

UNDERSTANDING CORRUPTION: WHY CORRUPTION EXISTS AND THE
INSTITUTIONAL REFORMS NEEDED TO LESSEN ITS PRESENCE IN
GOVERNMENT.

by
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Abstract

This thesis aims to provide insight into why corruption exists in government and how to prevent it from happening. Corruption, bribery, and the slew of illicit activities that accompany abuse of public office is a central problem that has negative political, economic, and social consequences. This research investigates several key aspects of how corruption presents itself in government and how to best combat this issue. The dominant theories present on anti-corruption are assessed through the use of case study analysis in order to identify strengths and weaknesses that may be used in future anti-corruption policies. First, an investigation on motives behind corruption finds that both personal and cultural motives influence an individual's likelihood of engaging in corruption. Second, this paper reviews both indirect and direct anti-corruption methods. The research finds that direct, or targeted, methods are most necessary in creating a legitimate government that is free of corruption. Lastly, a review of formal anti-corruption legislation finds that the law's overall applicability and utility within a government's existing framework is central to ensuring the success and effectiveness of anti-corruption laws and regulations. The findings from this research provide crucial insight into the most influential aspects of corruption. This information should thus be used in practice to create strong and effective anti-corruption provisions.

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Chapter 1: Introduction

Introduction

Why corruption exists, how it manifests itself, and how to stop it are central questions in government and politics. Efforts to address the issue of corruption date back to the fourth century B.C. and continue to this day at all levels of government.¹ This thesis investigates the prior efforts by academics and politicians to address this problem in the hope of finding new clarity on comprehensive anti-corruption methods. This investigation reviews the central aspects of corruption and anti-corruption reform in order to uncover how to best understand corruption and subsequently develop an effective institutional framework aimed at deterring corrupt activities. The findings from this research may be used in future anti-corruption efforts.

Transparency International defines corruption as “the abuse of entrusted power for private gain.”² The organization further notes corruption’s breadth and range in society.³ Understanding and effectively combatting the issue of corruption is therefore central to safeguarding a stable and valuable society. Corruption, if left unaddressed, can inflict various negative effects including lessening the authority of political institutions and hindering a state’s economic prosperity. Such negative consequences thus highlight the importance of understanding and reducing corruption on a local, state, and international level. These concerns are doubly important today due the impact corruption has on global development.⁴ Virtually every country, region, and city is affected by

¹ Carlo Alberto Brioschi, “Corruption: A Short Story,” *Brookings Institution Press*, April 25, 2017. https://www.brookings.edu/wp-content/uploads/2016/07/chapter-one_-_corruption-sh-9780815727910.pdf

² “Corruption,” *Transparency International*, 2018.
<https://www.transparency.org/glossary/term/corruption>

³ Transparency International, 2018.

⁴ The World Bank, “Combating Corruption,” World Bank Group, October 4, 2018.
<http://www.worldbank.org/en/topic/governance/brief/anti-corruption>

corruption. Small instances of bribery and large-scale schemes alike hinder the effectiveness and stability of societal infrastructure around the world. The potential for corruption to magnify into large-scale international issues calls for an in-depth investigation on preventative measures.

This investigation is a theory-testing thesis that aims to identify many of the central preexisting theories on anti-corruption and assess them through the use of several case studies. An investigation of the existing literature is necessary in this instance as the volume and breadth of research on corruption is immense. The amount of research and focus on this issue thus prompts the initial purpose of this thesis. The variation within the discussion on corruption also increases the need for a comprehensive analysis of the available methods and theories. This literature review and analysis also newly identifies schools of thought that characterize the political beliefs that underscore each policy opinion. These schools of thought organize the scholarly literature on each topic and identify the core philosophies behind the many different strategies and beliefs. The theories and trends identified in this review are further measured and considered through the use of case study analysis. Specific case studies on relevant anti-corruption matters are used to evaluate the strengths and weaknesses of such theories. The identified findings from these analyses are ultimately used to gain further insight into which theories are most useful. These results are identified in the hope that countries and governments may use this information to develop superior anti-corruption programs in the coming years.

This thesis is divided into three main chapters that focus on different aspects of understanding and preventing corruption. The second chapter centers on the motives

behind corruption. Understanding how and why corruption exists is the first step to preventing or deterring corrupt acts. This section identifies the many theories present in academia and politics as to why individuals or entities engage in corrupt activity. The corruption scandals involving former Venezuelan Deputy Energy Minister Nervis Villalobos and Nigeria's former Minister of Petroleum Resources Diezani Alison-Madueke are both assessed against the ideas presented in the literature.

The third chapter investigates the different strategies that academics and politicians believe work to prevent or deter corruption. This chapter follows the findings in Chapter Two using the logic that one must first understand the motives of corruption in order to prevent it. This chapter reviews the current ideas that scholars point to as effective anti-corruption methods. This chapter newly categorizes two main schools of thought on this topic. These two schools of thought are measured through a descriptive statistical analysis of four countries: Singapore, France, China, and Uruguay. These four countries exemplify different combinations of methods from each school of thought and that are then measured against each other.

Lastly, the fourth chapter assesses the different factors and characteristics of formal anti-corruption regulations and legislation. This chapter reviews the many factors that can define or destroy a country's anti-corruption legislation. The first conversation centers on the Overall Nature of Anti-Corruption Regulation and Legislation. Conversely, the second conversation focuses on internal aspects of anti-corruption legislation. This chapter then conducts an in-depth case study of the United States' Foreign Corrupt Practices Act (FCPA) to review these different theories. In all, these three chapters work to delve into specific conceptual and practical theories that impact the way politicians and

institutions view corruption and how they create infrastructure to prevent and deter corruption.

