

**A Comparative Analysis of the OECD Anti-Corruption Models (Asia & Europe) And
Australia's Existing Anti-Corruption Platform**

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ABSTRACT

Corruption is generally defined as abuse of power or authority for personal gain. Corruption can occur in any circumstance – whether in the public or private sectors, where someone acts as an agent of another person or group. Corruption is a practice that affects and occurs at all levels of society, from local and national governments, civil society, judiciary functions, and in large and small businesses. It could be argued that corruption can undermine a nation's economy, market confidence, negatively impact on foreign investment and divert resources from essential portfolios such as education, health and social services. It distorts governmental priorities and technological choices, drives privatised firms underground and out of the formal sector, as well as causing ineffective tax collection. But it should be noted that corruption is not isolated to a particular region, but rather, can manifest and flourish in any country. The Corruption Perception Index (CPI) (2013), noted that two-thirds of the 177 countries / territories surveyed in 2012, scored below 50 on the corruption scale, indicating that there is a serious corruption problem worldwide. A country's rank indicates its position relative to the other countries and territories included in the index. As expected, the highest scores of corruption appear in countries plagued by conflict, though; corruption is still prevalent in countries with low CPI scores. Corruption in these countries is well hidden and accordingly receives a low CPI score. Fortunately, there are more opportunities to combat corruption now, than ever before. With advances in technology and heightened awareness of the impact of corruption, for both developed and developing countries, new global standards of behaviour are emerging (World Bank, 1997; OECD, 2002). Many governments have systems in place to protect public institutions against corruption, such as, meritocratic civil service and watchdogs (i.e. ombudsmen and public service commissions), (World Bank, 1997). The Organization for Economic Co-operation and Development (OECD) (2008) has recognised the need for a wider examination of existing international laws and models apparent to addressing corruption. The OECD (2008) has identified three key models utilized internationally to prevent and combat corruption.

This paper will examine each of these three (3) models within the context of selected European, Asian and Australian Case studies. This comparative analysis outlines the need for countries to remain vigilant with respect to combatting corruption and to be continually seeking ways to target corruption within our communities.

INTRODUCTION

Corruption is generally defined as abuse of power or authority for personal gain. Where a person acting as an agent for another person behaves in a manner in which they place their own interests ahead of those of their principle. Corruption can occur in any circumstance – whether in the public or private sectors, where someone acts as an agent of another person or group (Congram et al., 2014, p. 30). Corruption is a practice that affects and occurs at all levels of society, from local and national governments, civil society, judiciary functions, and in large and small businesses. It could be argued that corruption can undermine a nation's economy, negatively impact on foreign investment and divert resources from essential portfolios such as education, health and social services (Parliament of Australia, 2012). It also distorts governments priorities and technological choices, drives privatised firms underground and out of the formal sector, as well as causing ineffective tax collection (Baughn et al., 2010; Gray and Kaufmann 1998).

Corruption is not isolated to a particular region, but rather, can manifest and flourish in any country. According to the Corruption Perception Index (CPI) (2013), two-thirds of the 177 countries / territories surveyed in 2012, scored below 50 on the corruption scale, indicating that there is a serious corruption problem worldwide. The CPI ranks countries and territories on how corrupt their public sector is perceived to be. A country or territory's score indicates the perceived level of public sector corruption on a scale of 0 - 100, where 0 means that a country is perceived as highly corrupt and 100 means it is perceived as very clean. A country's rank indicates its position relative to the other countries and territories included in the index. As expected, the highest scores of corruption appear in countries plagued by conflict, though; corruption is still prevalent in countries with low CPI scores. Corruption in these countries is well hidden and accordingly receives a low CPI score.

Fortunately, there are more opportunities to combat corruption than ever before. With advances in technology and heightened awareness of the impact of corruption, for both developed and developing countries, new global standards of behaviour are emerging (World Bank, 1997; OECD, 2002). Many governments have systems in place to protect public institutions against corruption, such as, meritocratic civil service and watchdogs (i.e. ombudsmen and public service commissions), (World Bank, 1997). Equally, many international bodies exist to address the global and multi-faceted challenge of fighting corruption. The Organization for Economic Co-operation and Development (OECD) (2008) has recognised the need for a wider examination of existing international laws and models apparent to addressing corruption. The OECD (2008) has identified three key models utilized internationally to prevent and combat corruption:

1. Multi-purpose agencies with law enforcement powers and preventive functions
2. Law enforcement type institutions
3. Preventative, policy development and co-ordination institutions.

The OECD'S (2008) review of the above models will inform part of the foundational knowledge of this study. This paper will examine the OECD (2008) specialised anti-corruption models for Asia and Europe in order to understand if their standards, systems, processes and practices are applicable to informing Australia's anti-corruption framework.

This paper is limited to the examination of anti-corruption models within the context of the public sector. Thus, the focus will be primarily on government and its activities. It will not examine corruption in

the private sector. However, it is acknowledged that the interaction between the private and public sectors should be highlighted as an area of concern in Australia when considering anti-corruption models due to the vulnerability of public funds and the risk that they can be diverted to private companies with connections to public officials.

