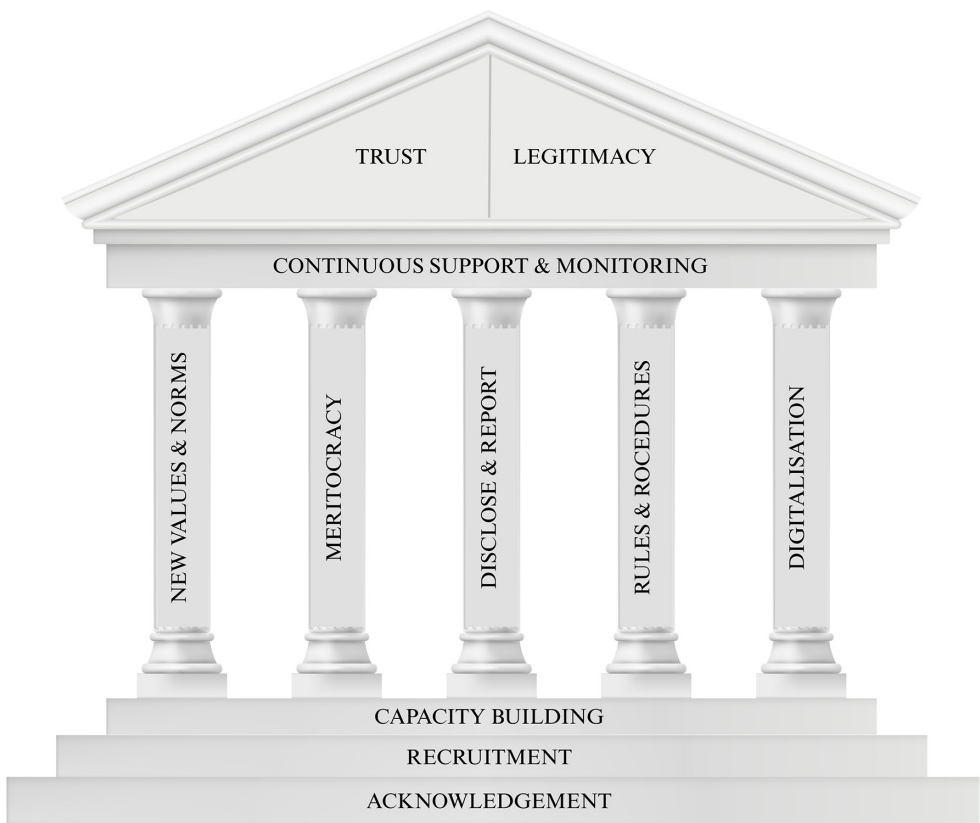


Figure 1.
Anti-corruption framework for the Ghana police service reform.

reporting, rules and procedures, and digitalisation as actionable elements that can take the form of practice, policy, or standard to guide user behaviour in achieving the purpose of reform. Between the pillars and the crown, the framework emphasises the importance of ongoing support and monitoring, underscoring the need for consistent evaluation and continuous improvement by the GPS. Third, the foundation incorporates capacity building, recruitment, and acknowledgement, which represent the initial actions needed to activate anti-corruption reform and ensure the pillars are implemented effectively across all functions within the organisation. The illustration of the proposed framework is shown below (**Figure 1**).

5. Explanation of the anti-corruption framework's components

The framework proposed in this chapter is designed to address problems that have been identified in the GPS. From top to bottom, trust and legitimacy are placed as the highest outcomes of the reform, based on the nature of the organisation. The nature of the organisation here is the GPS's ultimate function to maintain social order [21], which requires cooperation with the people they serve [3]. The fact that corruption in the GPS reduces public confidence in the institution [14] arguably signals, although it requires more empirical study, that the GPS needs to reform its

institution. A reform that considers public perception, aiming to satisfy the public, aligns with the spirit of NPM, which puts attention on customer satisfaction [18]. To achieve its core mission, the GPS must rekindle public trust, which has been diminished in part due to pervasive corruption. This effort is expected to generate the legitimacy of the police when they exercise their power to maintain Ghanaian social order. Police legitimacy is highly crucial in this context because when people perceive the police as legitimate, they prefer to follow rather than reject the work of police officers in the community [22]. Additionally, under the crown, the framework calls for the GPS to perform continuous support and monitoring as a means of long-term improvement to achieve the purpose of the anti-corruption reform in the future. This approach in the reform serves as a stimulus to introduce the concept of a learning organisation, which encourages organisations to regularly reflect on their actions to identify areas that need improvement, as proven effective in police reform [23].

Next, the pillars involve, firstly, values and norms that address the problem of organisational culture, which is identified by Rahman [1] and the Ghanaian government [8] as a factor that induces corruption to persist in the GPS. Kubbe et al. [24] explain that values represent what is right or wrong, while norms imply a consensus between parties on what is acceptable or unacceptable. They emphasise that a strategy to combat corruption, in which the norms are in contrast with anti-corruption values, will lead to its failure. New norms help shape a culture of integrity [24] that enables the GPS to establish a pro-anti-corruption organisational culture. The new values and norms are expected to break the vicious cycle of corruption when the reform is applied within the organisation.

Secondly, a meritocracy ensures that recruitment, promotion, and rewards within the GPS are based on competence and performance rather than personal connections or favouritism, which perpetuates nepotism. This is a common problem in the GPS, stemming from family expectations and pressure. While several studies have found that certain career paths and generous salaries have no significant effect on reducing corruption [1, 5, 25, 26], studies by Dahlström et al. [26] and Pyman [27] highlight the success and relevance of meritocratic human capital management strategies in anti-corruption reform, particularly in police institutions. In the context of human capital management, this includes, but is not limited to, recruitment and capacity building as fundamental measures to prepare human capital that upholds integrity and professionalism in their job while combating nepotism in the GPS.

Thirdly, disclosure and reporting mechanisms reflect the need for holistic oversight that enables both internal and external stakeholders, such as police officers themselves, the public, parliament, and the judiciary, to participate in reducing opportunities through transparent and accountable checks and balances mechanisms. The promotion of transparent and accountable disclosure and reporting, such as police whistleblowing [28], is an inevitable facet of effective anti-corruption strategies. When clear channels exist for reporting misconduct, and when such reports are acted upon, Taylor et al. [28] suggest that this effort creates a deterrent effect and signals a genuine commitment to the realisation of cultural change in the organisation. This mechanism in the GPS can be encouraged by creating a safe and supportive environment where officers know that reporting corruption will lead to real consequences for wrongdoers and will not harm their own careers. Miller [29] advises that this action requires a trusted internal investigations unit, a culture that values reporting, and strong protections for whistleblowers for the mechanism to be effective.

Fourthly, codified rules and procedures are central to addressing uncertainty and preventing rationalisation that allows police officers to justify their corrupt behaviours. Schoeberlein [11] suggests that codified standards of conduct and well-defined operational procedures limit the discretionary power of individual officers. The High-Level Advisory Group [30] notes that this effort can mitigate the risk of arbitrary decision-making and corruption, aligning with the spirit of anti-corruption reform within organisations. Standardisation ensures that all officers are held to the same expectations and that deviations can be identified and addressed consistently. This certainty discourages irrationality among GPS officers that leads them to commit corruption, as it results in a higher cost than the benefit they receive. de Graaf [31] argues that establishing an environment where the consequences of engaging in corruption are clear and consistently enforced is an effective way to reduce corrupt behaviour.

Lastly, in the age of the internet, digitalisation – the adoption of digital technology to transform public service delivery processes [32] – should play a role as an enabler of anti-corruption plans across the GPS. Several studies have found that digitalisation helps the government reduce corruption, but only if the officers are well-trained, the public is familiar with the technology, and the government is fully committed to transparency and accountability from the beginning [10, 33]. Unfortunately, a study by Abdul-Salam et al. [32] concluded that relatively new digitalisation in the Ghanaian public sector has not shown a linear benefit in reducing corruption. However, learning from their research, which emphasises that when leaders commit to transparency and accountability, and stakeholders are ready to use digital tools, digitalisation remains essential in the proposed anti-corruption framework to ensure future relevance for the GPS.

Finally, the base of the structure in the framework indicates that capacity building, recruitment, and acknowledgement are the starting points for reforming corrupt practices within the institution. In an anti-corruption police reform, Chêne [17] advises that officers at all levels require training to understand how to react when they encounter misconduct and to work together in combating corruption. She highlights the importance of training for the managerial level, as she considers them to have the power to influence numerous subordinates to lean more towards pro-anti-corruption behaviour. This leader-member relationship highlights the importance of both the commitment and the capacity of GPS leaders to act as the first line of reform. Ward [18] argues that successful reform depends on leaders' ability to foster a sense of unity by promoting mutual influence grounded in shared values aligned with the anti-corruption agenda.

Furthermore, one step behind the training – not to mention that it is ineffective to do in parallel – recruitment of the new police officers must follow the meritocratic principle. Several studies, as mentioned earlier, underscore the importance of this action in preparing future leaders who can sustain the purpose of the anti-corruption reform in the GPS [26, 27].

Last but not least, the first step of the reform is an acknowledgement of corruption as a serious crime that exists in the organisation, which serves as a critical first step in rebuilding legitimacy and fostering a culture of accountability. O'Brien and Tyler [22] argue that when police fail to meet public expectations – in this case, becoming a nest of corruption – they must first rebuild trust by sincerely acknowledging their shortcomings and offering a genuine apology to the

communities they serve. Therefore, before advancing to the next stage of meaningful reform, the GPS needs to take reconciliatory action that begins with a sincere acknowledgement.

6. Conclusion, limitations, opportunities, and future research

This chapter found that corruption within the GPS is a systemic and cultural problem that requires improvement, both in the GPS and its surrounding Ghanaian public sector environment. In addition, the anti-corruption framework, prepared in consideration of the GPS's culture and institutional realities, offers a holistic approach that addresses individual, organisational, and societal drivers of corruption. Its implementation comes with several challenges. First, the structural dependence of the GPS on other government executives compromises sustained reform, making it vulnerable to shifts in political will [2]. Second, contrasting interests, especially among senior officers who benefit from the status quo, may resist reforms that threaten existing power structures [34]. Third, generally, the Ghanaian public sector lacks the operational capacity to enforce digitalisation uniformly, particularly in rural or under-resourced offices [32]. These limitations underscore the importance of coupling reform design with long-term institutional investment and stakeholder alignment.

Despite these limitations, several opportunities exist that provide prospects for sustainable reform. First, NAPAC signals political will and creates space for ongoing dialogue, monitoring, and coordination among anti-corruption stakeholders [8]. Second, digitalisation efforts across the broader Ghanaian public service have helped reduce face-to-face interactions that often facilitate bribery while promoting greater transparency and data integrity [32]. Third, strong public demand for change, driven by media scrutiny and civil activism in a democratic society, places sustained pressure on the GPS to take the reform agenda seriously [35]. These developments offer strategic entry points for operationalising the Anti-Corruption Framework in the GPS.

After all, as the framework's formulation relied on limited secondary data, during implementation, GPS is encouraged to conduct an empirical experiment as a pilot project that guides the massive implementation across its organisation in order to anticipate problems and failures. Future research could expand this model through comparative studies, difference-in-differences (DiD) analysis, or longitudinal evaluation to assess the long-term impact of anti-corruption reforms in policing in Ghana and in different jurisdictions.

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Conflict of interest

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Chapter 9

Digital Integrity in the Gulf: Policy Innovations and Technological Tools to Combat Corruption in GCC States

Lotfi Hamzi

Abstract

Digital technologies are increasingly used to enhance transparency and accountability in public governance. In the Gulf Cooperation Council (GCC), governments have deployed e-procurement systems, open data portals, and artificial intelligence (AI) tools to modernize public administration and deter corruption. However, the impact of these technologies varies widely across the region. This chapter analyzes how legal frameworks, institutional structures, and civic conditions shape the effectiveness of digital anti-corruption tools in six GCC countries: the United Arab Emirates, Saudi Arabia, Qatar, Kuwait, Oman, and Bahrain. Using a comparative legal-policy approach, the study identifies the enabling conditions that determine whether digital innovation results in structural integrity reform or merely administrative efficiency. Findings suggest that while digital tools offer significant potential, their success depends on coherent legislation, inter-agency coordination, and inclusive governance.

Keywords: Gulf Cooperation Council, digital governance, anti-corruption, e-government, legal reform, public procurement, transparency, artificial intelligence, blockchain, civic engagement

1. Introduction

The Gulf Cooperation Council (GCC) states are often hailed as pioneers of digital transformation in the Arab region. Over the past decade, governments in Saudi Arabia, the United Arab Emirates, Qatar, Kuwait, Bahrain, and Oman have rolled out national digital strategies, e-government platforms, and data-driven public services that reflect their ambition to modernize governance and foster economic diversification [1–3]. Digital transformation is frequently framed in official discourse as a cornerstone of “post-oil” development models, aiming to reduce bureaucratic inefficiencies, streamline public services, and enhance competitiveness in the global economy.

However, this drive toward digitization coexists with persistent concerns over public integrity, elite capture, and institutional opacity in several of these same countries [4–6]. In recent years, global governance indexes and corruption risk assessments have continued to highlight the discrepancy between formal transparency initiatives and informal practices that limit accountability. As the region's governments invest heavily in technologies such as artificial intelligence (AI), blockchain, and open data infrastructures, critical observers have raised concerns about whether these tools truly disrupt entrenched patronage systems or merely digitize existing power asymmetries [5, 7].

This apparent paradox – technological innovation in governance coexisting with unresolved structural corruption risks – raises an important question: Can digital tools meaningfully strengthen integrity, accountability, and transparency in the public sector in the Gulf?

Answering this question requires moving beyond the technocratic narratives that dominate regional digital transformation agendas. While it is tempting to view digital tools as neutral or inherently modernizing, their governance outcomes are deeply shaped by the legal frameworks, institutional contexts, and sociopolitical dynamics into which they are embedded. In other words, technology is not deployed in a vacuum; it reflects policy choices, institutional incentives, and strategic interests that vary widely across and within GCC states [6, 8–10].