Chapter Two:

Chapter Two reviews the theories on why individuals engage in corrupt activities. This thesis begins by investigating the motives behind corruption in an effort to first understand the nature of corruption. Understanding the root of corruption and the appeal of illicit activity is central to building effective anti-corruption reforms. This chapter identifies the key theories present in academia and politics and illustrates the overall scholarly discussion on motives behind corruption.

This chapter identifies that the scholarly studies and reviews on the motives behind corruption are comprised of two central schools of thought. The Personal Motive School is comprised of scholars who assert that individual tendencies and desires are the central reasons that lead citizens to engage in corruption. This school of thought places the original spark of corruption with the individual actor. The second group, the Cultural Corruption School, instead argues that societal factors and external issues can create an environment that conditions individuals to engage in corruption. States or regions with long histories of corruption and acceptance of illicit behavior can lead to increasing levels of criminal behavior. This school provides a less directed view of corruption as it in part lifts blame from individual corrupt actors.

Case study analysis of the U.S. Department of Justice's (DOJ) claims against both the former Nigerian Minister of Petroleum Resources Diezani Alison-Madueke and action against former Venezuelan Vice Minister of Energy Nervis Villalobos support the hypothesis that factors from both the Personal Motive School and Cultural Corruption

School are present in high-level corruption schemes. While corruption can emerge from either personal or cultural factors, this research reinforces the fact that governments and policymakers must work to stop corrupt individual actors that may seize cultural weaknesses to engage in complex bribery schemes. The case studies highlight the fact that individuals with tenured and unattested political positions can further push a politician to engage in corruption. The case studies also identify that external or foreign enforcement can work to trigger a country with cultural corruption to take enforcement action itself. Lastly, both case studies' close proximity to lucrative state-owned industries emphasizes the high-risk nature of political positions that are tied to extreme wealth.

This chapter identifies the importance of constant accountability and notes that high-ranking politicians with access to wealthy industries and unchallenged power can easily fall into corrupt behavior. These politicians, if left unmonitored in countries with cultural apathy or acceptance of corruption may require foreign prosecution or denouncement to spark domestic enforcement of corrupt acts.

Chapter Three:

The third chapter continues the conversation on corruption by investigating the strategies that are most effective at preventing corruption. This chapter builds upon the findings in Chapter Two by apply certain beliefs to practical anti-corruption methods. The research present on this topic focuses on both direct and inadvertent ways to prevent corruption from flourishing in society.

This chapter finds that the academic literature on corruption prevention is housed within two main schools of thought. The Embedded Deterrents School suggests that more indirect reforms can eliminate the temptation for corruption in society. Embedded

reforms, such as increased levels of organization, gender equality, and free press, all wish to remove the initial failings or shortcomings that spark a want for corruption. The Targeted Deterrents School, in contrast, emphasizes the need for a visible institutional framework that directly opposes corrupt acts. These methods include traditional high-penalty criminal charges for corrupt activities and formal anti-corruption laws. Targeted Deterrents aim to provide a visible deterrent for individuals who may consider engaging in corrupt activities.

Four countries are studied in order to measure the success of both Embedded and Targeted Deterrents. The countries selected all contain different levels of both targeted and embedded deterrents. A comparison of these four countries therefore highlights the more effective characteristics of anti-corruption methods. The analysis highlights the fact that targeted deterrents are more effective at lessening corruption. While embedded deterrents can be useful, no substantive anti-corruption infrastructure can exist without formal laws and regulations. Specifically, this investigation also shows that targeted deterrents are even more necessary when aiming to create long-lasting legitimacy. The findings from this research show that while embedded and targeted methods can both affect levels of corruption, formal targeted deterrents are the most important. Countries without effective and enforceable anti-corruption regulations will have greater difficulties in establishing and maintaining legitimacy within government and politics.

Chapter Four:

Lastly, Chapter Four expands on the notion of Targeted Deterrents and investigates what characteristics are needed in order to create effective and enforceable anti-corruption laws. This chapter hones in on anti-corruption regulations and

investigates the varying ways scholars and policymakers believe anti-corruption laws should be structured.

There are several characteristics and factors of anti-corruption laws that are assessed based on levels of effectiveness. One main group of research focuses on how anti-corruption laws should be placed within the overall structure of a country's operating mechanism. Scholars within this field emphasize the importance of anti-corruption laws that can fit within preexisting judicial frameworks and laws that complement other established regulations. The second group of research in turn highlights legislation-specific focuses. It assesses how specific characteristics of individual pieces of anti-corruption legislation can impact the effectiveness of anti-corruption reforms. Such scholars, for example, stress the importance of direct language within legal reforms and focus on internal factors of the rule or law.

The U.S. Foreign Corrupt Practices Act (FCPA) is used as the central case study for this chapter. The FCPA is the most widely enforced anti-corruption regulation and thus provides ample examples and studies that can be used and evaluated.⁵ The varying methods that emphasize the overall nature of anti-corruption legislation and legislation-specific focuses are reviewed in the context of the FCPA. Review of the FCPA's structure and performance find that its place and relationship within the United States' overall framework is the central attribute that influences the FCPA's success. The legislation-specific factors may, as researchers note, increase ambiguity and decrease U.S. corporate competitiveness. These hindrances, however, do not affect the FCPA's enforceability or effectiveness. Overall, the FCPA's complex structure and careful

⁵ "US Foreign Corrupt Practices Act (FCPA)." Business Anti-Corruption Portal, *GAN Integrity Inc.*, 2019. <https://www.business-anti-corruption.com/anti-corruption-legislation/fcpa-foreign-corrupt-practices-act/>

consideration of the overall nature of U.S. anti-corruption strategy contributes to the rule's success.

