EUROPEAN ANTI-CORRUPTION AGENCIES: PROTECTING THE COMMUNITY'S FINANCIAL INTERESTS IN A KNOWLEDGE-BASED, INNOVATIVE AND INTEGRATED MANNER

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Cycles of Change and Performance Expectations in ACAs*

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Introduction

Many public sector reform programmes in developing countries include measures to control and prevent corruption. The preferred institutional focus of governments and donors is often the creation or strengthening of an anti-corruption agency (ACA) to take ownership and primary responsibility for anti-corruption work. In so doing, they are implementing the advice of analysts and anti-corruption NGOs such as Transparency International who argue that 'if major anti-corruption initiatives are to be firmly anchored, there need to be distinct, national government agencies dedicated to curbing corruption'.[1] It is further suggested that such agencies need to be credible, respected, transparent, fearless and independent.[2] This article explores the factors which shape the

prospects for such organizations and, in particular, examines the role played by the expectation of those who create and sustain them.

The first question to consider is whether an ACC can meet some, all or any of the expectations of its creators and advocates? This depends, in practice, on a variety of contextual factors including the institutional and political environment in which the ACA is located, the impact and legacy of previous reform efforts, local resistance or responsiveness to exogenous reform proposals and the sustainability and transferability of the specific ACA reform proposals.

Is the ACA intended to be an island of integrity in a sea of corruption and, if so, what happens when sea levels rise? Where public sector institutions are rife with corruption, the burden on the ACC may be insupportable. Despite many reform efforts, governmental institutions in Africa are usually seen as ineffective, inefficient and corrupt. They conspicuously fail to demonstrate basic virtues of functioning bureaucracies. In terms of local responsiveness or resistance, it must be acknowledged that governments and donors can be rivals as well as partners, in setting and sustaining the public reform agenda. Sometimes the ownership of proposals is unclear and, even when there is agreement on overall aims and basic means, there may be crucial differences about timing, resourcing, priorities, structures and skills. Underlying these difficulties is the frequent tension between the desire of donors to implement forms and procedures that have worked well in other, often developed, countries.[3] But in institutional and political environments which lack transparency and accountability, the focus on driving bureaucratic efficiency may create and even institutionalize opportunities for corruption.[4]

ACAs do not stand outside government but rather reflect the deficiencies, tensions and conflicts which plague other public sector institutions. They may lack essential infrastructure, adequate support and key skills and be subject to the vagaries of donor wishes and funding. Their mission may be narrow and focused but, more often, it will be broad and vague. The success or failure of ACAs depends on a wide variety of factors but a key element is the form and level of expectations imposed on them.

What is Expected of ACAs in Developing Countries?

The academic and practitioner literature on ACAs suggests that they invariably have one or more of three functions – investigation and enforcement; corruption prevention; and raising corruption awareness and education. The salience of these three functions is normally linked to the pioneering success of the Hong Kong Independent Commission against Corruption[5] and, to a lesser extent, Singapore's CPIB. The attention given to the impact of these ACAs and, in an African context, the relative success of Botswana's DCEC[6] has attracted donors and reinforced the convention that the ACA is a viable vehicle for delivering anti-corruption strategies.

But the Hong Kong structural model including investigation, prevention and education divisions developed where and when it did because of specific contextual conditions; an economic imperative to restore the confidence of investors, foreign and domestic; a political will to give priority to economic development; the ability of government and its agencies to exert draconian powers without regard to civil liberties or the need for democratic accountability; an almost exclusive focus on a single locus of corruption; access to expertise and senior appointments from outside Hong Kong to enable the removal and replacement of corrupt officers and, finally, the ready availability of very substantial resources.

The perceived success of the Hong Kong ICAC has encouraged efforts to replicate the model in its entirety regardless of politico-economic context, resource availability, the scale and loci of corruption and the capacity, current or latent, of the ACA. But, while the 'one size fits all' approach avoids the necessity to 'reinvent the wheel' and thus provides a design and development short-cut, it also requires the presence of a range of external and internal conditions to have any serious prospect of success. The conditions include; support or at least independence from government; levels of corruption that give the ACA a chance to manage its workload; a coherent and well known anti-corruption strategy; the existence of agencies to deal with corruption not within the ACAs remit; and functioning court and prosecution structures and processes. The internal conditions include; adequate and appropriate financial, material and human resources; clear strategic

and operational objectives; operational independence and freedom from political interference; and public awareness of, and confidence in, the ACA.