Approach

A blended method of document analysis, comparative analysis and case study analysis has been employed in this study. The resultant mixed method saw secondary data collected, compared and contrasted in order to synthesise critical elements of best practice that are evident in any successful anti-corruption model.

Document analysis is an “integral part of qualitative research and constitutes an essential foundation in gathering data and linking one's findings with higher order concepts” (Van den Hoonaard, 2008). A review of the literature was conducted on the anti-corruption models proffered by the OECD (2008) in Europe and Asia together with the anti-corruption models currently employed in Australia. Comparative analysis was used to identify differences and similarities as well as the advantages and disadvantages of each of the models discussed. While case study analysis (Yin, 1994) was used to identify specific examples of each model amongst countries that scored comparably on the 2012 Corruption Perception Index.

Specific examples of OECD (2008) anti-corruption models within Asia and Europe were selected in order to narrow the focus of this paper. This controlled scope of analysis does not provide a holistic understanding of each models application. However, to best address this issue, a comparative analysis was conducted utilising the Transparency International Perception Index. Countries within Asia and Europe that were ranked the least corrupt were selected as primary examples of each model. In Asia, Hong Kong and Singapore were chosen for applying multi-purpose agencies with law enforcement powers and preventative functions. In Europe, Norway provided a comparable example to Australia's corruption ranking, and as such was chosen to represent the ‘law enforcement model’ (OECD, 2008). France was also selected as the least corrupt country employing the preventative, policy development and co-ordination institution (Transparency International, 2013). Once case study countries were selected they were compared and contrasted against their similarities and differences. Criteria including legislation, functions, accountability, success and issues relevant to all of the models were analysed. Contextualizing Australia's anti-corruption framework was also an important element of the analytical process. Consideration was given to the efficacy of the OECD (2008) anti-corruption models within the cultural context of Australia.

Australia's Anti-Corruption Organizations / Institutions

Australia adopts a multi-agency approach to combat corruption. A variety of Anti-Corruption Agencies (ACA's) operate at state and federal levels serving differing functions. The following relevant legislation and anti-corruption agencies operating in Australia have been summarised in Figure 1.

Figure 1. Australia Anti-corruption Organizations / Institutions

Anti-corruption Agencies	State or Federal	Function	Relevant legislation	Oversight
Independent Commission into Corruption (ICAC)	New South Wales	Investigating, exposing and preventing corruption in the NSW public sector as well as educating and creating awareness to the public about corruption (ICAC, 2013)	- <i>Independent Commission Against Corruption Act (1989)</i> - <i>Crimes Act (1914)</i>	- NSW Parliament's Committee on the ICAC - Inspector of the ICAC (ICAC, 2013)
Independent Broad-based Anti-corruption Commission (IBAC) (modelled from ICAC)	Victoria	Investigating, exposing and preventing corruption in the VIC public sector as well as educating and creating awareness to the public about corruption (IBAC, 2012)	- <i>Independent Broad-based Anti-corruption Commission Act (2011)</i> - <i>Crimes Act (1914)</i>	Victoria Inspectorate
ICAC http://www.icac.sa.gov.au/content/about-us-0C	South Australia	Investigating, exposing and preventing corruption in the SA public sector as well as educating and creating awareness to the public about corruption.	- <i>Independent Commissioner Against Corruption Act (2012)</i> - <i>Crimes Act (1914)</i>	South Australian Inspectorate
Crime Misconduct commission (CMC)	Queensland	Investigation, law enforcement, intelligence, witness protection, adjudicative and research functions that encompass almost all aspects of the criminal justice system (CMC, 2013)	- <i>Crime and Misconduct Act (2001)</i> - <i>Criminal Proceeds Confiscation Act (2002)</i> - <i>Police Powers and Responsibilities Act (2000)</i> - <i>Police Service Administration Act (2000)</i> - <i>Public Interest Disclosure Act (2010)</i> - <i>Right to Information Act (2009)</i> - <i>Telecommunications (Interception and Access) Act (1979) (Cwlth)</i> - <i>Telecommunications Interception Act (2009) (Qld)</i> - <i>Witness Protection Act (2000)</i>	- Parliamentary Crime and Misconduct Committee, - Office of the Parliamentary Commissioner (Ombudsman) - Public Interest Monitor - The media (CMC, 2013)

Corruption and Crime Commission (CCC)	Western Australia	Prevention and education, ensuing allegations are investigated as well as assisting the WA police to combat organised crime (CCC, 2013).	- <i>Corruption and Crime Commission Act (2003)</i> - <i>Crimes Act (1914)</i>	Parliamentary Inspector Parliamentary Crime and Misconduct Committee (CCC, 2013)
Tasmanian Integrity Commission	Tasmania	Prevention and education - assisting the public sector to deal with misconduct and educating public officers and the public about integrity; Misconduct - dealing with allegations and complaints of misconduct about public officers and making findings and recommendations in relation to investigations (Integrity Commission, 2013)	- <i>Integrity Commission Act (2009)</i> - <i>Crimes Act (1914)</i>	Parliamentary Joint Standing Committee on Integrity Parliamentary Standards Commissioner (Integrity Commission, 2013)
Ombudsmen	Northern Territory	The Ombudsman receives and responds to complaints from members of the public about NT Government departments, statutory authorities, shire or community councils, NT Police or Correctional Services. Complaints are resolved through preliminary inquiry or through the process of alternative dispute resolution (Ombudsmen NT, 2012)	- <i>Criminal Code Act</i> - <i>Ombudsmen Act 2009</i>	
- Attorney General's Department - Australian Public Service commission (APSC) - Auditor-General,	State and Federal	Promoting Standards and Supervision	- <i>Public Service Act (1999)</i> - <i>Auditor-General Act (2009)</i> - <i>Financial Accountability Act (2009)</i> - <i>Freedom of Information Act (1982)</i> - <i>Parliamentary Service Act (1999)</i>	
- Commonwealth Ombudsmen,	State and Federal	Detection and	- <i>Ombudsmen Act (1976)</i>	These agencies are either overseen by each other or by