Specifically, this research finds that while specified aspects of anti-corruption laws, such as articulate language and clear definitions, are useful the success and enforceability of a piece of anti-corruption legislation are more greatly dependent upon the rule or law's fit within the country's institutional framework. The FCPA's dynamic within and between both the Department of Justice and Securities and Exchange Commission, for example, is a central aspect that yields such success.

In all, these findings in this thesis illustrate crucial factors and lessons from three steps on the path to creating anti-corruption reform. Policymakers should use these findings as a check on developing anti-corruption strategies. The process of lessening and deterring corruption is long and sometimes difficult, however these checks can be used throughout the reform process to ensure that a country develops strong and lasting targeted deterrents.

Chapter 2: Nature vs. Nurture: What Factors Create Corrupt Politicians? A Case Study on Nigeria and Venezuela

Introduction

The presence of corruption in government is an enduring political issue that has existed since the beginning of recorded history. Institutional corruption is even cited as a driving factor behind the decline of the Roman Empire.⁶ More contemporary examples of corruption can be found in diverse situations such as colonial Sub-Saharan Africa and mayoral elections in Chicago. “Corruption is also infinitely varied in its character in regimes...and is often subject to differing approaches and attention.”⁷ This diversity in corruption poses complex problems to governments and institutions. The varied methods used to circumvent ethical and moral principles thus call for equally diverse anti-corruption measures.

Corruption stands as a crucial public policy and foreign affairs issue. The ever-changing nature of politics proves that the motives and causes of corruption are still not fully understood. While anti-corruption laws are present in almost every formal government, the existence of corruption is still prevalent around the world. Corruption’s ability to appear within widely different countries or governments has unsurprisingly drawn significant attention from scholars in the 20th and 21st century. Scholars’ explanations behind corruption’s driving factors have, however, failed to neatly explain the phenomenon. This is due in large part to the fact that corruption can manifest itself in countless different ways and degrees of severity. The various characteristics present in

⁶ Ramsay MacMullen, *Corruption and the Decline of Rome*. New Haven and London: Yale University Press, 1988.

⁷ Alan Doig and Stephen Riley, “Corruption and Anti-Corruption Strategies: Issues and Case Studies from Developing Countries,” in *Corruption and Integrity Improvement Initiatives in Developing Countries* (New York, NY: United Nations Development Programme and OECD Development Centre, 1998), 49. <https://guides.library.uq.edu.au/referencing/chicago17/book-chapter>

each instance of corruption may also be accompanied by numerous external factors that can influence a state's stability and legitimacy.⁸

This chapter aims to investigate the various motives that drive government officials to engage in corruption in an effort to bring further insight and information into the scholarly discussion. It will also narrow its analysis and focus on recent examples of government corruption. Established theories and schools of thought on the subject of corruption motives will be assessed and applied to recent examples of government corruption. The differing models will be used to evaluate particular corruption and bribery schemes committed by high-ranking government officials. A literature review of scholarly theories on corruption yields two newly identified schools of thought, the personal motive school and the cultural corruption school. These schools of thought demonstrate the fundamental theories on why officials participate in corruption. These theories contest that either personal desires or cultural factors trigger corrupt actions. This debate, between 'bad apples and bad barrels', is present throughout the entire scholarly discussion on corruption.⁹

Through the years of scholarly discussion and debate, the basic ideas of personal motive and cultural corruption hold steady as the primary factors behind corruption motives. The core philosophies within these two newly named schools are regularly used to understand and investigate various forms of corruption.¹⁰ This paper will thus use these

⁸ GJALT DE GRAAF, and L.W.J.C. Huberts, "Portraying the Nature of Corruption Using an Explorative Case Study Design," *Public Administration Review* 68, no. 4 (July-August 2008): 640-653. <http://www.jstor.org/stable/25145648>

⁹ Linda Klebe Trevino and Stuart A. Youngblood, "Bad Apples in Bad Barrels: A Causal Analysis of Ethical Decision-Making Behavior," *Journal of Applied Psychology* 75, no. 4 (1990). 378-385. http://homepages.se.edu/cvonbergen/files/2015/01/Bad-Apples-in-Bad-Barrels_A-Causal-Analysis-of-Ethical-Decision-Making-Behavior.pdf

¹⁰ De Graaf, 2008.

same schools and apply the theories to recent and specific case studies on government corruption.

This chapter tests the hypothesis that the true motives behind engaging in political corruption require a mix of qualities from both schools of thought. Personal greed and cultural influences are not mutually exclusive and can exist simultaneously to create an advantageous environment for a morally suspect politician. This chapter will utilize case study analysis of two instances of political corruption involving bribery and money laundering within federal agencies and state-owned oil companies in order to further analyze this theory.