While previous research has examined the role of foreign aid in combating corruption in the Arab region, including in post-Arab Spring contexts [11], this chapter focuses on the emerging role of digital technologies as instruments of public integrity within the specific institutional and political fabric of the GCC. It explores how digital technologies are being used – or could be used more effectively – to combat corruption in the GCC. Drawing on cross-national examples and comparative legal-policy analysis, the chapter examines the enabling legal frameworks, institutional dynamics, and operational functionalities of selected digital integrity tools.

These include blockchain-based procurement platforms, AI for anomaly detection, and open data initiatives designed to enable public scrutiny of governmental activities. Although such tools have been promoted in national digital strategies, their success is far from guaranteed. Their impact varies significantly across the region and depends on multiple intersecting factors, including political will, legal clarity, civic space, inter-agency coordination, and institutional autonomy [7, 9, 12].

In many cases, the implementation gap – between what technology promises and what it delivers – remains wide. For instance, a digital platform may centralize procurement procedures and reduce manual inefficiencies, but if it does not disclose contract data or allow public oversight, its anti-corruption value is limited. Similarly, blockchain registries may provide tamper-resistant databases, but without independent auditing mechanisms, their transparency potential is curtailed. And AI tools may detect anomalies in financial flows, but if these insights are not acted upon by empowered oversight bodies, the tools become mere technocratic ornaments [5, 9, 13].

Rather than treat digitalization as a silver bullet, the argument advanced here is that gains in integrity depend less on technological adoption alone than on the coherence of legal frameworks, the autonomy of oversight institutions, and the degree of public and media engagement [5, 10, 12]. The real value of technology lies

in how it is integrated into systems of governance that allow contestation, deliberation, enforcement, and participation. Absent such integration, digital innovation may enhance administrative efficiency while leaving corruption risks intact – or even hidden beneath complex technical layers [14].

This chapter thus adopts a critical institutionalist lens, one that situates digital governance reforms within broader political economy structures. Rather than assessing digital tools solely based on their technical features, the analysis probes the legal and institutional enablers – or inhibitors – of effective anti-corruption outcomes. By examining concrete tools implemented in the six GCC countries and assessing their legal-institutional contexts, the chapter seeks to distinguish symbolic innovations from substantive reforms.

The chapter is organized as follows:

- Section 2 provides a contextual overview of digital governance trends and anti-corruption challenges in the GCC.
- Section 3 explores the most significant digital tools adopted in the region to promote transparency and accountability, including their strengths and limitations.
- Section 4 discusses structural and institutional constraints that limit the impact of these tools, such as legal gaps, institutional centralization, and restricted civic engagement.
- Finally, Section 5 outlines strategic pathways to embed integrity into digital governance frameworks across the Gulf, combining legal reform, institutional redesign, and civic participation.

Ultimately, the chapter contributes to a growing literature that cautions against technological solutionism in anti-corruption policy and instead advocates for a holistic approach – one that aligns digital innovation with the foundational norms of public accountability, legal transparency, and participatory governance [9, 15, 16].

2. Digital governance and the quest for integrity in the Gulf

The GCC countries have aggressively pursued digital transformation agendas, often framed as strategic levers for economic diversification, public sector efficiency, and citizen-centric service delivery [1–3]. National initiatives such as Saudi Arabia’s Vision 2030, Qatar’s TASMU program, and the UAE’s Digital Government Strategy are emblematic of this shift toward a digitally enabled state [1, 2]. These frameworks emphasize smart government, seamless services, real-time data integration, and digital-by-default delivery models as markers of modernization and competitiveness.

These strategies have translated into tangible infrastructure. The UAE ranks among the global leaders in e-government readiness and AI adoption in the public sector [15, 17], while Saudi Arabia has built one of the most expansive digital government ecosystems in the Middle East [13]. Qatar has developed sectoral data governance frameworks under TASMU, and Oman has invested in blockchain

registries and digital identification systems [3, 18]. At a structural level, digital governance is no longer a peripheral reform but a central axis of state modernization in the Gulf.

However, digital transformation does not inherently produce transparency or accountability. While e-government can reduce face-to-face interactions that foster petty corruption, it does not automatically constrain elite capture, policy opacity, or abuse of discretionary power [4, 5, 19]. In fact, global literature on ICT-enabled citizen engagement stresses that information technologies must be embedded in institutional ecosystems that enable feedback loops, accountability mechanisms, and legal enforcement [9, 16, 20]. In contexts where political authority is highly centralized and civic engagement remains limited, technology may become an instrument of technocratic management rather than democratic responsiveness [6, 12, 21].

This divergence between digital ambition and institutional effectiveness reveals a deeper implementation gap. While technical capabilities exist, their impact is mediated by power structures, legal ambiguity, and the limited autonomy of oversight actors [10, 22, 23]. In such contexts, the transformative potential of technology is often neutralized or reabsorbed into dominant administrative logics.

In the Gulf, efforts to digitalize governance have yielded impressive service delivery gains, such as online licensing, mobile identity authentication, and digital payment integration. For example, platforms such as *Etimad* (Saudi Arabia), *Sahel* (Kuwait), and *UAE Pass* offer streamlined access to services and e-procurement. Yet, these platforms often lack embedded transparency features, such as open contract data, public audits, or real-time red-flag alerts [13, 14, 24]. Many GCC platforms are designed for internal efficiency rather than external accountability. While they reduce transaction costs and enhance service speed, they seldom empower civil society or independent media to monitor public spending or expose malpractice.

In some instances, centralized data architectures reinforce executive control over information without creating mechanisms for public contestation or independent review. This is particularly visible in the limited availability of disaggregated, real-time data on public procurement, budgeting, and administrative decisions. In Saudi Arabia, for instance, while tender announcements are posted online, comprehensive data on contract implementation, amendments, or performance benchmarks are rarely available to non-state actors [24].

Moreover, the legal environment for open government remains underdeveloped in several GCC countries. Freedom of Information (FOI) laws are either absent or narrowly interpreted, and independent oversight institutions – such as anti-corruption commissions or supreme audit bodies – often lack operational autonomy and access to critical government data [22, 25, 26]. In most Gulf countries, there is no legal obligation for government agencies to disclose data beyond voluntary transparency portals, which themselves often lack quality assurance or periodic updates.

For example, while Bahrain and Kuwait have adopted some transparency measures, including limited FOI provisions and public procurement portals, the enforcement gap remains significant. Attempts to introduce broader FOI laws often collide with entrenched executive prerogatives and national security narratives, which are frequently invoked to limit public access to government-held information [27, 28]. These legal voids are not accidental; they reflect a broader reluctance to institutionalize mechanisms of horizontal accountability, which would allow citizens, journalists, and opposition actors to scrutinize public actions.

Furthermore, digital governance projects are often deployed without citizen co-design or participatory oversight mechanisms. Civic engagement is treated as optional, not foundational. As a result, even sophisticated digital platforms risk becoming technocratic shells that increase efficiency without enhancing trust or legitimacy. The risk is not simply inefficacy – it is the legitimization of digital authoritarianism, where technological tools are used to optimize centralized control while projecting a facade of modernization [21, 29, 30].

Another overlooked dimension is data privacy and cybersecurity governance, which remains fragmented or underdeveloped in most GCC states. The integration of biometric identity systems, cross-ministerial data sharing, and AI-based surveillance tools raises important concerns about data protection and due process rights [29, 31]. In the absence of strong privacy laws or independent data protection authorities, the expansion of digital governance can facilitate opaque data practices, unaccountable surveillance, and algorithmic discrimination [10, 17].

These tensions highlight that digital governance, when deployed without legal safeguards or participatory mechanisms, can entrench rather than disrupt centralized control. The promise of digital transformation becomes conditional on governance models that privilege transparency, pluralism, and civic engagement – not just service optimization.

In sum, while the GCC has made considerable strides in building digital infrastructure, its impact on public integrity remains uneven and context-dependent. What is at stake is not the capacity to digitize, but the political willingness to democratize digital governance. The next section explores how these contradictions manifest in concrete tools – such as e-procurement platforms, blockchain registries, AI-based risk detection, and open data portals – and what they reveal about the region's evolving integrity landscape.

3. Digital tools for public integrity: Innovations in the Gulf

Governments in the Gulf have deployed a range of digital tools to enhance transparency, prevent corruption, and promote public integrity. These initiatives vary in scope, technological sophistication, and legal grounding. They reflect not only technological ambition but also political choices about what kinds of accountability are prioritized – and which are systematically avoided.

Despite the visibility of digital platforms and innovation labs, the use of technology for anti-corruption purposes remains uneven and often fragmented across the region. Tools such as e-procurement platforms, blockchain-based registries, AI applications, and open data portals offer significant potential; yet, their actual contribution to integrity depends on how they are designed, governed, and embedded in institutional ecosystems [5, 9, 12].

The following subsections examine the most prominent digital tools adopted in the GCC, highlighting both their innovative features and operational limitations.

3.1 e-Procurement and smart contracting

Public procurement remains one of the most vulnerable areas to corruption globally, and the GCC is no exception [4, 5, 19]. Procurement-related corruption can take many forms: bid rigging, collusion, kickbacks, ghost vendors, or conflicts of

interest. In response, several Gulf states have adopted digital procurement platforms to automate and monitor the tendering process.

Saudi Arabia's *Etimad* platform, launched under the Ministry of Finance, centralizes bidding processes, vendor registration, and payment management for all government entities [13]. It enhances procedural transparency and reduces opportunities for arbitrary allocation. However, detailed contract data and real-time red-flag analytics are not publicly accessible, limiting external scrutiny [13, 24]. *Etimad* also lacks user-friendly dashboards for non-expert stakeholders, such as journalists or watchdog NGOs.

Although *Etimad* has improved internal efficiency and reduced paper-based inefficiencies, it does not offer open access to audit trails or contract performance data – key elements for external accountability. The lack of interoperability with independent oversight institutions further limits its potential as a corruption-deterrence mechanism [13].

In Kuwait, the Central Agency for Public Tenders (CAPT) has introduced digital bidding modules, including electronic document submission and prequalification systems. However, procurement-related decisions – especially in strategic sectors such as defense, infrastructure, and hydrocarbons – are often exempt from full disclosure, reducing the integrity gains of digitalization [22, 23, 31].

Qatar's Ministry of Finance operates a Procurement Regulatory Authority portal that manages bids and contracts. While technically functional, access is generally restricted to registered firms. There is no public registry of procurement outcomes, no feedback loops, and limited user data on the identity of bidders, contract amendments, or delivery performance [3, 28].

By contrast, Oman's eTendering portal has introduced some transparency features, including downloadable RFPs and contract award announcements. Yet, here too, contract execution data, complaint mechanisms, and dispute outcomes remain opaque. In Bahrain, the Government Tender Board portal is among the most open, offering tender notices, bidder information, and award decisions. However, it lacks longitudinal data on implementation, subcontracting, or sanctions for non-compliance [3, 14].

These examples illustrate a broader pattern: digital tools are deployed to streamline bureaucratic processes but rarely to empower independent monitoring or civic scrutiny. The result is a form of partial digitalization that avoids politically sensitive reforms. Notably, none of the GCC countries have adopted Open Contracting Data Standard protocols, which provide detailed guidelines for publicizing each stage of the procurement process [32].

In this regard, the experience of Ukraine's *ProZorro* platform offers a useful counterpoint: it combines real-time publication of procurement documents with civil society oversight and algorithmic alerts for anomalies – elements still largely absent in the Gulf [33].

3.2 Blockchain for secure registries

Blockchain technology has been hailed as a revolutionary tool for transparency, offering tamper-resistant ledgers that can increase traceability and deter fraud. In the GCC, blockchain-based tools are emerging in land and asset registries, though adoption remains pilot-based or limited to specific government departments.

The Dubai Land Department has adopted blockchain to manage ownership transfers, aiming to reduce fraud and streamline real estate transactions [18]. The system ensures that each property record is time-stamped, encrypted, and stored in a decentralized format. Similarly, Bahrain has piloted blockchain applications for digitized government documents in partnership with private sector actors [3, 14].

However, while these systems promise tamper-proof recordkeeping, their impact on corruption depends on public accessibility and auditability. In most cases, blockchain platforms in the Gulf remain government-facing, without mechanisms for civil society or independent bodies to verify transactions or detect anomalies [18, 21].

For example, the Dubai blockchain registry allows internal verification but does not publish anonymized records or permit public comparison of ownership histories. This limits its usefulness as an anti-corruption tool and reflects an institutional design focused on efficiency rather than external transparency [18, 25].

Furthermore, the legal frameworks surrounding blockchain use remain vague, particularly regarding data ownership, consent, and algorithmic accountability. Without robust FOI laws or independent oversight institutions, the benefits of blockchain for transparency may remain largely theoretical or symbolic [5, 31].

In addition, blockchain systems are often developed through public-private partnerships, raising concerns about vendor lock-in, cybersecurity vulnerabilities, and the transparency of procurement arrangements for the underlying infrastructure [10, 29].

Recent research by Alshhadat (2024) confirms that regulatory ambiguity, cultural resistance, and insufficient blockchain literacy within public institutions remain major barriers to effective adoption in the GCC. These constraints contribute to a form of digital stagnation, in which blockchain is cited as a priority in national strategies but rarely implemented as a governance tool [34].

3.3 AI and predictive analytics

Artificial intelligence is being increasingly integrated into administrative systems across the GCC. Governments use AI tools for a variety of purposes: detecting anomalies in tax declarations, predicting procurement fraud, analyzing public service delivery efficiency, and even profiling customs risks.

In the UAE, AI is used to detect discrepancies in tax declarations, monitor performance indicators in health and education, and support digital identity authentication [15, 17]. Saudi Arabia has invested in predictive analytics and machine learning models to audit public procurement and internal expenditures, though little is known about their architecture or governance [13, 35].

While these tools can uncover hidden patterns and flag potential misconduct that manual processes may miss, they raise profound concerns about algorithmic opacity. Few of these systems are subject to algorithmic audits, and there is no publicly available information on how detection models are trained or evaluated [10, 29]. In opaque governance systems, AI tools risk reinforcing arbitrary decision-making rather than challenging it.