		Investigation	- <i>Crimes Act (1914)</i> - <i>Freedom of Information Act (1982)</i> - <i>Australian Federal Police Act 1979</i> - <i>Law Enforcement Integrity Commissioner Act (2006)</i>	the agencies in the 'Promoting Standards and Supervision' column above
- State Police Service - Australian Federal Police (AFP) - Courts - Parliamentary committees	State and Federal	Law Enforcement	- <i>Australian Federal Police Act (1979)</i> - <i>Freedom of Information Act (1982) (FOI Act)</i>	Commonwealth Ombudsmen Australian Information Commissioner
Office of the Commonwealth Director of Public Prosecutions (CDPP)	Federal	Prosecution	- <i>Director of Public Prosecutions Act (1983)</i> - <i>Crimes Act (1914)</i> - <i>Criminal Code Act (1995)</i>	

Figure 1 demonstrates that Australia has an abundance of legislation that is employed by a significant number of anti-corruption agencies operating at the state and federal level. The independent state bodies share similar core functions by focusing on investigation, prevention and education. More specifically, anti-corruption units that operate in the states of New South Wales (NSW), South Australia (SA) and Victoria (VIC) support a model referred to as Independent Commission Against Corruption (ICACs). Although these three states implement the same anti-corruption model, they are empowered by different pieces of (State-based) legislation. It is also noted that there is no independent anti-corruption body in Northern Territory of Australia.

Despite the existence of a shared focus on investigation, prevention and education across all state anti-corruption organizations, it was noted that some organizations support other functions. For example, Queensland's (QLD's) Crime and Corruption Commission (CCC) (formerly known as the Crime and Misconduct Commission - CMC) supports a witness protection capability as well as research and adjudicative functions.

It was also noted that corruption offences in Australia are not contained in any single Act of Parliament, but moreover can be found in both Commonwealth and State legislation (Parliament of Australia, 2012). As such the *Federal Crimes Act 1914* and various State-based legislation, support anti-corruption activities in each state and territory of Australia.

Australia has ratified the United Nations' (UN) Convention against Corruption in 2000 and the UN's Convention against Transnational Organized Crime in 2003. Both elements form an integral part of Australia's anti-corruption framework.

SUCCESS OF MODEL APPLIED IN AUSTRALIA

Australia scored 85 out of 100 (0 being highly corrupt to 100 being very clean on the Corruption Perception Index - 2013(Transparency International, 2013). This score ranks Australia as number 7 out of 177 least corrupt countries in the world. While Denmark (90), New Zealand (90), Finland (90), Sweden (88), Singapore (87) and Switzerland (86) were identified as the least corrupt countries in the world (Transparency International, 2013). In 2010, Australia scored 96 and was identified as one of the least corrupt countries in the world (Transparency International, 2010).

Other perception studies include the *2013 Index of Economic Freedom* which scored Australia's freedom from corruption as 88, ranking it number 8 out of 42 countries in the Asia Pacific region (Heritage Foundation, 2013). The 2013 study concluded that Australia's judicial system operated independently and impartially and expropriation was highly unusual. Effective anti-corruption measures discourage bribery of public officials and reinforce a tradition of clean government (Heritage Foundation, 2013). The OECD argues that although these studies provide rigorous, comparable scores, they do not provide much information about the performance of single institutions (OECD, 2008).

Assessing the performance of Australia's anti-corruption institutions can therefore be a difficult task. Research suggests that associating the success of an anti-corruption institution with the level of corruption in a given country (at a given moment in time) can be problematic (OECD, 2008). This is based on the argument that a large amount of corrupt conduct is under-reported and an over reliance on perception studies as the primary research tool is a flawed process (OECD, 2008). As a result, two kinds of indicators have been developed to measure the performance of institutions. These are quantitative indicators (statistical data and measure of public perceptions) and qualitative indicators (expert assessment and surveys). Both sets of indicators are based on the functions performed by these institutions on a regular basis (OECD, 2008).