Taking these external and internal conditions together, they amount to a daunting set of pre-requisites which bear little correspondence with the realities of most developing and transitional countries. Much of the advocacy surrounding ACAs seems to be derived from desk rather than field experience. Anti-corruption reforms involving ACAs seem to be based on 'greenfield' thinking and are aimed at constructing the perfect ACA in optimal conditions. In reality, there are a number of extant ACAs operating in difficult environments that lack many of the conditions stipulated above and which are plagued by incoherent, inadequate and inconsistent funding policies. They are also affected by a dislocation with the wider governance reform agenda and usually face strong political resistance to anti-corruption work.

There is also a structural dilemma here: ACAs are established to address the corruption of other government institutions that damage the delivery of the development agenda. But, in practice, ACAs share many of the organizational and management weaknesses of the institutions they are intended to investigate. The key to understanding the potential of ACAs is to examiner how they work in practice in a range of developing countries rather than to generalize from the atypical example of Hong Kong.

ACAs in Practice: Organizational Development

The ACAs studied in our U4 Research Project[7] have all experienced uneven organizational development and, in Malawi, Tanzania, Uganda and Zambia, they have been consistently under-funded, under-staffed and unable to fulfill their core functions to an adequate level. Frequently, there are unrealistic public, political or donor expectations about the potential for high-level corruption investigations with a consequent investment in front-line investigative services. But this is not often matched by investment in back-room infrastructure with predicable consequences. In Malawi, one donor review in 2003 recognised that donor support 'has tended to accentuate, rather than abate, ACB's (Anti—Corruption Bureau) difficulties' and has 'held back the development of internal ownership of corporate strategic management, Bureau-wide priority setting and inter-

divisional collaboration. It has cultivated (and exposed) divisions unequally. It has left some parts of the organization – IT, human resource management – under-served and possible under-valued. Effectively, ACB priorities remain determined by donors through their individual funding choices'.[8] The consequence is organizations which are developed in particular ways to meet current donor concerns.

A similar story was found in Zambia where, as recently as 2001, the ACC admitted in its Annual Report that 'the Finance Department has not yet been established due to lack of funds to put the structure in place'. The ACC has worked with a chronically under-staffed and insufficiently qualified accounts department since it inception. Yet NORAD has expressed its dissatisfaction with the Zambian ACC's continued inability to meet its reporting requirements. While such ACAs remain organizationally embryonic, their ability to make constructive use of a sudden and large increase in resources is doubtful. Yet donor support is selective and rarely focused on the organizational infrastructure.

Funding for ACAs is often inconsistent and 'lumpy', when funding for operational activities is scarce, staff spend a lot of time in headquarters literally sitting around. Most ACCs experience staff shortages and high turnover with certain skills being in high demand in the private and other sectors. Sometimes staff move from fighting corruption in an ACA to a post in an NGO such as a Transparency International chapter and become critics of the ACA, their former employer.

In only two of the six countries we studied, Ghana and Uganda, did we see evidence that the ACAs have developed standard business, planning, resource allocation and performance measurement criteria.

Delivery and Performance of ACAs: Measuring Effectiveness and Impact

Once the ACA becomes part of the tensions between donors and governments, or fails to meet expectations, then governments and donors have a credibility problem in that they have committed themselves to a single institutional approach in dealing with corruption. Donors seem particularly interested in encouraging ACAs to take on 'high profile' cases. In Zambia, donors were quick to offer support for a special Task Force to investigate former President Chiluba and his associates in 2002. The Task Force helped raise public

expectations but as yet has not achieved very much and, inadvertently, it may be a source of confusion about the respective roles of the ACC and the Task Force. In supporting the Task Force, it is possible that donors are again, inadvertently, helping to undermine confidence in the ACC, which they also fund.

In Uganda, donors were keen to encourage the IG to focus on the enforcement of the Leadership Code without any apparent understanding of the resources required and this activity has continued to take up disproportionate time and resources within the IG. There is often a mismatch between anti-corruption strategies – which may seem comprehensive and plausible – and the capabilities and capacities of governments and ACCs to deliver them.