Moreover, most Gulf countries lack legal frameworks governing the ethical use of AI in the public sector. Issues such as explainability, accountability, and due process rights for individuals flagged by AI systems are rarely addressed [17, 29]. Without safeguards, there is a risk that AI will simply automate opacity and institutionalize bias [9, 29].

To function as effective anti-corruption tools, AI systems must be governed by transparent algorithms, subject to ethical oversight, and integrated into systems where human redress and appeal mechanisms exist. In the absence of civic oversight and legal clarity, the deployment of AI may expand control without enhancing integrity [23].

A recent comparative study by Albous et al. (2025) found that AI deployment in the Gulf often lacks algorithmic transparency and citizen oversight, and remains concentrated in executive agencies without cross-sectoral consultation or independent audits [36].

Similarly, Ashal and Murshed (2024) observed that, while AI-driven procurement surveillance has been piloted in Qatar and Oman, these tools are rarely subjected to external verification and remain dependent on internal governance rules that vary across agencies [37].

3.4 Open data platforms and civic participation

Several GCC states have launched open data portals to share government information with the public. These include the UAE's *Federal Open Data Portal*, *Qatar Open Data*, and *Saudi Arabia's National Data Management Office* [2, 3, 20]. The idea is to enable third-party actors – researchers, journalists, civil society organizations – to access data that can be used to monitor governance outcomes.

These initiatives mark a positive step toward transparency, yet their impact remains limited by the quality, granularity, timeliness, and usability of the data provided [22, 38]. In many cases, datasets are outdated, not disaggregated by ministry or region, and published in formats that are not machine-readable. Metadata, methodology, and update cycles are rarely disclosed, reducing their analytical utility.

Moreover, the absence of strong right-to-information laws and independent media restricts the ability of civic actors to use this data for accountability purposes [25, 38]. Most portals lack application programming interfaces (APIs) or feedback tools, and few support civic participation mechanisms, such as data requests or corrections.

Although these platforms present themselves as instruments of open government, they often serve symbolic rather than substantive functions. Public dashboards exist but rarely support civic feedback loops, co-creation mechanisms, or journalistic investigations [16, 30].

For example, Saudi Arabia's Open Data Platform publishes high-level statistics but does not enable users to track public budgets, follow procurement pipelines, or access sanction data. Kuwait's transparency initiatives are hindered by the lack of FOI legislation and the weak protection of whistleblowers [26].

The broader risk is that open data becomes decoupled from political contestation – a repository of information with no legal or institutional mechanisms to trigger change. Transparency without action, or without an audience, becomes performative. In the absence of legal mandates and civic capacity, open data platforms risk legitimizing state control rather than enabling democratic scrutiny [9, 16, 20].

A comparative summary of these tools across GCC countries is provided in Annex A. To complement this overview, we also present, in Annex B, a new synthesis table

comparing the legal frameworks, institutional mandates, and civic access mechanisms associated with each type of tool.

Moving forward, more granular case studies – detailing how specific tools were implemented, their political limitations, and pathways for reform – are essential to bridge the implementation gap and inform context-sensitive recommendations.

4. Structural constraints and governance gaps

Despite their digital ambitions, GCC countries face persistent structural and institutional barriers that limit the effectiveness of anti-corruption technologies. These constraints reflect not only technical challenges but also deeper issues of legal design, political centralization, and restricted civic oversight.

As previous findings suggest, even well-intentioned foreign aid can inadvertently reinforce corruption when institutions are weak and civic engagement is constrained [11]. Similarly, digital anti-corruption tools – no matter how advanced – are unlikely to succeed in the absence of legal accountability, institutional autonomy, and public participation [5, 9].

4.1 Legal gaps and asymmetric transparency

Legal frameworks for transparency and accountability remain uneven across the GCC. FOI laws are either absent (e.g., Saudi Arabia, UAE) or nascent, with limited scope and enforcement (e.g., Kuwait, Bahrain) [22, 25, 26]. Where FOI legislation exists, it is often undermined by broad national security exemptions, ambiguous procedures, and weak institutional capacity to process requests [27].

This legal vacuum is not simply a result of underdevelopment but a deliberate institutional choice. As several observers note, information control remains a pillar of regime stability in many Gulf monarchies, where public knowledge of elite networks, procurement decisions, or public assets is considered politically sensitive [16, 21, 23].

Moreover, national anti-corruption strategies frequently lack binding legal mandates or enforceable timelines. For instance, Qatar's 2021 National Anti-Corruption Strategy articulates broad goals – such as fostering transparency and ethical conduct – but does not establish enforceable obligations for ministries to publish procurement or audit data [28].

Across the region, open data platforms function in legal vacuums, with no obligation for accuracy, timeliness, or completeness. Governments retain full discretion over what is disclosed and when, undermining the possibility of independent verification or civic enforcement [9, 38].

This leads to a paradox: digital transparency without legal entitlement, where public access to information is voluntary, partial, and revocable. Without a legal right to know, citizens and oversight institutions are relegated to passive observers of state-selected narratives.

Recent research by Albous et al. (2025) shows that AI deployment across GCC countries occurs largely in the absence of enabling legislation or mandatory algorithmic disclosure rules. Regulatory frameworks on public-sector AI use remain vague or aspirational, with little clarity on citizen redress mechanisms or auditing

procedures [36]. This weak legal environment risks institutionalizing algorithmic opacity and further insulating digital tools from accountability.

Similarly, Alshhadat (2024) notes that, in the case of blockchain-based registries and procurement tracking systems, legal uncertainty – especially around data sovereignty and ledger governance – has prevented ministries from mainstreaming these tools beyond limited pilot projects [34].

4.2 Institutional centralization and executive control

GCC digital initiatives are often developed and managed by central ministries, royal courts, or executive councils, reflecting a model of top-down digitalization. While this enables rapid implementation, it also limits inter-agency coordination, weakens institutional checks, and shields platforms from independent scrutiny [12, 23].

Supreme Audit Institutions (SAIs) – where they exist – often report directly to the executive, limiting their operational autonomy. Many SAIs in the Gulf lack mandates to audit digital platforms, procurement algorithms, or blockchain infrastructure. In some cases, their access to data is restricted by “national interest” clauses that protect ministries from external audits [27, 35].

Transparency units or anti-corruption bodies, such as Nazaha in Kuwait, frequently lack prosecutorial power, budgetary independence, or secure tenure for leadership. This restricts their ability to monitor, investigate, or sanction malfeasance – particularly in high-profile or politically sensitive sectors [23, 31].

Furthermore, most GCC states lack interoperable platforms that allow oversight actors to access real-time public finance or procurement data. Even when tools exist, such as analytics dashboards, their use is generally restricted to the executive branch, excluding parliaments, courts, or civil society.

The resulting institutional architecture is hierarchical and insulated, where digital platforms are technically functional but legally disconnected from mechanisms of contestation, accountability, or reform.

According to Ashal and Murshed (2024), AI fraud detection systems in Gulf public procurement are rarely connected to independent oversight bodies or cross-institutional review. Instead, anomaly detection is handled internally, without transparent procedures for escalation, investigation, or sanction [37]. This reinforces verticalism in governance and weakens the potential of AI tools to catalyze structural accountability.

4.3 Limited civic engagement and media constraints

Public participation in digital governance remains minimal to non-existent across the region. Civil society organizations are tightly regulated, and independent investigative journalism is often constrained by defamation laws, licensing requirements, and state censorship [30, 38].

Without robust civic pressure, even well-designed digital systems can remain opaque, underutilized, or abandoned. For instance, Bahrain’s early experiments with civic hackathons under the “OpenGov” initiative were discontinued, and public access to dashboard APIs was subsequently restricted [3, 14].

In Saudi Arabia, while the *Etimad* platform allows businesses to monitor their own tenders, there is no interface for journalists, NGOs, or citizens to track

irregularities or raise red flags [13, 24]. Similarly, Qatar's open data portal lacks a grievance mechanism or participatory design component, reinforcing its top-down character [3, 20].

In environments where civil society is treated with suspicion and civic space is restricted, digital tools are orphaned from oversight. What remains is a model of "technocratic transparency" – governance without participation [9, 16].

Moreover, the absence of digital literacy programs, capacity-building initiatives, and legal protections for whistleblowers discourages citizen involvement. The chilling effect of surveillance and digital repression – including social media monitoring and cybercrime laws – further deters civic engagement with digital integrity tools [21, 30].

As noted by Alshhadat (2024), citizen-facing blockchain initiatives in the Gulf have suffered from poor uptake, in part because of public mistrust in government intentions and a lack of clear channels for engagement or recourse [34].

Together, these legal, institutional, and civic constraints form a comprehensive implementation gap, not due to a lack of technical vision, but due to asymmetrical governance structures that prioritize executive efficiency over horizontal accountability.

Together, these legal, institutional, and civic constraints form a comprehensive implementation gap – not due to a lack of technical vision, but due to asymmetrical governance structures that prioritize executive efficiency over horizontal accountability.

5. Strengthening digital integrity: Pathways forward

Addressing the structural and legal gaps identified above requires more than incremental reforms. It calls for a shift toward systemic integrity-by-design, in which transparency and accountability are embedded into the architecture of digital governance from the outset. This section outlines four interlinked pathways to achieve that goal, rooted in comparative insights and grounded in the institutional realities of the region.

Reform in the Gulf must be sequenced strategically. In opaque and centralized systems, reform cannot begin with civic participation or judicial independence alone. It must begin by strengthening the connective tissue between technology, law, and oversight. Each pathway below is, therefore, designed not only as a standalone recommendation but as a building block within a broader ecosystem of governance renewal.

5.1 Embed transparency and accountability in digital systems

Digital platforms should be designed to integrate transparency features from inception – not added later as decorative elements. These include:

- Real-time red-flag alerts for procurement anomalies.
- Public audit trails with contract amendments and delivery benchmarks.

- Mandatory publication of procurement scoring criteria, and
- Open APIs allowing external actors to analyze data.

Examples from outside the region offer models for inspiration. Ukraine’s *ProZorro* platform requires all tender documents, evaluation criteria, and performance data to be published in real time, enabling civil society to monitor outcomes and detect irregularities [32, 33]. Similarly, *ChileCompra* incorporates social audits and dispute resolution mechanisms, enabling local communities to challenge procurement decisions.

In the GCC, platforms such as *Etimad* and *UAE Pass* could be upgraded to include layered transparency modules. For example, *Etimad* could:

- Require publication of final contract values and contractor performance,
- Disclose reasons for bid rejection,
- Integrate civil society “red-flag” dashboards, similar to those developed by TI Ukraine.

Such enhancements, however, must be backed by legal mandates that define the scope, governance standards, and oversight responsibilities of digital systems [9, 24]. Without this legal foundation, transparency features can be disabled, delayed, or politicized.

In short, digital architecture must be aligned with accountability architecture. Technologies must be intentionally designed not just for performance, but for public visibility, institutional linkage, and contestability.

AI and blockchain deployments in the public sector must also be covered by legislation that ensures algorithmic accountability, auditability, and citizen redress. As Albous et al. (2025) argue, national AI strategies must move beyond ethical statements to adopt concrete legal instruments that bind public agencies to standards of transparency, fairness, and due process [36].

Similarly, smart contracting tools based on blockchain must be supported by clear regulations on ledger governance, data retention, and access rights. Alshhadat (2024) recommends adopting regional interoperability protocols to facilitate data exchange across ministries while respecting data sovereignty and privacy concerns [34].

5.2 Strengthen legal frameworks and oversight institutions

Legal reforms are essential to enable meaningful digital accountability. FOI laws, where absent, should be introduced, and where they exist, they should be strengthened to include:

- Mandatory disclosure deadlines,
- Narrow and clearly defined exemptions (e.g., national security),
- Independent appeals mechanisms, and

- Protection of whistleblowers who disclose abuse.

In parallel, anti-corruption laws should be updated to incorporate digital integrity provisions, including:

- Mandatory digital disclosure of procurement outcomes,
- Algorithmic accountability clauses, and
- Institutional rights to audit blockchain or AI systems [23, 29].

At the institutional level, SAIs and anti-corruption agencies must be granted:

- Operational independence from the executive,
- Access to full digital data streams, and
- Powers to suspend, investigate, and refer suspicious digital transactions.

These reforms require more than administrative adjustments; they may entail:

- Constitutional amendments or legal reforms to clarify oversight mandates,
- Elite negotiation to protect institutional autonomy, and
- Pressure from international donors or trade partners, who increasingly integrate governance standards into agreements.

Examples from Morocco and Tunisia show that, even within constrained regimes, independent procurement courts and audit chambers can serve as catalysts for broader reform if given autonomy and international backing [27].

Even modest legal gains – such as requiring the publication of contract scoring matrices – can create precedents and alter institutional incentives.

5.3 Promote inclusive civic engagement and data literacy

Digital integrity is not just technical or legal – it is social and participatory. Citizens must have the knowledge, tools, and legal rights to access, understand, and act upon public data.

GCC governments should, therefore, invest in:

- Digital literacy campaigns focused on budget transparency and procurement oversight,
- Open data training programs in universities and schools of public administration, and
- Safe public engagement spaces, such as civic-tech labs and sanctioned hackathons.

One promising (if short-lived) example was Bahrain’s “OpenGov” initiative, which piloted participatory hackathons involving students, developers, and government officials [3, 14]. Such formats should be institutionalized, not abandoned.

In restrictive environments, indirect civic-tech ecosystems – such as university research labs, policy think tanks, or innovation hubs – can act as proxies for civil society [20]. International organizations, including UNDP, OECD, and the World Bank, can help establish such ecosystems through targeted grants and policy support.

Digital platforms should also include feedback interfaces: tools for flagging irregularities, submitting citizen reports, or requesting data corrections. Even asynchronous input, such as anonymous comment boxes or suggestion forums, can signal institutional responsiveness.

Ultimately, participation shifts expectations. Once citizens see their input lead to change – however incremental – they begin to perceive the state as responsive, creating a virtuous cycle of engagement and legitimacy.

5.4 Foster regional collaboration and benchmarking

Given their shared political economy and institutional similarities, GCC countries would benefit from regional cooperation on digital integrity standards. A Gulf Digital Integrity Index (GDII) – co-developed by independent institutions, audit bodies, and civic actors – could track progress in:

- e-Procurement transparency,
- Blockchain auditability,
- AI governance frameworks,
- Open data responsiveness, and
- Civic feedback channels.