Case Study of NSW ICAC Model

These quantitative and qualitative indicators were used in this study to examine the NSW ICAC model. The NSW ICAC framework is akin to the Hong Kong ICAC (HK ICAC) model. The HK ICAC is regarded by Shedler, Diamond, Plattner and Marc (1999) as one of the most replicated and widely recognised examples of best practice in anti-corruption, globally (Shedler et al., 1999). Since the inception of the NSW ICAC in 1989, it has been regarded as highly successful and effective in discharging its duties (Meagher & Volland, 2006). In terms of supporting evidence of the organization's success, the 2011-2012 ICAC Annual Report cited the following:

- Matters received or referred to the organization: 2,978
- Full investigations: 19
- Successful prosecutions: 16 (ICAC, 2012).

The NSW ICAC (2012) claims that its corruption prevention initiatives included the delivery of 116 training sessions and that 98% of corruption prevention recommendations were implemented (NSW ICAC, 2012). Qualitative evidence collected through the NSW ICAC's surveys suggests that members of the public viewed the commission as approachable, informative and helpful (ICAC, 2012). Despite the success claimed by the NSW ICAC, the OECD (2008, p.33) argues, "*no single anti-corruption institution, notwithstanding its mandate, functions, and powers, will succeed alone in the eradication of corruption in a given country*". Although the NSW ICAC model plays a pivotal role in the reduction and control of

corruption in the state of New South Wales, there remain a number of unresolved issues in Australia's national anti-corruption framework.

ISSUES WITH AUSTRALIA'S ANTI-CORRUPTION FRAMEWORK

This research has identified an obvious gap in the oversight of the Commonwealth public sector, as Australia is yet to implement a federal body that brings the various state and territory anti-corruption agencies together under a single cohesive framework (Smith, 2010). Such a body would be significant in overseeing all state and federal institutions as well as centralizing and coordinating intelligence collection, collation, storage, analysis and dissemination (Smith, 2010; AusAID, 2007). This point is amplified given the absence of an anti-corruption agency charged with the responsibility and power(s) to investigate claims of misconduct and corruption across the Federal Parliament and within Commonwealth agencies (Australian Collaboration, 2013).

The Commonwealth Ombudsman's Office (COO) is not authorized to conduct such investigations. The COO's power is focused around investigating complaints about the administrative actions of Australian Government agencies and departments (Commonwealth Ombudsman, 2014). Specifically, the COO has special responsibilities for complaints relating to the Australian Defence Force, Australian Federal Police, Freedoms of Information, Immigration, The Postal Industry and Taxation (Commonwealth Ombudsman, 2014). A recommendation supporting the creation of a Commonwealth body with similar powers to the state-based ICACs was outlined in the 2011 National Anti-corruption Plan, and despite being endorsed in 2013 in a revision of the plan, there commendation is yet to be implemented.

The issue surrounding intelligence practices is also relevant given the absence of a unified corruption intelligence training regimen and the absence of a central repository for intelligence on corruption in Australia. Nevertheless, it is worth observing that the Ombudsmen Act 1975 (Australia) outlines the functions of the Commonwealth Ombudsman's Office (COO) which include: conducting investigations, handling complaints, performing audits and inspections, encouraging good administration, and carrying out specialist oversight tasks at the federal level. The Commonwealth Ombudsman's Office (COO) applies the multi-purpose agency with law enforcement powers and preventive functions (MPLEP) model (OECD, 2008), as it has multiple purposes including detection, investigation, prevention and education. It does not fit the law enforcement type institution (LETI) model (OECD, 2008) as it lacks prosecutory powers, and focuses on prevention, which the LETI model does not support. The COO does not fit the preventative, policy development and co-ordination institution (PPC) model (OECD, 2008) as it focuses on detection and investigation, which are not included in the powers of that model (see figure 2). It could be argued that a broadening of the powers and mandate of the COO may address this gap in the national anti-corruption framework.

Figure 2: Overview of OECD Models (2008; 2012) and Oversight

Country/Agency	Model Used (See legend)	Own Legislation	Jurisdiction (State/Federal)	Oversight (State/Federal)
Norway	LETI	X	F	F
France	PPC	X	F	F
Singapore	MPLEP	X	F	F
Hong Kong	MPLEP	X	F	F
NSW ICAC (Aust)	MPLEP	X	S	S
QLD CMC (Aust)	MPLEP	X	S	S
VIC (IBAC) (Aust)	MPLEP	X	S	S
SA (ICAC) (Aust)	MPLEP	X	S	S
WA (CCC) (Aust)	PPC	X	S	S
TAS (IC) (Aust)	PPC	X	S	S
Commonwealth Ombudsman's Office	MPLEP	X	F	F

Legend: OECD (2008) Models of Anti-corruption

MPLEP	Multi-purpose agencies with law enforcement powers and preventive functions
PPC	Preventative, policy development and co-ordination institutions.
LETI	Law enforcement type institutions

MODELS OF ANTI-CORRUPTION APPLIED IN EUROPE**Law Enforcement Type Institutions**

Many countries within Europe apply the second of the OECD (2008) anti-corruption models: the law enforcement type institutions (LETI). These institutions apply different forms of specialization including detection, investigation and prosecution. Specializations can be utilized in separate bodies or combined within the one agency (OECD, 2008). The LETI model can also include other functions of prevention, co-ordination and research. Countries within Europe that adopt this model include Norway, Belgium, Spain, Croatia, Hungary, Romania, Germany and the United Kingdom (OECD, 2008).