First, the U.S. Department of Justice's (DOJ) indictment of five former Venezuelan officials on money laundering and corruption charges punctuated the ongoing bribery and impropriety scandal regarding the Venezuelan government and its state-owned oil company Petroleos de Venezuela S.A. (PDVSA).¹¹ This stands as a complex example of corruption that involves individual, cultural and political factors. Second, the downfall of Nigeria's former Minister for Petroleum Resources and former President of the Organization of the Petroleum Exporting Countries (OPEC), Diezani Alison-Madueke, also contains aspects of bribery, money laundering, and corruption within government-controlled oil companies. Further, the DOJ recently filed a complaint that details Alison-Madueke's participation within a high-level bribery scheme. Together,

¹¹ "Five Former Venezuelan Government Officials Charged in Money Laundering Scheme Involving Foreign Bribery," The United States Department of Justice, February 12, 2018. <https://www.justice.gov/opa/pr/five-former-venezuelan-government-officials-charged-money-laundering-scheme-involving-forei-0>

analysis of these two case studies will provide further insight into the factors that motivated these officials to participate in illicit activities.¹²

Literature Review: Personal Motives and Cultural Corruption

There are two primary schools of thought, the personal motive school and cultural corruption school, that provide the basis for a scholarly discussion on the motivating factors behind corruption. The two schools argue and dispute the core perspectives on what primarily motivates government officials to engage in corruption. The personal motive school claims that the personal gain associated with engaging in corruption is the primary factor enticing government officials to behave in an unethical manner. The cultural corruption school, in contrast, asserts that a history of institutional corruption and a chronicle of unenforced anti-corruption laws is the main element that leads individuals to participate in corrupt activities.

The personal motive school places the likelihood for corruption in the hands of the individual. Its central assertion is that individuals resort to corrupt or unethical behavior due to the personal gains associated with the activity in question.¹³ Some notable factors and characteristics that are linked to this school of thought are; personal attributes, age, religion, sex, nationality, years of education, Machiavellianism, and Locus of Control.¹⁴ Shaker A. Zahra found that personal beliefs and opinions can affect

¹² Abdur Rahman Alfa Shaban, "Nigeria's Ex-Oil Minister in More Trouble as U.S. Files Corruption Complaint," Africa News, July 17, 2017. <http://www.africanews.com/2017/07/17/nigeria-s-ex-oil-minister-in-more-trouble-as-us-files-corruption-complaint/>

¹³ ALEXANDRE COELLO, "Corruption, Greed, and the Public in the Mariana Islands, 1700-1720," *Philippine Studies: Historical & Ethnographic Viewpoints* 61, no. 2 (2013): 193-222. <http://www.jstor.org/stable/42634757>.

¹⁴ Robert C. Ford and Woodrow D. Richardson, "Ethical Decision Making: A Review of the Empirical Literature," *Journal of Business Ethics* 13, no. 3 (1994): 205-21. <http://www.jstor.org/stable/25072524>

individuals' ideas of corruption and cronyism. "Executive's beliefs and values were important correlates of their views of the ethics and effect of company politics on the firm."¹⁵ Therefore, individuals with a more casual outlook on the need for ethical behavior would be more apt to participate in corrupt activities.

The impact of an individual's Machiavellian construct on his or her perception of ethical practices is also a strong facet of this school of thought. Scholarly evidence shows that the effects of Machiavellianism can lead to higher personal tendencies to commit morally compromised actions.¹⁶ More specifically, Singhapakdi and Vitell state "Empirical evidence supports the premise that high Machiavellian marketers will tend to perceive ethical problems as less serious than will low Machiavellian marketers."¹⁷ This concept has also been found to affect an individual's propensity to speak out against moments of corruption. Dalton and Radtke investigate the correlation between Machiavellianism and whistle blowing. Their findings ultimately conclude that "individuals who are higher in Machiavellianism perceive lower benefits, seriousness, and responsibility of reporting wrongdoing."¹⁸ In these situations, one's Machiavellian complex affects his/her opinions of another individual's participation in corruption.

Other scholars within this school of thought, however, oppose the detached view of the Machiavellian construct. They argue that personal motives behind corruption are

¹⁵ Shaker A. Zahra, "Executive Values and the Ethics of Company Politics: Some Preliminary Findings," *Journal of Business Ethics* 8, no. 1 (1989): 15-29. <http://www.jstor.org/stable/25071867>.

¹⁶ Ford and Richardson, 1994.

¹⁷ Anusom Singhapakdi and Scott J. Vitell, "Marketing Ethics: Factors Influencing Perceptions of Ethical Problems and Alternatives," *Journal of Macromarketing* 10, issue 1 (1990): 15. <https://doi.org/10.1177/027614679001000102>

¹⁸ Derek Dalton and Robin R. Radtke, "The Joint Effects of Machiavellianism and Ethical Environment on Whistle-Blowing," *Journal of Business Ethics* 117, no. 1 (September 2013): 153-172. <http://www.jstor.org/stable/42001973>

not always completely selfish or devoid of compassion. Zimring and Johnson specify what they define as “affective motivations” of corruption to specifically pertain to instances of corruption where the person in authority is engaging in corruption with the intention that a family member may benefit from such acts.¹⁹ This notion that not all corruption is derived from purely criminal motives is mirrored in Gjalt De Graaf’s 2007 work. Here he identifies the clashing moral values theory as a driving category of corruption indicators.²⁰ The theory of clashing values furthers the idea that corruption does not always lie with the intention to do harm. Sometimes, individuals with stable principles can commit corruption. This option, paired with the view of corruption as a victimless crime can also lead to increasingly difficult obstacles in enacting effective anti-corruption policy.²¹

Proponents within this school also cite personal gain as the overarching and culminating motive of engaging in corrupt activities. While several other factors may play a role in corruption, personal greed is the underlying and common theme in all instances of corruption.²² Further, academic definitions of corruption are overwhelmingly geared towards individual gain as opposed to organizational structure. Substantial works on corruption define the crime as engaging in criminal activity for personal gain.²³

¹⁹ Franklin E. Zimring and David T. Johnson, "ON THE COMPARATIVE STUDY OF CORRUPTION," *The British Journal of Criminology* 45, no. 6 (2005): 800. <http://www.jstor.org/stable/23639281>.