Such a benchmarking initiative would serve multiple purposes:

- Create reputational incentives for reform through peer comparison,
- Expose blind spots or stagnation, and
- Enable cross-country learning, especially in tool design and legal integration.

Institutions such as the GCC Secretariat, INTOSAI, or the Arab Anti-Corruption and Integrity Network could host annual reviews, awards, and policy exchanges based on GDII performance [27].

International cooperation with entities such as OECD, UNODC, or the World Economic Forum could further anchor reform efforts by offering:

- Technical assistance on digital procurement,

- Ethical frameworks for AI use, and
- Capacity-building for data governance bodies [29, 32].

In the absence of strong domestic accountability, external benchmarking can act as a surrogate – not replacing national reform, but amplifying it through reputational leverage.

Ultimately, the pathways outlined here are not mutually exclusive, nor are they sufficient alone. The transformation of digital governance into a true anti-corruption instrument requires:

- Legal frameworks that enable transparency,
- Institutions that enforce it, and
- Citizens who activate it.

In contexts of limited political openness, progress may be incremental, fragmented, and contested. But if well-sequenced and grounded in local realities, it can be cumulative. The following conclusion reflects on the broader implications of such transformations.

6. Conclusion

Digital transformation is often presented as a silver bullet for governance challenges in the Gulf. While there is no doubt that e-government platforms, blockchain applications, and AI-driven oversight tools offer promising avenues to enhance public sector integrity, their true potential hinges on political will, legal grounding, institutional autonomy, and civic participation [1, 5, 9].

This chapter has shown that, across the GCC, digital innovations often function in technocratic silos – focused more on administrative efficiency than on systemic accountability. In many instances, digitalization has optimized state performance without disrupting the underlying asymmetries of power or information. As a result, public integrity gains remain limited, and the symbolic deployment of technology may mask enduring risks of elite capture, non-disclosure, and discretionary decision-making [12, 25].

The resulting implementation gap is not a failure of technology per se, but a reflection of governance priorities and institutional design. Digital tools are often deployed in ways that enhance executive coordination while avoiding structural reforms that would redistribute power or enable public contestation. The very systems meant to increase visibility are often shielded from scrutiny, and the platforms meant to facilitate participation remain inaccessible or irrelevant to ordinary citizens [6, 9, 38].

Yet, this gap is not immutable. International experience – as well as emerging dynamics within the Gulf – suggests that, under certain conditions, reform trajectories can be initiated. These include:

- The emergence of technocratic coalitions within ministries that recognize the reputational value of transparency,
- Pressure from trade partners, investors, or multilateral bodies linking digital performance to international rankings,
- Pilot reforms or digital sandboxes that create localized success stories, capable of inspiring gradual systemic uptake, and
- And, albeit more rare, civic-tech innovation hubs that navigate institutional boundaries through informal influence or soft diplomacy.

As argued throughout this chapter, the transformation of digital governance into a lever for public integrity requires a triangular convergence of law, technology, and civic oversight. Where only one of these pillars exists, progress will be partial and fragile. But where all three interact – within a sequenced and context-sensitive strategy – digital tools can become the foundation for a new social contract between states and citizens.

In the GCC context, this would mean moving from:

- Transparency by permission to transparency by default,
- Auditability in principle to auditability by law, and
- And, participation by invitation to participation by right.

Ultimately, what is at stake is not only the efficiency of digital platforms but the ethics of governance in the twenty-first century. Digital integrity is not simply about technological modernization; it is about redefining the moral architecture of public service, ensuring that digitization serves not just the state, but the public good.

If Gulf states can anchor their digital governance agendas in principles of legality, oversight, and inclusive design, they may not only improve procurement processes or service delivery but also strengthen institutional resilience, enhance legitimacy, and position themselves as pioneers of accountable digital government in the Global South.

Annex A – comparative table of digital integrity tools in the GCC

- Source: Author's own compilation.

This annex provides a comparative overview of digital anti-corruption tools implemented across six GCC countries, as referenced in Section 3 of this chapter.

Country	e-Procurement platform	Blockchain use	AI for risk detection	Transparency features	Public accessibility
Saudi Arabia	Etimad	Pilots in land and healthcare records	Tax data analytics	Centralized contracts portal	Partial access (registered users)
United Arab Emirates	Smart procurement under UAE Pass	Dubai Land block-chain registry	AI in customs and border control	Real-time public services portal	Public dashboard access
Qatar	e-Tendering via TASMU	Blockchain pilots for logistics	AI for fraud analytics	Integrated finance platforms	Limited external reporting
Kuwait	CAPT e-Procurement	Feasibility phase	No national deployment	Tender archives (partial)	Login required
Oman	e-Tendering System	Public registry integration under review	Audit tools via SAI	Basic contract publication	Accessible with registration
Bahrain	Government tender board system	eGov blockchain for docs	No disclosed AI use	Dashboard and summary reports	Publicly available

Annex B – legal and institutional enablers of digital integrity in the GCC

- Source: Author’s own compilation.

This annex summarizes the presence or absence of key legal frameworks and institutional mechanisms supporting digital integrity across the six GCC countries.

Country	FOI law in force	Independent oversight	Civic feedback mechanism	Procurement transparency mandate	AI/Blockchain legal framework
Saudi Arabia	✗ Absent	✗ Limited (SAI under executive)	✗ None	✗ Not legally required	✗ Fragmented
UAE	✗ Absent	✗ Executive supervision	✗ Minimal	✗ Discretionary	✗ Lacks AI regulation
Qatar	✓ Weak scope	✗ Partial independence	✗ Absent	✗ Non-binding strategy	✗ No oversight structure
Kuwait	✓ Partial	✓ Nazaha (limited power)	✗ No digital interface	✗ No legal mandate	✗ No audit mechanism
Bahrain	✓ Enacted	✗ Under council of ministers	✗ Limited	✓ Public portal	✗ Pilots only
Oman	✗ Absent	✗ Weak institutional support	✗ Absent	✓ Basic award data	✗ Early-stage exploration

Conflict of Interest

The authors declare no conflict of interest.

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Professional Codes of Conduct as a Tool to Combat Corruption in the Construction Industry

Gabriel Nani and Kwami Dorgbley

Abstract

There is a growing concern that, save ethical considerations, the professional, technical, and managerial competencies of construction professionals are not in doubt. This chapter reports the first attempt at identifying professional misconduct in the construction industry, gleaned from the segmented ethical codes of construction industry professionals in Ghana. The chapter further reports measures to tailor the code of conduct for construction professionals to serve as a tool to combat corruption in the construction industry. Resultantly, ten measures to tailor the code of conduct toward addressing professional misconduct were identified from past studies. The instrument adopted for data collection was a questionnaire survey. A total of 304 construction professionals, comprising quantity surveyors, architects, and civil engineers, and members of professional bodies, participated in the survey. The study further revealed that a code of conduct cannot *suo motu* combat corruption in the construction industry and reported measures to tailor a code of conduct to combat corruption in the construction industry. The chapter justifies the dire need for a single industry code of conduct tailored to address prevalent professional misconduct from its root cause. Finally, from the results of the Kruskal–Wallis H test, the study reports significant statistical differences, with a significance value below 0.05, in the perceptions of the three identified professional groupings. Save for the findings in this study on the effectiveness of a single code of conduct targeted at professionals in the construction industry, the findings further support previous studies in the research area.

Keywords: professional codes of conduct, corruption, professional misconduct, ethical standards, construction industry

1. Introduction

In the built industry, considerations of human life require the utmost moral attention from construction professionals [1]. The twenty-first century has seen a significant elevation of professional ethics as a high-profile topic [2]. Large numbers of stakeholders make up the construction industry, creating

a sophisticated contractual arrangement that leads to a myriad of physiological behaviours, which in turn create room for corrupt activities, as the industry is perceived as fragmented [3]. Aigbavboa et al. [4] reported the establishment of opportunities for work and infrastructural provisions as significant contributions to economic development by the construction industry. Irrespective of the reported contributions to the economy, the industry is plagued by unethical professional practices that undermine its successes [5]. Given that corruption, professional misconduct, unethical practices, or whichever nomenclature is prevalent in the construction industry is not in dispute; professional misconduct is reported as prevalent in the construction industry [6]. Lee and Cullen [7] revealed the construction industry as the most unethical industry globally. Shah and Alotaibi [8] observed professional misconduct as a global phenomenon and not specific to certain jurisdictions. Abdul-Rahman et al. [9] revealed the negative effect of professional misconduct on the quality of work in the construction industry.

Pre-existing studies report professional misconduct using varying nomenclature, although the substance of the concept does not change in the reports. Stansbury and Stansbury [10], Zou [11], and Vee and Skitmore [12] categorized unethical practices and professional misconduct as corruption in their studies. Asamoah and Decardi-Nelson [13] reported the most common unethical practices in the construction industry as ‘corruption, fraud, conflict of interest, tender manipulation, kickbacks, embezzlements and collusion’. Undoubtedly, corruption is reported as a notorious challenge associated with construction professionals [14]. Amoah and Steyn [15] reported the prevalence of professional misconduct in the construction industry whilst noting the challenge in mitigating these unethical professional practices. Mohammad Hanapi et al. [16], upon observing a code of ethics for individual construction professionals and the resulting prevalence of professional misconduct, recommended that construction professionals share a uniform appreciation of ethical and professional conduct.

It is interesting to note that the above studies reported professional misconduct despite the requirement for construction professionals to comply with ethical codes of conduct. Professionals in the construction industry concede difficulties in complying with the codes of conduct that regulate the profession [17]. Whilst Vee and Skitmore [12] recommend advocacy for ethical professional practice, Mason [2] recommended the trial and conviction of professionals, in circumstances of professional ethical misconduct that carry criminal sanctions, as a means to improve the level of compliance with ethical codes by professionals. The existing segmented codes of conduct for construction professionals are therefore bereft of the requisite specificity and effectiveness in addressing unprofessional behaviour, and the same continues to undermine the reputation of the construction industry. Whilst the above studies confirm the prevalence of professional misconduct, including corruption amongst construction professionals, no study reports these perceived misconducts as malpractices within the confines of a code of conduct within which construction professionals are bound to undertake their professional practices. This chapter explores how reforming and unifying codes of conduct can combat corruption in the construction industry.

2. Theoretical underpinning

Cornejo-Montoya and Garcia-Cornejo [18] concluded that professionals should be made aware of their duty to be guided by ethical and moral standards. Ethical theories attempt to provide an explanation and justification for moral decisions. Benlahcene et al. [19], whilst noting the impracticability of a system created and nurtured by unethical values to flourish, concluded that an appreciation of ethical theories guides the mitigation of local and global problems.

Bradburn [20] reported two fundamental schools of thought related to ethics: 'teleological ethics', focusing on the consequences of a choice made, and 'deontological ethics', focusing on the approach that will achieve a desired result. Similarly, Kakabadse et al. [21] reported the two ethical theories identified in ethical studies as 'teleological' and 'deontological'.

2.1 Teleological ethics – Jeremy Bentham and John Stuart Mill

Frankena [22] defined the teleological ethical theory as being based on an outcome perceived as good to be achieved. Gregory [23] argued that teleological ethical theories hold that the rightness or otherwise of actions depends on the utility derived from the action. Teleology is derived from the Greek words for goal (telos) and theory (logos). This ethical theory traces its roots to Jeremy Bentham and John Stuart Mill's Utilitarian concept. Consequently, Benlahcene et al. [19] observed the major classifications of teleological ethical theories as ethical egoism and utilitarianism. The Utilitarianism theory argues for the rightness of an action if there is a corresponding increase in satisfaction.

Gleaning from the above, under the teleological ethical theories, if the moral outcome of an event is unclear, a professional must choose actions that provide the best possibility of a good outcome. Essentially, the teleological ethical theories argue that a professional is ethical if that professional elects to maximize the good and minimize the harm.

2.2 Deontological ethics – Immanuel Kant

Udayakumar and Babu [24] observed that in contemporary moral philosophy, deontology is one form of normative theory regarding the choices that are morally required, forbidden, or permitted. Deontology is derived from the Greek words 'deon' (duty) and 'logos' (science) and relates to right action, hence doing the right thing mainly because it is the right thing to do [19]. The deontological theory is perceived as determining the rightness or otherwise of ethical decisions irrespective of the consequences or intentions. Rawls [25] characterized deontological theories as simply theories that are not teleological. Mackie [26] argued the existence of certain types of actions considered as absolutely obligatory or forbidden to the extent that all actions of that nature are obligatory or forbidden.

The notable deontological philosopher, Immanuel Kant (1724–1804), proposed that one should act according to their duty and that ethical systems are measured by the rightness of the predetermined rules rather than the consequences. Rachels [27] accordingly depicted deontological theories as rule-based theories, hence the

emphasis on the action itself and its motive in determining the rightness or otherwise.

Shaw and Post [28] observed the argument of rule deontology to the extent that predetermined rules or principles should be the touchstone for people; hence, actions will be determined as ethical or otherwise relative to the predetermined rules and not the outcome of actions, as seen in the teleological theory. Ignatieff [29] observed the position of act deontology as an obligation for people to act in a specific way primarily because of considerations for others, irrespective of the consequence. Hence, the focus on the rightness or wrongness of an act lies in the act itself and not in the consequence of the act.

Gleaning from the above, under deontological theory, a person has non-negotiable obligations. For deontologists, what makes a decision right is its conformity with predetermined rules. Essentially, deontological theory asserts that people behave ethically as they find it their solemn duty to do so, based on predetermined rules.

2.3 Adopted ethical theory

Broad [30] introduced the distinction between teleological and deontological ethical theories. Udayakumar and Babu [24], in making a case for the deontology theory, argued that when looked at loosely, deontology is simply a moral theory that argues there are predetermined rules that have to be considered when making decisions, hence concluding on the correctness of the overall principle of deontology.

Baumane-Vitolina et al. [31], in examining the most prominent contemporary ethical theories as teleological and deontological theories, observed that deontological theories explain human behaviour. Raymond [32], in applying the study of deontology to a given moral issue to determine what ought to be done, concluded that deontology is of great assistance in making ethical decisions as it looks at humanity and universal law.