For the purpose of this paper only Norway's model will be outlined in detail. Figure 3 outlines how Norway has applied the law enforcement model.

Figure 3: Case Study of Norway

Law enforcement type institutions (LETI)					
Country	ACA	State or Federal	Function	Relevant Legislation	Oversight
Norway	The Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim)	Federal	Økokrim is both a special police agency and a prosecution authority - Tasks include; detect, investigate and prosecute crimes and appear for the prosecution in court, assist domestic and foreign law enforcement agencies, increase the level of expertise among the employees of the police and prosecuting authorities, gather criminal intelligence, act as a consultative body for national and supervisory authorities and participate in international co-operation initiatives (Politiet, 2005).	- <i>Criminal Procedure Act (1981)</i> - <i>Money Laundering Act (2009)</i>	- National Police Directorate - Director General of Public Prosecutions (OECD,2008)

Figure 3 demonstrates Norway's Økokrim has national jurisdiction as the central body for investigation and prosecution of all major, complex and serious cases of economic, environmental and computer crime. Its specialization is split between two bodies: the special police agency and a specialized prosecution service (OECD, 2008). As a police agency Økokrim reports to the National Police Directorate regarding administration and funding. With respect to the prosecution of criminal cases Okokrim reports to the Director General of Public Prosecutions (OECD, 2008).

Økokrim focuses on both investigation and prosecution in order to provide a centralized national organization with a high level of competence underpinned by multidisciplinary co-operation (OECD, 2008). Organizationally, Økokrim is one of six specialist agencies within the police directorate and one of twelve public prosecutors' offices in Norway (OECD, 2008). The agency itself is split into multidisciplinary teams that have special areas of responsibility. These teams include a chief public prosecutor, a police prosecutor and special investigators with both business and police backgrounds. The number of staff at Okokrim in 2012 was 139 (Økokrim, 2013). In addition to investigation and prosecution, Økokrim is involved in prevention (participating in workshops, giving lectures at police academies) and the gathering of intelligence to combat corruption (OECD, 2008).

Økokrim only investigates cases of a serious, complex and fundamental nature. Corruption matters are referred to Økokrim by the Director General of Public Prosecutions (OECD, 2004; 2008). The local police address cases of a less serious nature. Økokrim and other police units co-operate with the surveillance authorities, the business sector and others in order to combat crime and corruption. Collaboration with the public and the media is integral to assisting Økokrim expose corruption.

SUCCESS OF MODEL APPLIED IN NORWAY

Norway is regarded as having one of the least corrupt societies and public sectors in the world (OECD, 2008). Transparency International's corruption perception index places Norway in the top ten least corrupt countries and is ranked equally with Australia's score of 85 out of 100 (Transparency International, 2013). The data also establishes that Norway's control of corruption is a high 97% which is similar to that of Australia (Transparency International, 2013). It is perceived that demands or expectations for bribes from public officials are not encountered and businessmen do not offer bribes (OECD, 2008). The offering or expectation of bribes is likely to cause offence or result in an openly negative reaction (OECD, 2008). The explanation for the low level of corruption is linked to the 'high moral standards of Norwegian civil servants; their independence in the exercise of their duties; the monitoring systems built into public administration; and, above all, the transparency of Norwegian Institutions' (OECD, 2008, p.127).

Quantitative indicators from the Økokrim 2012 annual report observed an 89% cleanup rate, assistance in 41 legal proceedings, investigation of 15 cases, assistance in 46 cases and a collection of 4,069 suspicious transaction reports (Økokrim, 2012). Overall, Økokrim handles a small proportion of 'serious' cases, with the Oslo Police District handling between 50 and 65 per cent of 'less serious' cases regarding economic crime (Økokrim, 2012). The Director General of Public Prosecutions determines what constitutes a 'serious' case. In the 2012 OECD progress report, Heiman and Dell (2012) commended Norway for its enforcement of the offence of 'foreign bribery', which resulted in a number of prosecutions and sanctions. Its whistleblower-protection legislation was also commended (Heiman and Dell, 2012). It was also noted that the active participation of the media in searching, scrutinizing and disseminating information about suspicious economic activity is also effective in maintaining a high level of transparency (Heiman and Dell, 2012).

Criticisms of the Norwegian Anti-corruption Model

Criticisms have been made of Norway's Økokrim model. ØKOKRIM's Annual Report for 2008 emphasized that it was problematic that serious offences detected by supervisory bodies, inspectors and others are not prosecuted (GRECO, 2004). The report stated that the police and the prosecuting authority are still in need of a reliable centre of expertise in the fight against financial and economic crime (Økokrim, 2012). The 2012 OECD Progress Report identified that foreign bribery cases have been concluded with "out-of-court settlements and therefore courts have not had the opportunity to provide interpretation of the corporate liability provisions in foreign bribery cases" (Heiman and Dell, 2012). The report also noted that law enforcement authorities have not relied upon confiscation measures to seize and remove the proceeds of bribery potentially gained by companies (Heiman and Dell, 2012).

Another issue relates to the possible inapplicability of this model elsewhere. Considering Norway is a culture less inclined to corruption, the successful results of this model could be due to this culture rather than the model's application. This model may not work in a different setting where corruption is more common (OECD, 2008).