²⁰ GJALT DE GRAAF, "CAUSES OF CORRUPTION: TOWARDS A CONTEXTUAL THEORY OF CORRUPTION," *Public Administration Quarterly* 31, no. 1/2 (2007): 39-86. <http://www.jstor.org/stable/41288282>.

²¹ Zimring and Johnson, 2005.

²² Oliver Momčilović, Aleksandar Đurić, and Danijel Kadarjan, "Crime and Motivation towards Corruption as a Result of Countries in Transition: A Case Study of Serbia," *SEER: Journal for Labour and Social Affairs in Eastern Europe* 14, no. 1 (2011): 101-09. <http://www.jstor.org/stable/43293404>.

²³ Alena Ledeneva, Roxana Bratu, and Philipp Köker, "Corruption Studies for the Twenty-

Moreover, personal gain is quite literally within the definition of corruption. This detail provides an ever-present counter argument to the suggestion that situational factors can be the underlying motivation behind corrupt and unethical behavior.

The second school of thought, the cultural corruption school, puts forth the idea that an established history and reputation of corruption within a specific government leads to further instances of corruption. A government or organization with a strong record of institutional corruption, along with patterns of unenforced anti-corruption laws, increases the tendency of government officials to engage in unethical practices. The overall trust and faith in a government or organization is highly connected to this school of thought. La Porta et al. investigates the connection between trust and corruption, finding that countries with lower levels of trust have higher degrees of corruption.²⁴ This specifically applies to countries with strong hierarchical religious systems, a situation where enforcement, consistent punishment and accountability of higher-ups is notably scarce.

A central factor of this school of thought emphasizes the importance of enforcement action taken against corrupt actions within an organization or government body. Scholars have found a correlation between the amount of management action taken against unethical behavior and the general perception of unethical acts. An institution that does not take enforcement measures against corrupt behavior leads to a weaker and less

First Century: Paradigm Shifts and Innovative Approaches," *The Slavonic and East European Review* 95, no. 1 (2017): 1-20. doi:10.5699/slaveasteurorev2.95.1.0001.; Alena Ledeneva, Roxana Bratu, and Philipp Köker, "Corruption Studies for the Twenty-First Century: Paradigm Shifts and Innovative Approaches," *The Slavonic and East European Review* 95, no. 1 (2017): 1-20. doi:10.5699/slaveasteurorev2.95.1.0001.

²⁴ Rafael La Porta, Florencio Lopez-de-Silanes, Andrei Shleifer, and Robert W. Vishny, "Trust in Large Organizations," *The American Economic Review* 87, no. 2 (1997): 333-38. <http://www.jstor.org/stable/2950941>.

committed view of ethical behavior.²⁵ This idea is mirrored in the scholarly assessment of post-Mao China. Many cite the consistent ‘culture of corruption’ as a primary factor in the “explosive growth of corruption that has become a threat to the survival of the CCP.”²⁶ The effects of political corruption can also incite further cultural corruption. Rothstein and Eek notes that “trust in authorities influences the perceptions of trustworthiness of others.”²⁷ In short, untrustworthy and corrupt officials can allow low-trust societies to develop. This strong link between corruption and mistrust lead to cultural corruption and a “culture of mistrust.”²⁸

The discussion of scholarship on this topic does not end with these two schools of thought. The complexity and variation present in the conversation on motives behind corruption has accumulated a substantial pool of scholars who believe the true answer to this question lies somewhere in between these two perspectives. Trevino and Youngblood discussed that “ethical decision-making behavior in organizations appear to be a complex phenomenon influenced by the interplay of individual differences, how individuals think about ethical decisions, and how organizations manage rewards and punishments.”²⁹ This notion was later revisited and resulted in similar findings.³⁰ The issue of identifying the

²⁵ Ishmael P. Akaah and Edward A. Riordan, "Judgments of Marketing Professionals about Ethical Issues in Marketing Research: A Replication and Extension," *Journal of Marketing Research* 26, no. 1 (1989): 117-118. doi:10.2307/3172674.

²⁶ Andrew Wedeman, "Corruption and Politics," *China Review*, 1996, 63.
<http://www.jstor.org/stable/23453140>.

²⁷ Bo Rothstein and Daniel Eek, “Political Corruption and Social Trust: An Experimental Approach,” *Goteborg University*, (2006): 1-43.
https://gupea.ub.gu.se/bitstream/2077/39177/1/gupea_2077_39177_1.pdf

²⁸ Stephen D. Morris and Joseph L Klesner, “Corruption and Trust: Theoretical Considerations and Evidence From Mexico,” *Comparative Political Studies* 43, no. 10 (2010): 1259-1285.
<https://www.vanderbilt.edu/lapop/news/092410a.pdf>

²⁹ Trevino and Youngblood, 1990, 384.

³⁰ Neil M. Ashkanasy Carolyn A. Windsor, and Linda K. Trevino, “Bad Apples in Bad

difference between cause and effect can also appear in discussing the motives of corruption. Scholars have argued that “corruption is often motivated by greed and flourishes in an atmosphere of management neglect or where there are inadequate controls.”³¹ This statement itself combines both the personal motive school and the cultural corruption perspective.