The theory underpinning this chapter is hinged on the deontological ethics concept, specifically the rule deontology, primarily because the ethical codes for professionals in the construction industry predominantly, Quantity Surveyors (QS), Architects, and Engineers in Ghana, provide predetermined rules to determine ethical behaviour.

3. Professional codes of conduct

The requirement of advanced education, coupled with training, forms the basis of a profession [33]. Ibrahim [34] observed compliance with the codes of conduct as a key requirement of professionalism. Greenhalgh [35] described professionalism as being compliant with ethical codes of conduct, having regard to the duty and status of a professional.

Ethics is perceived as conforming to accepted professional standards of conduct. Scalza [36] subsequently described ethics as a means to determine the rightness or otherwise of a practice while ensuring compliance with ethical codes. Chalkley [37] opined that the perception of the public regarding a profession is dependent on ethics. Ethics is reported as an aspect of philosophy that seeks to

explore the thought processes involved in shaping the conduct of humans [38]. Ethics can, therefore, be viewed as an investigation based on philosophy, primarily to determine right or wrong and the appropriate standard in its administration.

Resultantly, the compliance or otherwise of ethical codes affects the perception of the public as well as the quality of services rendered [1]. Vee and Skitmore [12] concluded that, in the absence of professionalism, compliance with ethical codes will be a herculean task. Similarly, Mason [2] revealed that the attainment of an authentic career spirit is impracticable without an element of ethics. Chadwick [39] asserts that the special nature of knowledge acquired by professionals and its practical application necessitates the requirement for regulation, hence the need for ethics. Additionally, Vee and Skitmore [12] described the necessity of having professionals act in respect of predetermined rules in the conduct of the profession as ethical practice.

The preceding assertions confirm the view of Bayles [40] to the effect that ethical compliance is necessary with respect to professional practice. Wulf [41] supports these views by revealing that ethical matters are primarily for the profession rather than the individual. The above authors are *ad idem* on the concept of the code of conduct governing the practice of professionals, hence the need to comply with the laid-down ethical framework. Resultantly, Martin and Schinzingler [42] opined that construction professionals, including QS, Engineers, and Architects, are professionally bound by their conscience.

In sharp contrast, Vee and Skitmore [12] described professional ethics as the attitude required of professionals, as laid out in predetermined rules and principles. The duty of professionals is, therefore, reported as manifested expressly in compliance with ethical codes of conduct [43]. Predetermined rules envisaged by Vee and Skitmore [12] that regulate construction professionals are reported to be premised on the presumption of independence, objectiveness, and the duty to avoid conflicts of interest, which have a likelihood of threatening credibility and professional conduct [44]. Mason [2] opined the essence of a code of ethics, serving as a constant reminder to professionals whether or not they are in breach of the ethical issues therein contained.

4. Codes of conduct and professional practice

The nature of the tasks performed by QS, such as involvement in financial matters, renders QS to be more inclined towards unethical behaviours [45]. Olatunji [46] concluded that QS are challenged to satisfy clients' and public interests due to the demands on QS. Edwards and Pottinger [47] observed the high expectations placed on QS to be ethical. Cunningham [48] revealed the importance of ethical compliance by QS whilst identifying the link between ethics, integrity, and professionalism.

Three locations; codes of professional conduct, which regulate acceptable professional conduct, the design process in accommodating conflicting economic, social, and legislative conditions, and the role of buildings in shaping lives, combining social and environmental responsibility, are reported to be fundamental to architectural practice [49]. Tsekeris and Vayena [50] recommended the rationalization of engineering ethics as a key aspect of

engineering practice to help engineers act ethically, rather than having engineering ethics only as an ethical theory. Unger [51] observed engineering ethics as including a code of ethics for engineers, which requires engineers to act according to this code of ethics.

QS, Architects, and Engineers make up the predominant construction professionals. Although virtually all professionals in the fragmented construction industry are bound by individual codes of conduct that serve as a yardstick for professional conduct and practice, Corvellec and Macheridis [52] observed that professional ethics is concerned not primarily with individuals but rather with the profession as a whole.

Vee and Skitmore [12] opined that compliance with ethical codes of conduct shapes the behaviour of construction professionals. Therefore, professionals are bound by their code of conduct whilst observing the duty of professionals to their clients and their autonomous exercise of skills and judgement.

Harris et al. [53] opined that the concept of professional ethics is embedded in codes of conduct, which spell out the duties of professionals and the expectations placed on them in upholding professional ethics. This opinion is supported by Calhoun and Wolitzer [54]. Adjei et al. [17] reported on the awareness and importance of codes of conduct among professionals in the construction industry. Professional bodies' codes of conduct, whilst requiring members to order their conduct in conformity with the code of conduct, expect that the code of conduct is observed not only because of the possible penalty that may follow contravention but also because members recognize the duty they owe to the public and to themselves to uphold the professional status of the profession [55–57].

Seeley [58] observed that the aim of the codes of conduct is to ensure the profession is not given a bad image, primarily due to the conduct of the professional. Murdoch and Hughes [59], in support of Seeley [58], revealed that a breach of ethical codes of conduct in the performance of a professional's duty is grounds for disciplinary action. Resultantly, Adjei et al. [17] opined that the failure of professionals, such as QS, to uphold their professional code of conduct but instead resort to unethical practices will lead to the irresistible conclusion of mistrust between the professionals and the industry.

Table 1 and **Table 2** detail the segmented code of conduct and the identified ethical issues for the code of conduct for construction professionals in Ghana, respectively. It is revealing to observe that, while **Table 2** summarizes the identified ethical issues from the ethical code for QS, Architects, and Engineers, the ethical

Profession	Code of conduct	Sources
Quantity Surveyor	Code of Ethics	GhIS, 2007
Architect	Code of conduct, regulation, and bylaws	GIA, 2016
Engineer	Code of ethics	GhIE, 2023

Source: Authors compilation.

Table 1.
Segmented code of conduct for construction professionals.

S/No	Ethical issue	Construction professional		
		Quantity Surveyor (GhIS)	Architect (GIA)	Engineer (GhIE)
1	Name board inconsistent with institution standards	√	√	
2	Connected business – Taking part directly or indirectly in the management of a business other than QS/Architect/Engineer practice	√		
3	Failure to disclose conflict of interest	√	√	√
4	Financial interest – Accepting remuneration other than professional fees	√	√	√
5	Inducement for the introduction of clients	√		
6	Advertising professional services	√	√	
7	Inaccurate publicity by professional	√		√
8	Ill-informed professional opinion	√		√
9	Breach of duty of care	√		√
10	Public criticism of professional colleagues	√		√
11	Taking over the work of a professional colleague without consent	√	√	√
12	Representing the views of an institution without consent	√		
13	Public claims of superiority over other professionals	√		√
14	Disclosing personal information of a client without consent	√		√
15	Inviting instructions – unsolicited proposals	√		√
16	Establishing private practice before five years of post-qualification professional experience	√		
17	Using false professional designation	√		
18	Failing to expose professional misconduct	√		√
19	Delaying work so as to discredit the profession	√		
20	Being adjudged bankrupt	√		
21	Failure to conduct due diligence prior to engagement			√
22	Giving and receiving of gifts		√	√
23	Supplanting a professional colleague	√	√	√
24	Taking credit for work done by professional colleague			√
25	Disregard for cultural and historical heritage			√
26	Disregard for health and safety			√
27	Failure to comply with relevant national and international laws, rules, regulations, and standards			√
28	Allowing a non-professional to practice in the name of the professional		√	
203	Failure to uphold and apply the scale of professional fees		√	

S/No	Ethical issue	Construction professional		
		Quantity Surveyor (GhIS)	Architect (GIA)	Engineer (GhIE)
30	Acting for a client without a formal contract of engagement		√	
Total		21	10	18

Source: Authors compilation.

Table 2.
Ethical issues identified from segmented code of conduct.

issues identified are not present in all three codes of conduct, as there are some ethical issues unique to a specific profession.

5. Methodology

The deontological ethical theory was adopted based on reviewed literature. The study adopted the questionnaire survey as the primary tool to collect data. The questionnaire was drafted in the English language with no verbosity and in an organized structure, comprising solely questions that require specific answers. The position of the law on the registration of professionals in Ghana is that no person shall practice any profession in respect of which a professional body has been registered unless that person has been duly registered [60]. Resultantly, the scope of the study, comprising QS, Architects, and Civil Engineers in the Ghanaian construction industry, targeted respondents who are members of the QS Division of the GhIS, excluding trainees; members of the Ghana Institute of Architects, excluding probationers; and members of the Civil Technical Division of the Ghana Institution of Engineering, excluding Trainee Professional Engineers, Trainee Professional Engineering Technologists, Professional Engineering Technologists, and Trainee Professional Engineering Technologists.

The population of the study comprised: 483 members in good financial standing of the QS Division of the GhIS as of September 2023; 534 members in good financial standing of the Ghana Institute of Architects as of June 2023; and 885 members in good financial standing of the Civil Technical Division of the Ghana Institution of Engineering as of September 2023.

In line with the findings by Lee and Cullen [7] and Paul et al. [61] with respect to challenges in attaining adequate response rates in the area of ethics due to unwillingness to participate in research on ethics, the study adopts the non-probability sampling technique over the probability sampling method.

A combination of electronic and printed-out questionnaires was utilized in data collection for the study. Electronic questionnaires were distributed through LinkedIn and WhatsApp Inc. platforms. Bowen et al. [44] observed that electronic questionnaires distributed through the web and emails promote the anonymity of respondents whilst encouraging them to respond freely. The printed-out questionnaires were also distributed to construction professionals affiliated with quantity surveying, architectural, and engineering firms in Ghana for responses. Additionally, the study coincided with the 2023 Quantity Surveying Divisional

Seminar of the GhIS, held at the Eastern Premier Hotel, Koforidua, between the 26th and 27th of October, 2023. The opportunity was well utilized as the study had direct access to a group of target respondents.

Tools embedded in the Statistical Package for the Social Sciences (SPSS) were utilized to analyse the received data. Pre-testing was carried out in advance to initiate data analysis. Subsequently, data analysis using the tools embedded in SPSS was undertaken. The following tests were employed for the analysis of the data: Cronbach's Alpha, Shapiro–Wilk, Mean, and Kruskal–Wallis tests.

6. Findings

The study, in response to Amoah and Steyn [15] and Asamoah and Decardi-Nelson [13] on the need for construction professionals to share a common ethical understanding irrespective of professional affiliation, finds that a single code of ethics for construction professionals is the most effective measure to tailor a code of conduct to serve as a tool to combat corruption in the construction industry. **Table 3** provides the details of the respondent's demographic information.

Information	Sections	Frequency	Percentage
Profession	Quantity Surveyor	125	41.1%
	Architect	86	28.3%
	Engineer	93	30.6%
Professional body	Ghana Institution of Surveyors	125	41.1%
	Ghana Institute of Architect	86	28.3%
	Ghana Institution of Engineering	93	30.6%
Class of membership	Fellow	16	5.3%
	Member	288	94.7%
Gender	Male	258	84.9%
	Female	46	15.1%
Age range	20–35 years	139	45.7%
	36–45 years	102	33.6%
	46–60 years	54	17.8%
	Over 60 years	9	3.0%
Academic qualification	Bachelor's degree	86	28.3%
	Master of Science	154	50.7%
	Master of Philosophy	35	11.5%
	PhD	29	9.5%
Working experience	1–5 years	64	21.1%
	6–10 years	73	24.0%
	11–15 years	79	26.0%
	Over 15 years	88	28.9%

Table 3.
General demographics (N = 304).

6.1 Codes of conduct as yardstick for ethical practice

The study found that 100 percent of construction professionals agree that construction professionals must act ethically in pursuit of their practice and further agree that the yardstick for ethical practice is the code of ethics for construction professionals. However, only 31 percent (31.3 percent) of construction professionals are familiar with the procedure for filing professional misconduct complaints. **Table 4** outlines the perception of ethical practice and knowledge of the complaints procedure.

6.2 Familiarity with codes of conduct

The study found that 98 percent (298) of construction professionals were aware of the code of ethics and conduct of the GhIS, GIA, and the GhIE. However, out of the 298 members, 40.27 percent (120) had copies of the GhIS, GIA, and GhIE code of ethics. Interestingly, as indicated in **Table 5**, 78.62 percent (239) of respondents indicated their non-familiarity with the GhIE, GIA, and GhIS code of ethics.

Information	Response	Frequency	Percentage
Requirement of ethical professional practice	Yes	304	100%
	No	0	0%
Code of ethics as yardstick for ethical professional practice	Yes	304	100%
	No	0	0%
Knowledge on complaints procedure	Yes	95	31.3%
	No	209	68.8%
Knowledge of disciplinary proceedings against violators of the code of ethics	Yes	93	30.6%
	No	211	69.4%

Table 4.
Perception of ethical practice and knowledge of complaints procedure.

Information	Response	Frequency	Percentage
Awareness of code of ethics	Yes	298	98%
	No	6	2%
Professionals with copies of the Code of Ethics	Yes	120	40.27%
	No	178	59.73%
Familiarity with contents	Yes	65	21.38%
	No	239	78.62%

Table 5.
Awareness and familiarity with code of ethics.

6.3 Measures to tailor codes of conduct to combat corruption

Kuoribo et al. [62] concluded that an atmosphere promoting trust in attracting foreign investors into the construction industry is enhanced by construction professionals observing professional conduct and practice. However, unethical practices, which are deemed difficult to curb, are reported to be preventable within the construction industry [10]. Having regard to acts that constitute professional misconduct and unethical practices among construction professionals, there is a need to identify measures to tailor the code of conduct to combat corruption in the construction industry. The mean, standard deviations, and descending order rankings of measures to tailor the code of conduct to combat corruption in the construction industry are summarized in **Table 6**. The respondents were asked to indicate the effectiveness level of the identified measures to tailor the code of ethics towards combating corruption in the construction industry on a 5-point Likert scale. **Table 7** reveals that all ten identified measures to tailor the code of conduct towards combating corruption in the construction industry have a mean value exceeding the cut-off point of 3.0, with the first and second ranked most effective measures having mean scores of 4.68 and 4.64, respectively, on a 5-point Likert scale. The findings imply that all ten identified measures to tailor the code of ethics towards combating corruption in the construction industry are considered relevant.