MODEL OF PREVENTATIVE, POLICY DEVELOPMENT AND CO-ORDINATION INSTITUTIONS

The OECD (2008) identified that many European countries have developed anti-corruption organizations that support a preventative, policy development and co-ordination institution model. This model includes institutions that have one or more preventive functions embedded within its framework. These functions often include (but are not limited to): responsibility for research in the field of corruption; measuring the risk of corruption; examining and coordinating the implementation of national and local anti-corruption strategies and action plans; reviewing and formulating relevant anti-corruption legislation; monitoring the conflict of interest rules and the declaration of assets requirement for public officials; delivering guidance and providing advice on issues related to government ethics; facilitating international co-operation and co-operation with the civil society, and other matters. The countries in Eastern Europe applying this model include France, Yugoslavia, Albania, Malta and Bulgaria. In order to narrow the focus of this research, France will be used as a case study country.

Figure 4: Case Study of France

Preventative, policy development and co-ordination institutions (PPC)					
Country	ACA	State or Federal	Function	Relevant legislation	Who oversees it?
France	Central Service for Prevention of Corruption (SCPC)	Federal	Three key functions: - centralise information necessary for the detection and prevention of passive and active corruption offences - provide assistance to judicial institutions investigating, prosecuting and adjudicating corruption cases, upon their request - provide opinions to administrative bodies to prevent corruption, upon their request (IAACA, 2012)	- <i>Criminal Code Act (1994)</i> - <i>Customs Code Act (2009)</i>	- Prime Minister - Minister for Justice (OECD, 2008)

Figure 4 demonstrates that SCPC has national jurisdiction but it is not independent of the government as it is attached to the minister of justice. The SCPC supports a prevention function and its key functions involve centralizing and analyzing data on corruption as well as providing advice to judicial authorities and public institutions on corruption related matters. The body does not pursue judicial cases but analyses systems of corruption in order to better understand how corruption evolves in France and more broadly across the world. The SCPC provides recommendations to prevent corruption and presents them in an annual report.

The SCPC works in co-operation with law enforcement organizations such as the Central Brigade of Fight against Corruption (GRECO, 2004) and specialized judicial prosecutors. The SCPC also develops joint programs with public and private companies in order to advise on how to prevent corruption by improving their code of ethics or providing training.

The SCPC is a comparatively small body consisting of 15 staff but it has diverse expertise combining experts from various judicial and administrative backgrounds. Its annual budget in 2005 was \$375,000 EUR of which 80 per cent covers administrative costs. The body reports once a year to the Prime Minister and Minister of Justice.

SUCCESS OF MODEL APPLIED IN FRANCE

The 2013 Corruption Perception Index (CPI), ranks the level of corruption within France's public sector as 22 out of 176 countries, with a score of 71 out of 100 (Transparency International, 2013). The control of corruption in France during 2010 was 89% (Transparency International, 2013). In relation to the previously examined countries France falls short of Hong Kong (77 out of 100), Australia and Norway (85 out of 100) as well as Singapore (87 out of 100) (Transparency International, 2013).

The SCPC has enjoyed reasonable success and international recognition and participates in several domestic and international working groups dedicated to the prevention and fight against corruption. These working groups include representatives from the OECD, the Council of Europe, the European Commission, the United Nations, the World Bank and the International Monetary Fund (OECD, 2008). In terms of supporting quantitative evidence of the organizations success, the SCPC's 2012 annual report states that French Public Prosecutors Office investigated 193 corruption cases, among which, only 29.5% resulted in prosecution (IAACA, 2012). There are two primary explanations as to why less than a third of these cases were prosecuted. One reason suggests that the investigation concluded that no offence had been committed, and the other reason is that there was not sufficient evidence to prosecute the accused (Ministère de la Justice, 2012). Qualitative survey indicators (CPI) suggest that 41% of respondents believe that corruption has increased over the past two years and that 61% of respondents believe the government's anti-corruption measures are ineffective (Transparency International, 2013). The SCPC's response to this has been to compile an inventory of high-risk sites where corruption has the potential to flourish and in response, offered specific recommendations in order to prevent such risks from developing (IAACA, 2012).

Criticisms of the model applied in France

The key criticism of France's model is that it lacks independence. This is a fundamental issue as independence of a specialized anti-corruption institution is considered a fundamental requirement for a proper and effective exercise of its functions (OECD, 2008). Another issue is that SCPC has limited jurisdiction and lacks investigative and law enforcement powers. SCPC recognizes these issues and has included them in their recommendations. The issues extend to the arms of government as sanctions of corruption in France are not dissuasive enough and lack effectiveness in practice (Fritz and Dell, 2012). For example the sanctions in 2011 for active corruption was a penalty of 850 Euros while prison sentences were rarely ordered (Lovells et al., 2013). SCPC therefore recommends increasing the sanctions incurred for corruption-related offences (Lovells et al. 2013).