A corrupt politician’s desire for political power is also a factor that can become entangled in the personal motive and cultural corruption schools. “The opportunity to be involved in corruption is positively associated with increased power.”³² The connection between corruption and political power means that those with desires to engage in corruption will also have personal aspirations to gain higher levels of political office. Further, the issue of rigging elections itself is an example where individuals engage in corruption in order to gain political power, rather than the reverse. The matter of fixing elections, however, can also elicit characteristics of both schools of thought. While the personal motive of winning office is present, Muhumuza William provides a deep analysis that shows how cultural corruption in 1996 Uganda contributed to fraudulent elections. “Deliberate use of the power of incumbency to influence the outcome of the elections corrupted the electoral process and distorted its outcome...[it] condoned corruption as a political virtue.”³³ This example shows how personal and cultural motives

Barrels Revisited: Cognitive Moral Development, Just World Beliefs, Rewards, and Ethical Decision-Making,” *Business Ethics Quarterly* 16, no. 4 (October 2006): 449-473).
<http://www.jstor.org/stable/3857792>

³¹ John McFarlane, "Transnational Crime: Corruption, Crony Capitalism and Nepotism in the Twenty-first Century," *In Corruption and Anti-Corruption*, edited by Larmour Peter and Wolanin Nick, ANU Press, (2013): 135. <http://www.jstor.org/stable/j.ctt2tt19f.11>.

³² Zimring and Johnson, 2005, 798.

³³ Muhumuza William, "Money and Power in Uganda's 1996 Elections," *African Journal of Political Science / Revue Africaine De Science Politique* 2, no. 1 (1997): 168-79.
<http://www.jstor.org/stable/23489779>.

to win elections can become intertwined, particularly when corrupt political incumbents are candidates within an election.

The literature on this topic also discusses the external factors outside of the two main schools of thought that can influence the likelihood for corruption. Scholars have solidly stated the fact that government officials in lower-income countries have a higher propensity to engage in corrupt activities for the purpose of economic gain, as opposed to officials in high-income countries.³⁴ Further, the impact of social networks between specific individuals is a potential factor in one's inclination towards corruption that lies in between the personal motive and cultural corruption school.³⁵ The concept of social networks truly falls between the two schools of thought because it raises the question of at which point a group or social network becomes large enough to qualify as a cultural influence.

The most prominent idea that emerges from both schools of thought is the stressor to focus on and understand the behavior of a decidedly corrupt individual in an already corrupt organization. Most scholars mark this combination as being the largest issue at hand when addressing public policy concerns and forming effective anti-corruption laws.³⁶ The interconnectedness of individuals as part of a whole state or organization is crucial in finding an actual solution to corruption. "The content of an anti-corruption strategy and its implementation is directly dependent on the intentions of people in the

³⁴ De Graaf, 2008.; Gerald E. Caiden, "Corruption and Governance," *In Where Corruption Lives*, edited by Gerald E. Caiden, O.P. Dwivedi, and Joseph Jabbra, Bloomfield, CT: Kumarian Press (2001): 15-38.

³⁵ Daniel J. Brass, Kenneth D. Butterfield, and Bruce C. Skaggs, "Relationships and Unethical Behavior: A Social Network Perspective," *The Academy of Management Review* 23, no. 1 (January 1998): 14-31. <http://www.jstor.org/stable/259097>

³⁶ De Graaf, 2008.

state authorities.”³⁷ The ability for scholars to see and incorporate facets from both schools of thought shows the true strength in scholarship on this topic. While the personal motive school and cultural corruption school effectively frame the general discussion on true motivating factors behind unethical behavior, the complexity of government corruption will never be fully explained by just one school of thought. The acknowledgement of this middle ground between both perspectives is the true asset of the past literature on this topic, and it will structure all future discussions in this investigation.

Model & Hypothesis

Although the personal motive and cultural corruption schools of thought argue for exclusively personal or cultural motives behind corruption, this paper contends that the origin of government corruption lies somewhere between these two schools of thought. Much like the numerous scholars who view corrupt motives to be a mix of culture and personal sentiments, this paper falls into the third bucket of scholarly theories. It asserts that aspects from both the personal motive and cultural corruption school of thought contribute to a government agent’s motivation to engage in corruption. This paper tests the hypothesis that political officials with high levels of personal greed operating in a country with a history of accepting or tolerating corruption will result in higher levels of corruption and illicit activity. Testing this hypothesis is important as it will measure the impact of personal and cultural factors on two recent and large-scale corruption scandals. The conversation on cultural and personal motives is a longstanding topic in politics and must be assessed regularly. This case study investigation will test the hypothesis and

³⁷ Momčilović, 2011, 108.

allow for side-by-side analysis of cultural and personal motives in two central corruption scandals.

The amount of both personal greed and governmental tolerance of corruption affects a politician's incentive to participate in corrupt activities. Consequently, a politician with personal motives or tendencies towards unethical behavior will be even further motivated to engage in criminal activity if his or her political position is within a government that has developed a culture that ignores or condones corrupt behavior. Conversely, a politician who is less susceptible to crooked behavior will be even further discouraged from corrupt activities if the respective government agency has a history of enforcing anti-corruption measures and ousting illicit activity. This paper aims to further investigate this hypothesis and shed light on what level of personal or cultural factors affect the overall decision to engage in corruption.

Research Design & Limitations

The following resources are used to effectively examine the effects of personal and cultural factors on the incentives behind corrupt political actions. Reporting from global news outlets along with official government documents will be assessed in order to glean insight into the several factors present in both case studies. Government documents, specifically U.S. Department of Justice indictments or reports will be essential in obtaining underlying facts surrounding the issues. The specific types of personal and cultural motives identified in the literature review will be used to measure and analyze the type of corruption present in both case studies.