Among the identified measures to tailor the codes of conduct towards combating corruption in the construction industry, a single code of conduct for construction professionals is reported to be the most effective measure, having a mean value of 4.68 and ranked first among the ten identified measures to tailor codes of conduct towards combating corruption in the construction industry. This study, therefore, rejects the conclusions of Mason [2] on the effectiveness of a single code of ethics for the construction industry.

The study, thus, in response to Amoah and Steyn [15] and Asamoah and Decardi-Nelson [13] on the need for construction professionals to share a common ethical

No.	Measures to tailor code of conduct towards combating corruption	Total (N = 304)		
		Mean	SD	Rank
1	Single code of conduct for construction professionals	4.68	0.466	1
2	Teaching of ethics at undergraduate and graduate levels	4.64	0.533	2
3	Disciplinary actions	4.50	0.708	3
4	Continuous professional development, technical sessions, public lectures, and seminars on construction professional code of conduct	4.30	0.836	4
5	Random inspections and development of ethical compliance culture	4.27	0.875	5
6	Continuous strengthening of ethical codes	4.20	0.815	6
7	Prudent whistle-blowing mechanism	4.20	0.865	7
8	Accreditation of construction professional programs by professional bodies	3.96	0.857	8
9	Legislative instrument on professional conduct and etiquette	3.92	0.937	9
10	Professional Council Act for construction professionals	3.90	0.872	10

Table 6.
Mean and ranking of measures to tailor code of ethics.

Ref	Measures to tailor code of ethics towards combating corruption	Profession (N = 304)			Quantity Surveyors (N = 125)			Architects (N = 86)			Civil Engineers (N = 93)			Kruskal-Wallis H	Asymp. Sig
		Mean	SD	Rank	Mean	SD	Rank	Mean	SD	Rank	Mean	SD	Rank		
1	Single code of ethics for construction professionals	4.68	0.466	1	4.60	0.492	2	4.83	0.382	1	4.67	0.474	1	12.150	0.002*
2	Teaching of ethics at undergraduate and graduate levels	4.64	0.533	2	4.70	0.496	1	4.62	0.535	2	4.58	0.577	2	2.416	0.299
3	Disciplinary actions	4.50	0.708	3	4.58	0.650	3	4.44	0.625	3	4.45	0.841	3	4.006	0.135
4	Organize continuous professional development, technical sessions, public lectures and seminars on construction professional code of ethics	4.30	0.836	4	4.45	0.756	4	4.01	1.035	5	4.37	0.656	4	12.206	0.002*
5	Random inspections and development of ethical compliance culture	4.27	0.875	5	4.36	0.745	5	4.05	1.051	4	4.35	0.829	5	5.318	0.070
6	Continuous strengthening of ethical codes	4.20	0.815	6	4.34	0.685	6	4.01	0.914	6	4.19	0.850	7	6.627	0.036*
7	Prudent whistle-blowing mechanism	4.20	0.865	7	4.30	0.764	7	3.98	1.017	7	4.27	0.809	6	5.840	0.054
8	Accreditation of construction professional programs by professional bodies	3.96	0.857	8	4.14	0.769	9	3.85	0.940	8	3.83	0.855	10	9.657	0.008*
9	Legislative instrument on professional conduct and etiquette	3.92	0.937	9	4.19	0.800	8	3.62	1.129	10	3.84	0.811	9	18.654	0.000*
10	Professional Council Act for construction professionals	3.90	0.872	10	4.09	0.707	10	3.66	1.091	9	3.88	0.792	8	8.124	0.017*

Table 7.
Kruskal-Wallis test – measures to tailor code of ethics.

understanding irrespective of professional affiliation, finds that a single code of conduct for construction professionals is the most effective measure to tailor codes of ethics towards combating corruption in the construction industry.

Teaching ethics at undergraduate and graduate levels is reported as the second most effective measure to tailor a code of conduct towards combating corruption in the construction industry, with a mean of 4.64. This affirms the insistence and recommendations of Cruywagen [63] regarding the relevance of teaching ethics in enhancing professionalism.

Disciplinary actions are reported in this study as the third most effective measure to tailor a code of ethics towards combating corruption in the construction industry, having a mean value of 4.50. Usman et al. [64] discovered the absence of disciplinary actions as an incentive for professional misconduct amongst construction professionals and recommended that professional bodies take appropriate measures to punish erring professionals who engage in unethical practices.

This study confirms the findings of Usman et al. [64] as well as Paul et al. [61] on the effectiveness of disciplinary action in tailoring a code of ethics towards combating corruption in the construction industry. However, this study has found that a code of ethics cannot independently address professional misconduct. Although the recommendations of Mason [2] and Ebekozi et al. [65] on criminal sanctions are forward-looking, they can be better tailored with the requisite legislative backing.

Organizing continuous professional development on the construction professional code of ethics is reported as the fourth most effective measure to tailor the code of ethics towards combating corruption in the construction industry, with a mean score of 4.50. Ameh and Odusami [45] observed the critical role of professional bodies in addressing professional misconduct among professionals. Indeed, several studies have reported this measure as an effective way to address professional misconduct, and it is not surprising that this study confirms previous findings on the measure.

Random inspections and the development of an ethical compliance culture are reported as the fifth most effective measure to tailor a code of ethics towards combating corruption in the construction industry, having a mean value of 4.27. Paul et al. [61] observed random and regular checks on construction professionals as an effective measure in addressing professional misconduct among construction professionals. This study supports the findings in previous reports on the effectiveness of random inspections and a culture of compliance with ethical codes in addressing professional misconduct. Rationally, the buck stops with the regulatory body to ensure frequent inspections and the development of a compliance culture of ethical codes.

Table 7 reveals significant distinctiveness in responses, with a significance value below 0.05, concerning six out of the ten measures to tailor the code of ethics towards combating corruption in the construction industry, as provided by the three identified categories of respondent construction professionals at a 95% confidence level. However, measures such as 'Teaching of Ethics at Undergraduate and Graduate Levels', 'Disciplinary Actions, Random Inspections, and Development of ethical compliance culture', and 'Prudent Whistle-blowing mechanism' depict no statistical distinctiveness in the perception of respondents.

Resultantly, the proposition of no significant distinctiveness in the perception of respondents is, therefore, rejected, and the study finds that the perception of

the three professional groupings significantly differs with regards to the measures to tailor the code of ethics towards combating corruption in the construction industry.

7. Conclusion

It is trite learning that the subject matter of ethics has gained much recognition professionally in the twenty-first century. This chapter concludes that all construction professionals agree that the yardstick for ethical professional practice is the code of conduct. Resultantly, having regard to the glaring challenges in the current code of conduct, which is bereft of the requisite specificity and effectiveness in addressing prevalent professional misconduct, including corruption, this chapter justifies the dire need for a tailored single code of conduct to combat corruption in the construction industry. The findings of the study leave no doubt that the code of conduct, *suo motu*, cannot independently address professional misconduct unless and until other regulatory and post-regulatory measures are tailored towards the code of conduct. This chapter, resultantly, provides a foundational contribution to deepening the appreciation of professional misconduct amongst construction professionals. This chapter's contribution lies primarily in the examination of professionals' misconduct identified from the segmented ethical codes for construction professionals.

The chapter reports that a significant number of construction professionals are not familiar with the contents of the code of conduct. Essentially, the chapter highlights useful insights for construction professionals and the professional bodies concerning prevalent professional misconduct, as well as measures to tailor the code of conduct to combat corruption and address other prevalent professional misconduct.

It is clear from the findings of the study that when the three categories of professional groupings (Architects, Engineers, and QS) are considered separately, the differences in their perceptions regarding measures to tailor the code of conduct towards addressing prevalent professional misconduct are strikingly different. Admittedly, due to the segmented code of conduct for these groupings, their perceptions of the research area differ significantly. The chapter, however, suggests several measures to tailor the code of conduct to combat corruption, with much emphasis on a single ethical code for construction professionals.

Conflict of interest

The authors declare no conflict of interest.

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The Corrosive Shadow: How Corruption Undermined Patient Data Privacy and Rights Enforcement During the COVID-19 Pandemic in Indonesia

Haidir Anam and Ummu Anityaningrum

Abstract

The COVID-19 pandemic generated an unprecedented demand for health data to inform public-health decision-making. In Indonesia, this demand intersected with entrenched governance weaknesses. This chapter argues that systemic corruption during 2020–2022 likely contributed to a weakening of institutional capacity to protect patient data and uphold patient rights – not by directly causing breaches, but by creating conditions that amplified vulnerabilities. Drawing on qualitative case studies (notably eHAC and PeduliLindungi), documentary review, legal analysis, and contemporaneous media reporting, the chapter maps the mechanisms through which corruption—via resource diversion, procurement irregularities, patronage in appointments, and reduced oversight—undermined investment in secure health information infrastructure and compromised accountability. Perceptions of mal-practice likely contributed to reduced willingness among some citizens to share accurate health information, thereby potentially degrading the completeness and utility of public-health datasets. Emergency measures deployed with compressed oversight further exposed privacy gaps and complicated rights enforcement. The analysis situates these dynamics within Indonesia’s evolving legal environment, including the enactment of the Personal Data Protection Law (2022), and assesses how emergency governance choices interacted with preexisting institutional frailties. By highlighting this under-examined, indirect pathway from governance failure to public-health risk, the chapter contributes to crisis-governance scholarship and offers policy imperatives: enhance procurement transparency, operationalize privacy-by-design in digital health tools, adequately resource an independent data-protection authority, and subject emergency powers to independent review to safeguard both public health and individual liberties. The chapter’s primarily qualitative approach limits quantitative causal inference and invites further empirical and quantitative research.

Keywords: corruption, patient data, patient rights, public health, governance

1. Introduction

The COVID-19 pandemic presented an unprecedented global health crisis, demanding rapid and extensive responses from governments worldwide. In Indonesia, a nation characterized by its vast archipelago and diverse population, the pandemic exposed both the strengths and vulnerabilities of its healthcare system and governance structures. The urgent need for data to track the virus, manage patient care, and implement public health interventions led to an accelerated collection and processing of sensitive patient information. While the immediate focus during such a crisis is often on containing the spread of disease and providing medical care, the underlying mechanisms of data governance and patient rights enforcement become critically important, yet are often overlooked.

This chapter delves into a crucial, yet under-explored, dimension of the pandemic's impact in Indonesia: how systemic corruption indirectly undermined patient data privacy and the enforcement of patient rights [1]. It moves beyond direct data breaches, which are a significant concern in themselves, to investigate the more insidious ways in which corruption, particularly in resource allocation and emergency response mechanisms, weakened the very infrastructure and oversight necessary for robust data protection. The hypothesis is that the pervasive nature of corruption created a corrosive shadow, where the erosion of public trust due to illicit practices led to a reluctance in data sharing, thereby impacting the efficacy of public health initiatives. Furthermore, the chapter will investigate how emergency measures, often implemented with reduced oversight to expedite responses, inadvertently exacerbated data privacy risks and undermined fundamental patient rights.

This research aims to shed light on these complex interconnections, offering a critical perspective on the multifaceted impact of corruption on healthcare during a crisis. By examining the Indonesian context, this chapter seeks to contribute to a broader understanding of how governance failures, amplified by corrupt practices, can have profound and lasting consequences on individual rights and public health outcomes [2, 3], even in areas not directly targeted by corrupt acts. The insights derived from this study are intended to inform future policy-making, emphasizing the imperative of robust governance and transparency in health emergencies to safeguard both public health and individual liberties.

1.1 Problem statement: Indirect impacts of corruption on patient data privacy and rights enforcement

The conventional understanding of corruption often focuses on direct financial malfeasance or abuse of power for personal gain. However, its ramifications extend far beyond immediate monetary losses, particularly within critical sectors like healthcare during times of crisis. In the context of the COVID-19 pandemic in Indonesia, while direct instances of data breaches and privacy violations were reported, a more subtle yet equally damaging phenomenon was at play: the indirect undermining of patient data privacy and rights enforcement due to systemic corruption. This problem manifests through several interconnected pathways. Firstly, corruption in resource allocation, procurement of medical supplies, and management of emergency funds diverts essential resources away from strengthening healthcare infrastructure, including secure data management systems.

This creates a fertile ground for vulnerabilities, as underfunded and poorly managed digital health platforms become susceptible to breaches and misuse of data. Secondly, the erosion of public trust, a direct consequence of perceived or actual corruption in the pandemic response, can lead to a reluctance among citizens to share personal health data, even when such sharing is crucial for effective public health interventions like contact tracing or vaccination programs. This lack of cooperation, born out of distrust, compromises the integrity and completeness of public health datasets, hindering accurate epidemiological analysis and policy formulation. Lastly, the exigencies of a public health emergency often necessitate the implementation of expedited measures and the bypassing of standard bureaucratic processes. While intended to accelerate response times, these emergency provisions, in an environment already compromised by corruption, can inadvertently create loopholes for data exploitation and diminish accountability mechanisms for patient rights. The absence of stringent oversight, coupled with a culture of impunity fostered by corruption, can lead to a deprioritization of data privacy and patient rights, as authorities may prioritize perceived efficiency over adherence to ethical and legal safeguards. Therefore, the problem is not merely about isolated data breaches, but about how a pervasive corrupt environment creates systemic weaknesses that indirectly but profoundly impact the protection of sensitive patient information and the upholding of their fundamental rights during a health crisis.

1.2 Research questions and objectives

This chapter seeks to address several key research questions. It investigates how systemic corruption in Indonesia's healthcare sector during the COVID-19 pandemic indirectly weakened the infrastructure and oversight mechanisms necessary for robust patient data privacy. It also examines the specific manifestations of patient data privacy violations and compromised rights enforcement, and how these were exacerbated by a corrupt environment. Furthermore, the study explores how the erosion of public trust due to corruption influenced citizens' willingness to share personal health data and the resulting implications for public health initiatives. Finally, it assesses the extent to which emergency measures implemented in the context of existing corruption created vulnerabilities that undermined patient data privacy and rights enforcement.