The Dilemmas of Cycles of Expectation and Performance

It is clear that there are significant formative and maturation issues facing ACAs as public sector organizations in developing countries. There are also significant expectations in terms of what is demanded of such organizationally immature institutions. Much of the responsibility for the failure in performance of ACAs should properly be located elsewhere. Most often, they arise from the governance context and the activities of donors. ACAs work in particularly challenging and hostile environments and need time and resourcing to develop. We argued in the U4 Report that the initial objective for an ACA should be to achieve something within its existing resources and preferably to do something well. Organizational maturity is derived from demonstrable competence which in turn generates both internal and external confidence. There is a need for realism about what is achievable and to avoid trying to create an optimal ACA on the Hong Kong model; not the good ACC but the good enough ACC should be its aim.[9]

So why is this approach so singularly lacking in practice? Over time, governments which establish and support ACCs have variations in aims and expectations about the roles of ACAs. Changes in government often mean that the pattern of support to the ACA is changed as new priorities supplant old ones. The activities of the ACA are therefore disrupted, diluted and even reversed. New governments are impatient to make their

mark, to demonstrate that they are doing something about corruption and the ACA consequently becomes, albeit briefly, a major centre of political and donor attention.

What is lacking is a consistent view of the role of the ACA and consistent support for organizational development and anti-corruption activities. ACAs often exist, or appear to exist, outside the architecture of the state and are to some degree detached from the main foci of government activity. Once the initial enthusiasm of new governments to pursue their predecessors in office has dissipated, ACAs may be left to their own devices and they fall further down the list of funding priorities when they fail to deliver both what politicians want and when they want it. If a week is a long time in politics, it is only a passing moment in the development of an effective organization to fight corruption.

Just as governments have a cycle of enthusiasm and commitment followed by disillusionment and indifference to ACAs, so too do donors. Donors work to the cycles of their home governments and their attitudes to ACAs are framed by their usually short-term perceptions of the ACA and their more general expectations of governments in developing countries. What they fund, how they fund, when they fund, and how they measure what that funding is for, are all shaped by donor priorities and political changes. Donors are nearly always keen to accommodate an incoming government when it speaks the language of reform. The decisions of donors in regard to ACAs are then driven largely by factors and considerations other than the capacities, competences and development of the ACA. Some donors will have an enthusiasm for public education about corruption but the enthusiasm will wane and the issue of how to sustain such work becomes problematic. Other donors favour high-level investigations of corruption but become disillusioned by lack of progress.

In dealing with ACAs, donors do not rely on standard management and business planning models and they frequently display organizational amnesia. Changes in personnel mean there is little institutional memory and those working in anti-corruption often seem indifferent to, or simply ignorant of, earlier efforts to improve an ACA. They are consequently likely to repeat mistakes made a few years before. Donors have unrealistic expectations of ACA performance and this can lead to discontinuities in funding which in

turn impact further on performance. In public, donors normally stress the importance of cooperation and coordination with other donors on anti-corruption policies but, in practice, implementation is neither uniform nor complementary. Political imperatives rather than organizational development and performance are often the drives for funding and donor competition seems as conspicuous as donor coordination.

As organizations, ACAs have their own development cycles that are often assumed by donors and governments to be linear. But in practice, organizational development is often neither sequential nor incremental. ACAs are 'stop-start' organizations which are favoured one minute and neglected the next. Sometimes they have no resources to work with and other times they have more resources than they can sensibly handle. This 'feast or famine' approach to ACA funding and support is, to put it mildly, unhelpful in building any effective organization.

What we have then is a lack of <u>synchronicity</u> between ACAs, governments and donors. Each has expectations but the result is mutual disappointment and frustration. What ACAs need to succeed is clarity and consistency. Clarity about a role that is particularly appropriate to a free standing anti-corruption organization and consistency in developing and resourcing the organization to fulfil its designated role. Where there are disjunctions between ambitions, timescales and resourcing between governments, donors and ACAs, it is scarcely surprising that the achievements of ACAs outside of Hong Kong are modest.

<u>Resolving the Dilemmas? How to Improve the role of ACAs</u>
An ACA's potential to achieve success is dependent on creating a positive strategic fit between the demands of its operating environment and the organization's own capacity to meet those demands. This means balancing what needs to be done with what the ACA is actually able to do. ACAs are easily overwhelmed by too comprehensive a mission and they are easily discredited when presented with tasks that are simply too difficult.

Any assessment of an ACA's potential for success is a comparative or relative process linking activities undertaken and achievements attained with the scale and scope of corruption together with an evaluation of the factors that support or inhibit the activities

and potential achievements of the ACA. In effect, this means evaluating performance achieved in relation to available resources, levels of competence employed and the degree of difficulty in the operating environment. This requires a shift in ACA performance measurement and evaluation from single factor criteria e.g. number of convictions to evaluation of performance achieved within specific environmental conditions. Performance should be assessed not against an ideal 'gold standard' for an ACA but against what can be achieved in particular circumstances.