This paper will also rely on further sources that address the factors mentioned in both schools of thought. Reputable news sources and primary source documents will

highlight personal factors that motivated each politician to engage in criminal activity. Further, investigative journalism and studies on the overall government culture within Venezuela and Nigeria will be useful in researching the factors discussed within the cultural corruption school of thought.

These two case studies have been chosen due to their situational similarities. The likenesses between the case studies will enhance efforts to operationalize these case studies and effectively control for external influences as much as possible. Both Nigeria and Venezuela have relatively stringent government structures that do not foster free and open democracy. These case studies also involve high-ranking government officials that exercised significant influence over their respective state-owned oil companies. Additionally, both case studies are relatively recent and therefore have occurred in similar international climates. The general commonalities between the case in Nigeria and Venezuela aim to exclude any erroneous factors from influencing this paper's findings.

A notable limitation present in conducting effective research analysis on this topic is the lack of access to government sources within Venezuela and Nigeria. Currently both official government judiciary websites are unavailable and both governments have a history of inaccessibility. Currently, the countries rank in the bottom half of the World Justice Project's Rule of Law Index, Nigeria at #97 and Venezuela at #113.³⁸ The contemporary nature of both case studies also presents limitations along with its strengths. The PDVSA and Alison-Madueke legal actions are both recent and were chosen as case studies because they highlight current situations where corruption has

³⁸ "Rule of Law Index 2017-2018," World Justice Project, 2018.
https://worldjusticeproject.org/sites/default/files/documents/WJP_ROLI_2017-18_Online-Edition_0.pdf

transpired within national governments. The newness of both cases, however, also offers certain limitations because further information may not be released as of yet. Scholars might be called to revisit these case studies if further information is unsealed by the Department of Justice or revealed through future investigations.

Lastly, this research presents a specific analysis of U.S. legal action against foreign-based activity. While the illegal activity did touch U.S. jurisdiction, the beginnings of both corruption schemes originated in foreign countries. This fact, therefore, presents a unique dynamic between foreign individuals and entities being subject to U.S. law. The use of U.S. law on foreign activity has been the subject of criticism as it poses new or different standards to individuals than those that may be established in his/her own country. Some scholars argue that “the FCPA should not govern domestic firms’ foreign activities inasmuch as they have to do with corrupt practices...[as] its assertion of Western cultural values is intrusive to the sovereignty of foreign states.”³⁹ In addition to this different in laws between countries, the application and force of such laws may be different. U.S. criminal law, for example, is often criticized as being overly aggressive or prosecutorial.⁴⁰ Nigeria’s Economic and Financial Crimes Commission, on the other hand, boasts notably low and unsuccessful rates of conviction and prosecution.⁴¹ Hugo Chavez’s Venezuela, in turn, failed to effectively

³⁹ Bill Shaw, “The Foreign Corrupt Practices Act and Progeny: Morally Unassailable,” *Cornell International Law Journal* 33, no. 3 (2000): 701,

<https://pdfs.semanticscholar.org/4ca1/8ee0e3600bec7784f0ca8f7bf68f711785e8.pdf>

⁴⁰ “The Power of Prosecutors: Prosecutors can end mass incarceration – today,” *American Civil Liberties Union*, 2019. <https://www.aclu.org/issues/smart-justice/power-prosecutors>

⁴¹ “Corruption on Trial? The Record of Nigeria’s Economic and Financial Crimes Commission,” *Human Rights Watch*, August 25, 2011. <https://www.hrw.org/report/2011/08/25/corruption-trial/record-nigerias-economic-and-financial-crimes-commission>

enforce regulations, which led to increased corruption.⁴² These differences should be considered when analyzing U.S. prosecution of foreign-based individuals or entities. Actions taken by the United States, in these situations, speaks specifically to its broad, easily enforced, and assertive style of prosecution.

Case Study Analysis: Venezuela and Nigeria

The corruption scandals in Venezuela and Nigeria are exceedingly similar in that they both involve high-level officials engaging in significant financial crimes. Additionally, both scandals involve kickbacks and bribery that can be seen as personally and culturally motivated. In order to assess the specific motivating factors behind each of these scandals, this research focuses on identifying the personal and cultural factors in each situation. Such ideas have been categorized as either personal or cultural based on the preexisting literature. Personal factors include monetary gain, increase in political power, improved social status. Cultural factors cover lack of government enforcement, government consent of unethical practices.

Venezuela:

A factual background of the PDVSA scandal is necessary to fully grasp the dynamic situation at hand. Between 2011 and 2013, five individuals including the former Venezuelan Deputy Energy Minister and former Finance Director of Caracas Electricity engaged in a money-laundering scheme where Venezuelan government officials solicited and accepted bribes from Roberto Rincon and Abraham Shiera in exchange for PDVSA work contracts. Per the Department of Justice indictment, the defendants:

⁴² Gustavo Coronel, "The Corruption of Democracy in Venezuela," *Cato Institute*, March 2008. <https://www.cato.org/commentary/corruption-democracy-venezuela>

“Solicited PDVSA vendors for bribes and kickbacks in exchange for providing assistant to those vendors in connection with their PDVSA business, including assisting them in obtaining PDVSA contracts and assisting them in receiving payment priority over other vendors for outstanding PDVSA invoices during the Venezuelan liquidity crisis.”⁴³

The corrupt Venezuelan officials in this situation included Nervis Villalobos, former Deputy Energy Minister, Carlos de Leon Perez, former Finance Director of Caracas Electricity, a PDVSA affiliate, and three other PDVSA officers.⁴⁴ These officials accepted bribes and kickbacks from Rincon and Shiera throughout the given timeframe. An enhanced focus on Nervis Villalobos is specifically relevant to this research paper as he represents the highest ranking political official listed in the DOJ indictment. Nervis Villalobos held the most senior political position of those involved in the scandal and therefore require increased attention in this analysis.