Building upon these questions, the objectives of this chapter are to analyze the various forms of corruption prevalent in the Indonesian healthcare sector during the pandemic and to examine the legal and practical landscape of patient data privacy and rights enforcement before and during this period. The study will investigate specific instances and patterns of privacy violations and rights infringements, establish the causal links and indirect pathways through which corruption contributed to these weaknesses, and provide policy recommendations to strengthen data governance, combat corruption, and safeguard patient rights in future health emergencies.

1.3 Scope and significance of the study

This study focuses specifically on the Indonesian context during the COVID-19 pandemic (circa 2020–2022), examining the interplay between corruption, patient data privacy, and rights enforcement within its healthcare system. While

recognizing the global nature of both the pandemic and corruption, the analysis is grounded in the unique socio-political and legal landscape of Indonesia. The significance of this research is multifold. Theoretically, it contributes to the literature on corruption by exploring its indirect and systemic impacts beyond direct financial losses, particularly in the critical domain of public health and data governance. It highlights the often-overlooked nexus between corruption, data privacy, and human rights in emergency contexts. Practically, the findings will offer valuable insights for policymakers, healthcare administrators, and civil society organizations in Indonesia and other developing nations facing similar challenges. By identifying the vulnerabilities created by corruption, this chapter aims to inform the development of more resilient and rights-protective healthcare systems, particularly in preparation for future public health crises. Ultimately, it seeks to advocate for greater transparency, accountability, and ethical governance as foundational elements for effective and equitable healthcare delivery.

1.4 Chapter structure

This chapter is structured as follows: Section 1 provides an introduction to the topic, outlining the background, problem statement, research questions, objectives, and the scope and significance of the study. Section 2 establishes the conceptual framework, defining key terms such as corruption in healthcare, patient data privacy, and patient rights in emergencies, and exploring their interrelationships. Section 3 examines the landscape of corruption within the Indonesian healthcare system during the COVID-19 pandemic, detailing its various manifestations and impacts on infrastructure and service delivery. Section 4 analyzes the state of patient data privacy and rights enforcement in Indonesia, both prior to and during the pandemic, including a discussion of specific data breach incidents and challenges in accountability. Section 5 presents the core argument of the chapter, elucidating how the corrosive shadow of corruption indirectly undermined data privacy and rights enforcement through weakened oversight, resource diversion, erosion of public trust, and bypassed safeguards. Section 6 offers policy implications and recommendations for strengthening anticorruption measures, enhancing data protection laws, building trust, and safeguarding rights in future health emergencies. Finally, Section 7 concludes the chapter by summarizing the key findings and outlining directions for future research.

2. Conceptual framework: Corruption, data privacy, and patient rights in crisis

To comprehensively analyze the indirect impacts of corruption on patient data privacy and rights enforcement during a health crisis, it is essential to establish a robust conceptual framework. This framework defines the core concepts and delineates their interrelationships, particularly within the dynamic and often chaotic context of a pandemic. Understanding these foundational elements is crucial for dissecting the complex pathways through which corruption can exert its corrosive influence.

2.1 Defining corruption in the healthcare sector

Corruption, in its broadest sense, refers to the abuse of entrusted power for private gain. In the healthcare sector, this phenomenon manifests in numerous forms, ranging from petty bribery to grand corruption involving large-scale embezzlement and systemic fraud [4]. This chapter adopts a comprehensive understanding of corruption that encompasses both direct and indirect forms, with a particular focus on how systemic corruption creates an environment conducive to the erosion of data privacy and rights enforcement. Key manifestations include bribery for preferential treatment, embezzlement of funds and medical supplies, and fraudulent practices such as false billing or claims related to pandemic response. Other forms include extortion, nepotism in appointments and contracts, conflicts of interest influencing procurement, and the diversion of resources like PPE or vaccines. This study particularly focuses on systemic corruption, which is embedded within the political and economic system and is facilitated by weak institutions and inadequate accountability. Such systemic issues create a culture of impunity, weakening the overall governance framework necessary for protecting patient data and rights. The urgency and scale of resource mobilization during the COVID-19 pandemic, coupled with reduced oversight due to emergency declarations, provided fertile ground for these corrupt practices. These actions indirectly impacted data management integrity and the enforcement of patient rights, even when not directly targeting data systems themselves, as the diversion of funds can lead to underinvestment in secure IT infrastructure, while a culture of impunity can embolden actors to misuse sensitive information without fear of reprisal.

2.2 Understanding patient data privacy and its importance

Patient data privacy refers to the ethical and legal obligation to protect sensitive health information from unauthorized access, use, or disclosure. This encompasses a wide range of personal health information (PHI), including medical records, diagnoses, and treatment plans. The importance of patient data privacy is multifaceted, as it is fundamental to protecting individual autonomy and dignity by giving individuals control over their personal information, thereby preventing discrimination and stigmatization. It also fosters the trust necessary for patients to seek care and provide accurate information, as a breach of this trust can deter individuals from accessing necessary healthcare services, with severe public health consequences. Furthermore, accurate and complete patient data is crucial for ensuring the quality of medical interventions; when patients withhold information due to privacy concerns, it can compromise the safety of care. Robust privacy safeguards are also critical for preventing the misuse and exploitation of sensitive health data for illicit purposes, such as identity theft, insurance fraud, or political manipulation. Finally, healthcare providers and institutions are bound by legal frameworks and ethical codes that mandate the protection of patient data. During a pandemic, the amplified volume and velocity of data collection for public health surveillance and contact tracing heighten these risks [5]. The rapid deployment of new digital tools without stringent privacy-by-design principles can create significant vulnerabilities, particularly in the absence of comprehensive data protection laws or their weak enforcement.

2.3 Patient rights in healthcare emergencies

Patient rights are fundamental entitlements that individuals possess when interacting with healthcare systems, typically enshrined in national laws, international conventions, and ethical guidelines. These rights include the right to receive clear and comprehensive information about one's health condition and treatment options, the right to provide voluntary and informed consent before any medical procedure, and the right to privacy and confidentiality of PHI. They also encompass the right to access appropriate medical care without discrimination, the right to be treated with dignity and respect, the right to refuse treatment when competent to do so, and the right to seek redress for harm caused by medical negligence or rights violations. Healthcare emergencies, such as pandemics, often create a tension between these individual rights and collective public health imperatives. Governments may invoke emergency powers that allow for temporary restrictions on certain rights, such as freedom of movement, to control the spread of disease. However, even in such circumstances, fundamental patient rights must be upheld to the greatest extent possible. The principle of proportionality dictates that any restrictions on rights must be necessary, legitimate, and proportionate to the public health threat. When emergency measures are implemented without adequate safeguards or oversight, they can inadvertently lead to the erosion of patient rights, especially if the environment is already susceptible to corruption and abuse of power.

2.4 Interplay of corruption, data governance, and rights enforcement

The relationship between corruption, data governance, and rights enforcement is complex and multilayered, as corruption actively undermines the foundations upon which effective oversight mechanisms are built. This interplay can be understood through several key pathways. Corruption directly weakens data governance structures by diverting funds intended for secure IT infrastructure and training, thereby diminishing the capacity to implement and maintain robust data security measures. It also erodes accountability mechanisms, as corrupt practices can influence appointments, obstruct investigations, and undermine the rule of law, allowing individuals responsible for data breaches to operate with impunity. Furthermore, corrupt interests can distort policy priorities, leading to decisions that favor private gain over public good, such as prioritizing the rapid deployment of data collection tools without adequate privacy safeguards. This erosion of governance and accountability, in turn, diminishes public trust. When citizens perceive that their data might be misused, they become less willing to share accurate information, which directly impacts the quality of public health data and hinders effective disease surveillance and policy interventions. Ultimately, this interplay creates a vicious cycle where corruption not only causes direct harm but also exacerbates the impact of the crisis itself by undermining the overall effectiveness of the emergency response.

3. The landscape of corruption in Indonesian healthcare during COVID-19

Indonesia's healthcare system, like many in developing nations, has historically grappled with challenges related to governance, transparency, and accountability.

The advent of the COVID-19 pandemic in early 2020 placed immense pressure on this system, simultaneously exposing existing vulnerabilities and creating new opportunities for corrupt practices. This section details the landscape of corruption within Indonesian healthcare during the pandemic, focusing on its various manifestations and their broader impact.

3.1 Overview of healthcare system and funding (e.g., JKN, BPJSK)

Indonesia operates a universal health coverage scheme known as Jaminan Kesehatan Nasional (JKN) [6, 7], which is managed by the Social Security Administering Body for Health (BPJSK). Established in 2014, JKN aims to provide equitable access to healthcare for all citizens and is primarily financed through a combination of mandatory premium contributions and government subsidies for the poor and vulnerable. Healthcare facilities, including primary health centers and hospitals, are reimbursed by BPJSK based on agreed-upon tariffs. While the JKN program represents a significant step toward universal health coverage, it has consistently faced financial challenges, including looming deficits [8]. These financial pressures, which were significantly exacerbated by the pandemic, often create an environment ripe for corruption as various actors seek to maximize gains or minimize losses within a strained system.

3.2 Manifestations of corruption: Fraudulent billing, procurement irregularities, resource misallocation

During the COVID-19 pandemic, several forms of corruption became particularly prominent within the Indonesian healthcare sector, diverting critical resources and eroding public trust. Hospitals, facing what they perceived as insufficient tariffs from BPJSK, engaged in fraudulent billing practices, including creating false billing or “shadow claims” for services not rendered or for inflated costs [9, 10, 11]. The urgent need for medical equipment and vaccines also created opportunities for corruption in procurement processes, with reports indicating inflated prices, substandard quality of procured goods, and nontransparent bidding processes, which prompted investigations by the Corruption Eradication Commission (KPK) [12, 13]. Furthermore, funds and resources intended for the COVID-19 response, including social aid, were reportedly misallocated or diverted, as highlighted by high-profile cases involving government officials [14, 15]. In response to financial pressures, some hospitals also engaged in practices like “patient cherry-picking” and prematurely discharging patients, which directly compromised patient rights and the quality of care.

3.3 Impact of corruption on healthcare infrastructure and service delivery

The manifestations of corruption described above had profound impacts on Indonesia’s healthcare infrastructure and the delivery of services during the COVID-19 pandemic [3, 16]. The diversion of funds and fraudulent practices meant that resources were not adequately invested in strengthening healthcare infrastructure, including hospitals, medical equipment, and, crucially, secure digital health systems. This underinvestment left the system ill-equipped to handle the surge in demand and vulnerable to operational failures. When procurement processes are corrupt, the

quality of medical supplies can be compromised, directly affecting patient outcomes. Similarly, practices like premature discharge, driven by financial pressures, directly undermine the quality and equity of care provided. High-profile corruption cases and widespread perceptions of malpractice severely eroded public trust in the government and the healthcare system, which had significant implications for public health initiatives as citizens became less willing to comply with health protocols or share PHI. This created a cycle where corrupt practices went unchecked, further entrenching systemic issues and increasing the vulnerability of sensitive patient data to misuse.

4. Patient data privacy and rights enforcement: Pre and during COVID-19 in Indonesia

The protection of patient data privacy and the enforcement of patient rights are critical components of a functioning healthcare system. In Indonesia, the legal and practical landscape surrounding these issues has undergone significant challenges, which were particularly exacerbated by the demands of the COVID-19 pandemic. This section will explore the state of patient data privacy and rights enforcement, highlighting the vulnerabilities that existed prior to the pandemic and how emergency measures and specific incidents further complicated the situation.

4.1 Precovid-19 data protection landscape

Prior to the enactment of the Personal Data Protection (PDP) Law in 2022, Indonesia's legal framework for data protection was fragmented and lacked a comprehensive, overarching regulation [17, 18]. Various sector-specific regulations touched upon data privacy, but there was no single, unified law comparable to international standards [4]. This fragmented landscape created several challenges, including the lack of a specific law stipulating what constitutes patient privacy protection, which meant that a robust legal framework for digital health data was largely absent. Data protection provisions were scattered across different laws, making enforcement complex and often inconsistent. Without a dedicated data protection authority (DPA) and clear legal mandates, enforcement mechanisms were often weak, leaving individuals with limited avenues for redress in cases of data misuse or breaches. This preexisting vulnerability meant that when the pandemic hit, Indonesia's data protection infrastructure was not adequately prepared to handle the massive influx of sensitive health data that was collected and processed. Key provisions of the 2022 Personal Data Protection Law relevant to health-data governance are summarized in **Table B1**.

4.2 Emergency measures and data collection during the pandemic

The urgent need to control the spread of COVID-19 led the Indonesian government to implement various emergency measures, many of which involved extensive collection and processing of personal health data. The government launched applications like PeduliLindungi, which became mandatory for accessing public spaces and collected a vast amount of personal data, including location data and vaccination records [19]. While the government stated efforts to protect user

privacy, the sheer volume and sensitivity of the data raised concerns. The electronic health alert card (eHAC) system also collected health information and became central to the pandemic response [19]. The crisis necessitated rapid data sharing among various government agencies and private entities, which often occurred under emergency protocols, potentially bypassing standard data governance procedures. Indonesia also utilized big data to compile databases from the public for its COVID-19 response [20]. The rapid deployment of these digital tools in an environment with a nascent data protection legal framework created a fertile ground for privacy vulnerabilities, as the focus on immediate public health needs often overshadowed the meticulous implementation of data privacy safeguards.

4.3 Specific cases of data breaches and privacy violations

The vulnerabilities in Indonesia's data protection landscape, exacerbated by emergency measures, led to several high-profile data breaches and privacy violations during the COVID-19 pandemic. In August 2021, a significant data breach in the eHAC system exposed the personal information of over 1.3 million users, including COVID-19 test results and medical records. The breach was attributed to deficient data privacy protocols. Despite the severity of the incident, Indonesian police later dropped their investigation, raising concerns about accountability. The PeduliLindungi application also suffered from multiple data leaks, with reports indicating that personal data and vaccination information, including that of President Joko Widodo, were circulated online. While some reports suggested the leaks were due to an expired asset rather than a direct hack, these incidents highlighted the precariousness of sensitive health data within government-mandated applications. Even prior to these major breaches, there were instances of public dissemination of personal data of COVID-19 patients, which led to discrimination and intimidation [21]. There were also alarming reports of COVID-19 patient data being sold on online forums, further underscoring the severe consequences of inadequate data protection. These incidents are summarized in **Table A1**.