ANTI-CORRUPTION MODELS IN ASIA

The case study countries of Hong Kong and Singapore apply the multi-purpose agencies with law enforcement powers and preventative functions model (MPLEP) (OECD, 2008). The MPLEP model offers a single-agency approach, which is underpinned by three key elements: investigation, prevention and public outreach and education (OECD, 2008). Prosecution is usually kept as a separate function in order to preserve transparency and accountability within the system (OECD, 2008).

Figure 5: Hong Kong and Singapore Anti-Corruption Models (MPLEP)

Multi-purpose agencies with law enforcement powers and preventative functions (MPLEP)					
Country	ACA	State or Federal	Function	Relevant legislation	Who oversees it?
Hong Kong	Independent Commission Against Corruption (ICAC)	State and Federal	Three prong approach: - Pursue the corrupt through effective detection, investigation, and prosecution; - eliminate opportunities for corruption by introducing corruption-resistant practices - educate the public on the evils of corruption and foster their support in fighting corruption (OECD, 2008)	- Independence is guaranteed by Hong Kong's mini-constitution - Independent Commission against Corruption Ordinance - Prevention of Bribery Ordinance - Elections (Corrupt and Illegal Conduct) Ordinance	- Accountable to the Chief Executive (head of government) - Also comes under the scrutiny of four independent advisory committees: - Advisory committee on Corruption - Operations Review Committee - Corruption Prevention Committee - Citizens Advisory Committee on Community Relations(OECD, 2008)
Singapore	Corrupt Practices Investigation Bureau (CPIB)	State and Federal	- Receive and investigate complaints alleging corruption in public and private sector - prevent corruption by examining the practices and procedures in the public sector to minimise opportunities for corrupt practices - educate public officers on the pitfalls of and the avoidance of corruption (OECD, 2008)	- Prevention of Corruption Act (1988) - Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (1992) - Money Laundering Act (2006)	- The bureau is headed by a Director who reports directly to the Prime Minister - there is no known external supervision nor are there advisory bodies charged with supervision of CPIB (OECD, 2008)

Case Study of Hong Kong (ICAC) & Singapore (CPIB) Models

Figure 5 provides a summary of the key characteristics of both the Hong Kong ICAC and Singapore CPIB -MPLEP models. Both Singapore (in the 1950's and 60's) and Hong Kong (in the 1970's) were faced with a crisis of legitimacy that threatened investors' confidence and political stability (Meagher and Volland, 2006). In response, each country created an anti-corruption organization, which was equipped with the power to address systemic and entrenched corruption. Both organizations are independent governmental bodies, equally focused on investigation, deterrence and education (OECD, 2008). More importantly, these bodies operate at a federal level and serve as central repositories for information and intelligence on corruption. Both the Hong Kong ICAC and Singapore CPIB, recognize that one single agency cannot fight corruption and therefore place a considerable emphasis on developing

partnerships with civil service commission, government departments, professional bodies, media and international networking to mobilize all sectors to fight together (OECD, 2008).

Despite their apparent similarities, both ICAC and CPIB present significantly different approaches to the implementation of a single-agency strategy. ICAC brings significant resources (approximate budget of \$91 million / staff of 1,300 employees, in 2000) to bear on a broadly defined terms of reference. The ICAC terms of reference include the examination of all complaints and allegations of corruption, and linking any subsequent investigations to the development of reforms and preventative measures within an ambitious program of community outreach, thus providing continuous engagement, monitoring and input.

In contrast, CPIB is a small, tightly run unit. Its resources (approximate budget of \$3.2 million, staff complement of 71, based on early 1990's estimates) are disproportionately small compared to those of the ICAC (Meagher and Volland, 2006). The terms of reference for the CPIB is such that it empowers staff to investigate corruption offences in the public and private sector. It is equally as broad and comprehensive as that of the ICAC (OECD, 2008). With the provision of broad investigative powers, the ICAC has in place a formal investigative and prosecutorial oversight designed to prevent any real or potential abuse of its powers. However, CPIB is less transparent. It is not required to disclose budgets or operational details, to justify decisions, or submit to citizen oversight (OECD, 2008). While both agencies benefit from sweeping investigatory powers and privileges, CPIB is less constrained both in terms of procedures and substantive presumptions.

Since its inception, the Hong Kong ICAC has prosecuted and convicted a number of senior officials and corporate entities. Qualitative evidence indicates that the ICAC has changed Hong Kong's attitude towards corruption through example, outreach and education, by encouraging citizen input in both oversight and reporting of corruption cases. De Sousa (2010) argues that before the ICAC was set up, most corruption reports were anonymous, however in 2010 more than 75% of the reports came from non-anonymous sources.

The Singapore CPIB has also been successful in developing a clean public administration in place of organised and systemic corruption. The CPIB has exercised a deterrent function by investigating a number of powerful individuals including ministers, members of parliament (MP's), and senior directors of government agencies and companies (De Sousa, 2010). But despite their successes there are a number of criticisms applicable to each of these models.