We need also to resolve a number of difficulties that impede both organizational development for an ACA and the assessment of its performance. Four issues stand out:

- A failure to reconcile the scale and scope of the corruption problem and the ambitions of governments, donors and ACAs with the actual resources and capabilities of the ACA in each particular political context;
- A failure of donors to identify and apply appropriate measurement of the performance of ACAs;
- A failure to synchronize the lifecycles of governments, donors and ACAs in terms of organizational effectiveness and development;
- And the failure of ACAs to achieve the level of success to maintain public credibility without losing political support.

To succeed, ACAs need to concentrate on what they are capable of doing and this may involve eliminating forms and levels of corruption from their remit because they are either not worth investigating or because they are simply inaccessible to investigation. In developing the capacity, capability ;and performance of an ACA, we need to take into account the key dimensions of corruption in the host country, the consequential development needs of the ACA and how they can be met within available resources.

Conclusion

ACAs need to stand before they can walk and walk before they can run. Too often, governments and donors establish ACAs with the expectation that they will 'hit the ground running'. As the ACA tries to respond to such expectations and pressures,

they struggle and fall. New governments and donors pick them up and urge them to try again. Infant organizations should not be treated as mature ones. Repeated failure is destructive of political and donor support, public confidence and staff morale. The greatest danger to any organization is excess ambition where expectations are not matched by capacities. In business management, we are warned against the 'Icarus Paradox' where, as in Greek mythology, ambition and misplaced self-confidence encourages organizations to grow beyond their existing capabilities or to take on roles and responsibilities that are not supported by the organization's current infrastructure or competences.

ACAs need to be selective and discriminating in what they attempt and they need to ensure they develop the infrastructure appropriate to their ambitions. Governments, donors and leaders of ACAs need to be satisfied with modest, incremental achievements because these will provide the foundations for future development. If the expectations of governments and donors force ACAs to attempt the impossible, they will be condemned to organizational impotence.

Notes

[1] Pope J. and Vogel F. (2000) 'Making Anti-Corruption Agencies More Effective', *Finance and Development,* 37,2.

[2] For analyses of the need for and the role and effectiveness of ACAs, see: Doig A. (1995) 'Good Government and Sustainable Anti-Corruption Strategies: A Role for Independent Anti-Corruption Agencies? *Public Administration and Development* 15,2; Doig A., Watt, D. and Williams R. (2005), 'Measuring "success" in five African Anti-Corruption Commissions', (Bergen), U4 Anti-Corruption Research Centre; Johnston, M.(1999) ' A Brief History of Anti-Corruption Agencies' in Schedler, A, Diamond, L. and Plattner, C. (eds) *The Self-Restraining State: Power and Accountability in New Democracies*, Boulder, Lynne Rienner Publishers Inc.; Meagher, Patrick (2005) 'Anti-Corruption Agencies: Rhetoric Versus Reality', *Journal of Policy Reform*, 8,1. pp. 69-103; Pope, J. and Vogel F. (2000) 'Making Anti-Corruption Agencies More Effective', *Finance and Development* 37,2; Williams Robert and Doig Alan (eds) (2000) *controlling Corruption* Cheltenham, Edward Elgar Publishing Co; Williams, Robert (2004), 'African Anti-Corruption Commissions, First Report: Overview and Issues, Bergen, U4 Anti-Corruption Research Centre.

[3] Haruna, P.F. (2003) 'Reforming Ghana's Public Service: issues and Experiences in comparative Perspective', *Public Administration Review*, 63,3, p. 349.

[4] Schick, A. (1998) 'Why Most Developing Countries Should Not Try New Zealand Reforms', *the World Bank Research Observer*, 13,1, p. 5.

[5] Moran, Jon (1999) 'The Changing Context of Corruption Control: The Hong Kong Special Administrative Region, 1997-99', *Journal of Commonwealth and Comparative Politics*, 37, pp. 98-117

[6] Theobald, Robin and Williams, Robert (1999), 'Combating Corruption in Botswana: Regional Role Model or Deviant Case?', *Journal of Commonwealth and Comparative Politics,* 37,3, pp117-134

[7] Doig A, Watt D. and Williams, R. (2005) 'Measuring "success" in five African Anti-Corruption Commissions', U4 Anti-Corruption Research Centre, Bergen.

[8] Doig, Watt and Williams, (2005) p. 63

[9] Doig, A., Watt, D. and Williams, R. (2006) 'Hands-On or Hands-Off? Anti-Corruption Agencies in action, Donor Expectations and a Good Enough Reality', *Public Administration and Development*.