4.4 Challenges in rights enforcement and accountability

The numerous data breaches and privacy violations during the pandemic underscored significant challenges in rights enforcement and accountability in Indonesia. The absence of a comprehensive data protection law until late 2022 meant that legal recourse for data privacy violations was often unclear or insufficient. During this critical period, Indonesia also lacked a fully established and independent DPA, meaning that oversight and enforcement responsibilities were fragmented across various government bodies. Limited public awareness and digital literacy made many citizens vulnerable to privacy infringements and less likely to report violations. In the urgency of the pandemic, there was a tendency to prioritize collective public health goals over individual privacy rights, which often led to a de-emphasis on robust privacy safeguards. The dropping of investigations into major data breaches, such as the eHAC case, sent a concerning message about impunity. When perpetrators of data violations are not held accountable, it undermines public trust and perpetuates a cycle of privacy infringements, leaving patients with limited effective mechanisms to seek compensation or ensure that their rights are upheld.

5. The corrosive shadow: How corruption undermined data privacy and rights

The preceding sections have established the pervasive nature of corruption within Indonesia's healthcare system during the COVID-19 pandemic and the significant vulnerabilities in patient data privacy and rights enforcement. This section will now synthesize these observations, arguing that corruption, while not always directly targeting data systems, casts a corrosive shadow that indirectly but profoundly undermines patient data privacy and the enforcement of their rights. This indirect impact occurs through several interconnected pathways.

5.1 Weakened oversight and governance due to corruption

Corruption systematically erodes the integrity and effectiveness of governance structures, including those responsible for oversight and regulation. In the Indonesian context during the pandemic, this weakening manifested in several ways that directly impacted data privacy. When regulatory bodies are susceptible to corrupt influence, their ability to enforce data protection standards is severely diminished. This can involve bribery to overlook noncompliance or the appointment of unqualified officials. Corruption also thrives in opacity; when procurement processes are nontransparent, it becomes difficult to track how resources are allocated, including those meant for IT infrastructure and data security. This lack of transparency directly hinders effective oversight, making it easier for data breaches to occur and for those responsible to evade accountability. The dropping of investigations into data breaches, such as the eHAC case, further exemplifies a systemic failure in accountability, which can be linked to a broader culture of impunity fostered by corruption. The diversion of funds through corrupt practices also means that resources are siphoned away from critical investments in secure digital health infrastructure and robust cybersecurity measures, leaving patient data vulnerable by default.

5.2 Resource diversion and its impact on secure data infrastructure

One of the most direct indirect impacts of corruption on data privacy stems from the diversion of financial and human resources. Funds intended for strengthening the healthcare system, including its digital backbone, were instead misappropriated. Corruption in areas like medical equipment procurement strained the overall healthcare budget, which often led to cuts in less visible but crucial areas, such as IT security upgrades, data encryption technologies, and secure data storage solutions. Without adequate funding, healthcare providers and government agencies were forced to operate with outdated or insufficient data protection mechanisms. Nepotism and patronage in appointments can also lead to a lack of qualified personnel in critical IT and data management roles. When positions are filled based on connections rather than competence, the technical expertise required to design, implement, and maintain secure data systems is absent. Furthermore, the use of substandard or overpriced IT solutions due to corrupt procurement practices can result in inherently insecure data systems, as contracts may be awarded based on kickbacks rather than quality, directly jeopardizing patient data.

5.3 Erosion of public trust and reluctance in data sharing

Corruption severely erodes public trust in government institutions and public services. This erosion of trust has a profound, indirect impact on data privacy and public health initiatives during the pandemic. When citizens perceive that their government or healthcare system is corrupt, they become deeply skeptical about how their sensitive personal data will be used. This skepticism translates into a reluctance to share information, even for legitimate public health purposes like contact tracing [5]. This reluctance to share data directly hampers the effectiveness of public health initiatives, as incomplete or inaccurate data sets make it difficult to track the spread of the virus, identify hotspots, and allocate resources effectively. The initial public dissemination of personal data of COVID-19 patients, coupled with a general distrust due to corruption, also leads to stigmatization and discrimination [22], which further discourages individuals from getting tested or seeking treatment.

5.4 Emergency measures bypassing standard safeguards

The urgency of a pandemic often necessitates rapid decision-making and the implementation of emergency measures that may bypass standard bureaucratic processes and oversight mechanisms. While intended to expedite response, in an environment already compromised by corruption, these measures can inadvertently create significant vulnerabilities for data privacy and rights enforcement. The focus on immediate action can lead to the rapid deployment of data collection tools like PeduliLindungi and eHAC without sufficient prior assessment of their privacy implications or security vulnerabilities. Emergency declarations can centralize power and reduce the checks and balances that typically ensure accountability, which can be exploited in a corrupt environment to push through decisions that benefit private interests. The imperative to quickly gather and share data for public health purposes often leads to a deprioritization of data security and privacy safeguards. Corrupt actors can exploit the legal and procedural loopholes created by these emergency measures, for instance, by using relaxed procurement rules to award contracts to favored companies that provide insecure data solutions.

5.5 Case studies/examples illustrating the interconnections

The data breaches of the eHAC and PeduliLindungi applications serve as prime examples of how the corrosive shadow of corruption indirectly contributed to data privacy failures. The exposure of over 1.3 million users' data in the eHAC breach was attributed to deficient data privacy protocols. This deficiency can be directly linked to the underinvestment in secure digital infrastructure, a consequence of resource diversion due to corruption. Furthermore, the subsequent dropping of the police investigation into the eHAC leak exemplifies the weakened accountability mechanisms that are a hallmark of a corrupt environment. The multiple leaks from the PeduliLindungi app, including the highly sensitive vaccine certificate of the President, underscore the risks associated with the rapid deployment of digital tools under emergency conditions. While some reports suggested the leaks were due to an expired asset rather than

a direct hack, this still points to a failure in diligent asset management and cybersecurity hygiene. Such failures can be exacerbated by a system where competence is overlooked in favor of patronage, or where resources for continuous security audits and maintenance are diverted. These cases illustrate that even when corruption does not directly cause a data breach, it creates a systemic environment that fosters vulnerabilities through weakened institutional capacity, an erosion of ethical culture, and compromised accountability.

6. Policy implications and recommendations

The analysis presented in this chapter highlights the profound and often indirect ways in which corruption can undermine patient data privacy and rights enforcement, particularly during public health emergencies. Addressing this corrosive shadow requires a multifaceted approach that targets both the root causes of corruption and the specific vulnerabilities in data governance and rights protection. The following recommendations are crucial for strengthening Indonesia's healthcare system and safeguarding its citizens in future crises.

6.1 Strengthening anticorruption measures in healthcare

Combating corruption in the healthcare sector is paramount, as it forms the bedrock upon which data privacy and rights protection can be built. This requires enhancing transparency in procurement and resource allocation through the public disclosure of contracts and the empowerment of independent audit bodies. Robust legal frameworks must be created and enforced to protect whistleblowers who report corrupt practices within the healthcare system, thereby encouraging reporting without fear of reprisal. Rigorous financial management and auditing systems should be implemented within BPJS Kesehatan and healthcare facilities to prevent fraudulent billing and resource diversion. It is also crucial to foster a culture of integrity and ethical conduct among healthcare professionals and to empower independent anticorruption agencies, such as the KPK, to investigate and prosecute corruption cases without political interference.

6.2 Enhancing data protection laws and enforcement (PDP law implementation)

The enactment of the PDP Law (Law No. 27 of 2022) is a significant step forward, but its effective implementation and enforcement are critical. Implementing regulations must be finalized to provide clear guidance on its practical application, particularly concerning sensitive health data. A dedicated, independent, and well-resourced DPA must be established, as mandated by the law, with the authority to investigate breaches and impose penalties. Given the sensitivity of health data, specific guidelines should be developed to address the unique challenges of its collection and processing. Sufficient resources must be allocated for the development and maintenance of secure, interoperable digital health systems, and principles of data minimization and purpose limitation should be enforced to reduce risk exposure. Finally, public awareness campaigns are needed to educate citizens and healthcare professionals about data privacy rights and best practices.

6.3 Building trust and transparency in public health initiatives

Rebuilding and maintaining public trust is essential for the success of any public health initiative, especially those relying on data sharing. Governments and healthcare providers must clearly and transparently communicate how patient data is collected, used, stored, and protected, particularly during emergencies. This includes explaining the benefits of data sharing for public health while reassuring individuals about privacy safeguards. Involving communities in the design and implementation of public health data initiatives can help build trust and address concerns. When data breaches or privacy violations occur, authorities must conduct thorough, transparent investigations and hold responsible parties accountable. Prompt and effective redress mechanisms for affected individuals are crucial for restoring trust.

6.4 Safeguarding rights during emergencies

While emergencies necessitate rapid responses, they should not come at the expense of fundamental rights. Any emergency measures that impact data privacy or patient rights must adhere to principles of proportionality and necessity; they should be time-bound, clearly defined, and subject to regular review. New digital tools and systems deployed during emergencies should incorporate privacy-by-design principles from the outset, integrating safeguards into their architecture rather than adding them as an afterthought. Independent oversight mechanisms, such as parliamentary or judicial review, should be established for emergency powers, particularly those related to data collection and use. Finally, clear, predefined guidelines and protocols for data sharing during public health emergencies must be developed to ensure that data is shared only when necessary and with appropriate safeguards.

7. Conclusion(s)

This chapter has examined the indirect ways in which systemic corruption undermines patient data privacy and rights enforcement during the COVID-19 pandemic in Indonesia. While direct breaches, such as those involving eHAC and PeduliLindungi, drew public attention, the more profound impact stemmed from corruption's corrosive shadow: weakened oversight, diversion of resources away from secure infrastructure, and reduced accountability within an already fragile data protection landscape. These conditions created fertile ground for significant privacy breaches and eroded the trust necessary for citizens to share accurate health information, thereby diminishing the effectiveness of public-health initiatives.

Beyond immediate security lapses, the metaphor of the corrosive shadow highlights how corruption gradually degrades the very institutions designed to protect citizens. The Indonesian case illustrates that neglecting corruption – even when not directly linked to data governance – can have severe consequences for both individual rights and collective health outcomes. The pandemic response revealed how emergency measures taken under compressed oversight, when coupled with systemic malpractice, further exposed vulnerabilities and complicated the enforcement of patient rights.

Looking ahead, several avenues for research remain. Quantitative and comparative studies could assess the relationship between corruption and data breaches across different healthcare systems, while investigations into long-term

trust dynamics would clarify how weakened confidence affects health-seeking behavior after a crisis. Evaluating the practical effectiveness of Indonesia’s 2022 PDP Law and exploring technological innovations, such as blockchain for data integrity, may also yield strategies for strengthening resilience. Together, these inquiries can inform policy frameworks that balance urgent public-health needs with the enduring protection of patient rights and data privacy.

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Conflict of interest

The authors declare no conflict of interest.

Declarations

The views expressed in this chapter are solely those of the author and do not reflect the official stance of Airlangga University or any affiliated institution. All errors or omissions are the author’s responsibility.

Nomenclature

Abbreviations	Definition
BPJSK	Social Security Administering Body for Health in Indonesia
COVID-19	Coronavirus disease 2019
DPA	data protection authority
eHAC	Electronic health alert card, a digital health application mandated in Indonesia during the pandemic.
JKN	National Health Insurance Scheme of Indonesia
KPK	Corruption Eradication Commission
PDP Law	Personal Data Protection Law (Law No. 27 of 2022, Indonesia)
PHI	Personal Health Information
WHO	World Health Organization

Appendices and nomenclature

Date	Incident	Key details
August 2021	eHAC data breach	Personal data of approximately 1.3 million users exposed, including COVID-19 test results and medical records.
September 2021	PeduliLindungi data leak	Vaccination records, including those of President Joko Widodo, have been circulated online.
2020–2021	Unauthorized dissemination of COVID-19 patients' data	Sensitive personal information was disclosed publicly, leading to discrimination and intimidation.
2021	Sale of COVID-19 patient data on online forums	Reports indicated health data being illegally traded, raising severe privacy concerns.

Table A1.
Timeline of major data breaches in Indonesia during the COVID-19 pandemic.

Article	Provision summary	Relevance to health data privacy
Article 4	Defines personal data, including health data, as a category of sensitive personal data.	Establishes that patient health information requires heightened protection.
Article 39	Establishes an independent data protection authority (DPA).	Provides oversight and enforcement mechanisms for data privacy, including healthcare-related cases.
Article 46	Obligates data controllers and processors to implement technical and organizational security measures.	Directly addresses hospitals, apps (e.g., eHAC, PeduliLindungi), and government agencies handling patient data.
Article 57	Sets penalties for violations, including administrative fines and criminal sanctions.	Ensures accountability for misuse, breaches, or negligence in handling sensitive health data.

Table B1.
Key provisions of the Indonesian Personal Data Protection Law (Law No. 27 of 2022) relevant to health data privacy.

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Corruption remains a pervasive global obstacle, eroding good governance and impeding development. This collection of works comprehensively investigates the subject, thereby linking academic thought with the realities of practical administration. The book is structured in three parts: initially, it re-evaluates the conceptual foundations of corruption, moving beyond 'one-size-fits-all' approaches to propose proactive resilience frameworks. Subsequently, the second part presents thorough empirical analyses across diverse regional contexts, including Colombia, Indonesia, Ukraine, and Central Asia, investigating the influence of institutional capture and judicial independence on the trajectory of corruption. Lastly, the volume delves into current policy applications, emphasizing digitalization and AI in the Gulf, and addressing integrity across sectors such as law enforcement, construction, and healthcare. Combining global case studies with new technological and legal tactics, this book is an indispensable resource for academics, practitioners, and decision-makers. In a time marked by rapid technological development and international challenges, these findings offer a critical framework for building resilient, honest societies.

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