SUCCESS OF THE MODEL APPLIED IN HONG KONG AND SINGAPORE

Singapore's CPIB and Hong Kong's ICAC have provided the standard for powerful, centralized anti-corruption agencies (Meagher and Volland, 2006). Both agencies are considered highly successful in their operation. The Transparency International corruption perception index ranked Hong Kong the 14th least corrupt country out of 176, with a score of 77 out of 100 (Transparency International, 2013). Singapore scored lower than Hong Kong and Australia with 87 out of 100 and 99% in its control of corruption (Transparency International, 2013). The 2013 Index of Economic Freedom supported these results claiming that Hong Kong's freedom from corruption score was 84% while Singapore's was 92% (Heritage Foundation, 2013). As mentioned earlier these figures are not key to assessing the actual success rate instead quantitative and qualitative indicators should be observed.

Criticisms of the model applied in Hong Kong and Singapore

There is a criticism that ICAC and CPIB pose a high risk of upsetting the balances and separation of government powers due to their single-agency model (Meagher and Volland, 2006). But, it is argued that the single-agency model does not move all anti-corruption functions into a single bureau. Instead, it places a number of key capabilities, responsibilities and resources under the one roof thereby creating a powerful centralised agency able to lead a sweeping effort against corruption through coordination and information sharing (Pope and Vogl, 2000). This still requires the ACA'S interaction with other entities: courts, prosecutors etc. Issues have also been raised about the inapplicability of these models in other countries. Critics argue that the success of the ICAC model is due to the uniqueness of it being implemented in a small city, with a large budget and a non-existent gift-giving culture (Kwok Man-Wai, 2006). Conversely it is argued that these criticisms lack substance. Hong Kong is a large city (population of 7 million) its budget accounts for 0.38% of the national budget and it emerged out of a corruption-friendly context (Kwok Man-Wai, 2006).

CONCLUSION

Currently Australia does not embody an exact duplication of any the three OECD models, but it does apply elements of all three. Australia's model is comparable to the model applied in Asia (OECD, 2008), which supports multi-purpose agencies with law enforcement powers and preventative functions (MPLEP). Similarly, the functions of each state agency focus on investigation, prevention and education. Prosecution also remains as a separate function in order to preserve transparency and objectivity within the system. Australia has also applied the ACA framework from Hong Kong through the implementation of three ICAC models in NSW, SA and VIC. The complicating factor is that it does not entirely fit this model, as Australia does not apply a single-agency approach that acts at the state and federal level.

In combatting corruption, Australia had adopted a more complex multiple-agency approach. It is this multi-agency approach that brings Australia closer to Europe's law enforcement-type institution model (LETI). Australia has a number of separate ACA's that combine specializations in both detection and investigation. It also has a separate body, the CDPP that focuses primarily on prosecution. In addition, Australia has similarities to Europe's preventative, policy development and co-ordination model, as ACA'S in each state of Australia employ preventative functions. Prevention is conducted through research, training workshops, facilitating international co-operation as well as many other forms. Although these models share some similarities, there are differences that exist between Europe's law enforcement model and Australia's model. The key difference being that Australia's ACA's are not limited to detection, investigation and prosecution, but also focus on other forms of specialization including research, prevention and education. Similarly, Australia's preventative functions are different from the European model, as the sole focus of ACA's is not constrained to just prevention. For example, aside from detection and investigation, the ICAC agencies have a corruption prevention research and education division.

Additionally, Hong Kong and Singapore's single agency approach appears to be highly successful in addressing issues surrounding systemic corruption, yet, for it to be effective in Australia, this approach must be present at the federal level. Supporting an independent national anti-corruption organization will facilitate the investigation of corruption and misconduct against commonwealth bodies (Smith, 2010). Also, it can bring state bodies under a cohesive framework streamlining the co-ordination

of intelligence. The presence of this body would eradicate the demand for other agencies, in turn simplifying the system. As well, it would be effective in overseeing state agencies. The presence of independent agencies at the state level is also vital. This can be inferred from the current success rate of Australia's state ACA's.

In order to minimize corrupt practices and promote integrity and transparency, a more uniform approach needs to be considered in addressing anti-corruption issues in Australia. These issues include (but are not limited to); the absence of a federal body with the authority to investigate misconduct across all jurisdictions and to provide oversight of state anti-corruption agencies and to co-ordinate national anti-corruption intelligence related activities. Other issues include the absence of an independent ACA in NT; and the plethora of legislative instruments, which are used to underpin and empower ACA's in various states of Australia. Furthermore, applying a uniform and independent anti-corruption model in each state would reduce complication in inter-state mediation. A shift towards this framework has already begun with the application of three ICAC models in NSW, SA and VIC. The current effectiveness and success of the models in these three states insinuates that applying this uniform but independent body would be preferable across the nation (Smith, 2010). Along with these changes Australia's extensive legislation would need to be refined. It could be compiled, unified and made more concise to sit appended to the Crimes Act 1914. This would significantly simplify the present system. Finally the integrity, accountability and independence of the judiciary system in implementing anti-corruption efforts appear to be challenging internationally.

In conclusion, although all three OECD anti-corruption models for Europe and Asia are applicable to Australia, only the model applied in Asia provides standards and good practice for reforming Australia's anti-corruption framework. Thus, the Asia model is extensively applicable for reform in Australia. The other two OECD models are applicable only in maintaining Australia's current standard and do not present any opportunities for future reform. Accordingly, there is scope for further research to explore the applicability of these models in the commercial and / or the private sectors.

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