Most notably, Villalobos and Luis Carlos de Leon coordinated the transfer of \$27 million dollars in bribes to a Swiss bank account controlled by the two men. This bribery payment, to be split between seven individuals, secured Shiera and Rincon’s ability to obtain work contracts with PDVSA. This \$27 million figure represents individual transactions only over the 3 years. The true amount is estimated into the billions.⁴⁵ While

⁴³ United States District Court Southern District of Texas, *United State of America v. Luis Carlos De Leon-Perez, Nervis Gerardo Villalobos-Cardenas, Cesar David Rincon-Godoy, Alejandro Isturiz-Chiesa, and Rafael Ernesto Reiter-Munoz*, August 23, 2017. www.justice.gov/opa/press-release/file/1033901/download.

⁴⁴ Agencia EFE, “Exdirectivos de PDVSA movieron millones de dólares a Andorra,” *El Nacional*, February 3, 2018. http://www.el-nacional.com/noticias/gobierno/directivos-pdvsa-movieron-millones-dolares-andorra_221680

⁴⁵ Nate Raymond, “U.S. Charges Five Ex-Venezuelan officials in PDVSA Bribe Case,” *Reuters*, February 12, 2018. <https://www.reuters.com/article/us-venezuela-usa-corruption/u-s-charges-five-ex-venezuelan-officials-in-pdvsa-bribe-case-idUSKBN1FW2KE>

the exact figure is unclear, it is significant and stands as one of the most prominent money-laundering kickback schemes in recent years.⁴⁶ The fact that this scandal is continuously unfolding and uncovering additional instances of corruption raises difficulties in estimating a precise amount of illicit proceeds. Further, this is not the only corruption allegation against Nervis Villalobos. PDVSA and Villalobos have been involved in additional investigations by Andorran authorities due to a related scheme involving Diego Salazar, the cousin of former Venezuelan Energy Minister Rafael Ramirez.⁴⁷ This separate investigation spans 2008-2012 and refers to a specific \$124.2 million deposited into accounts controlled by Villalobos.⁴⁸ While Villalobos has no charges pending against him for this instance, Venezuelan authorities arrested Diego Salazar in December 2017 in relation to this investigation.⁴⁹ These various charges, the nature of uncovering illicit proceeds, and the potential of other illegal funds going undetected makes it impossible to calculate the precise overall amount of bribes and kickbacks. Despite this limitation, the investigation's findings regarding the bribery scheme within PDVSA shows that it is one of the most prominent corruption and money laundering schemes in this decade.

There are various factors within the PDVSA scandal that can point to specific aspects of the personal motive and cultural corruption schools. First, the personal gain each of the politicians received is notably high and stands as major factor contributing to

⁴⁶ Raymond, 2018.

⁴⁷ Joaquin Gil and Jose Maria Irujo, "Former Minister's of Venezuela's Hugo Chavez hid €2 Billion in Andorra," *El Pais*, December 14, 2017.
https://elpais.com/elpais/2017/12/14/inenglish/1513248259_101681.html

⁴⁸ Gil and Irujo, 2017.

⁴⁹ Alexandra Ulmer, Deisy Buitrago, Marianna Parraga, and Richard Chang, "Venezuela Arrests Relative of Powerful Ex-Oil Boss Ramirez in Graft Probe," *Reuters*, December 1, 2017.
<https://www.reuters.com/article/us-venezuela-oil-salazar/venezuela-arrests-relative-of-powerful-ex-oil-boss-ramirez-in-graft-probe-idUSKBN1DV648>

Villalobos' motives for participating in the scheme. Receiving millions of dollars for relatively little effort is an enticing aspect of criminal behavior that is almost ever-present in financial crimes. The time period of this specific indictment adds further context to Villalobos' personal motive because the latest PDVSA indictment covers years where the former ex-minister would have already amassed significant wealth. Villalobos held a prominent position within Hugo Chavez's government and served as a government official for PDVSA as early as 2001, 11 years before the crimes referenced in the DOJ indictment.⁵⁰ Villalobos was well established in Venezuelan society by 2011 and the direct financial gains he received through this bribery scheme exceeded any actual personal financial needs. In all, this analysis shows that Villalobos' personal motives were not rooted in any true economic or personal hardship.

The cultural aspects regarding Villalobos' political position also depict strong ties to the Chavez establishment. Various articles refer to Villalobos as a recognized Chavez sympathizer and "capo de Chavez."⁵¹ Villalobos, having held political office during Hugo Chavez's presidency, is noted as being a member of the Chavez government.⁵² This political stature lends itself to substantial power and prominence. Venezuela has grappled with issues of unenforced regulations and extensive corruption for several years, particularly during the Chavez administration. Since his election in 1998, rates of

⁵⁰ Enpaiszeta, "Capturan en Madrid a exviceministro Venezolano por case de Roberto Rincon," *El Nuevo Pais*, October 26, 2017. <http://elnuevopais.net/2017/10/26/capturan-en-madrid-a-exviceministro-venezolano-por-caso-de-roberto-rincon/>

⁵¹ Manuel Altozano, "Chalet en Moraleja, coches de lujo... Asi saqueo un 'capo' de Chavez a PDVSA," *La Informacion*, November 8, 2017. <https://www.lainformacion.com/espana/chale-en-la-moraleja-coches-de-lujo-asi-saqueo-un-excargode-chavez-pdvsa/6336424>

⁵² Carlota Guindal, "Prisión para un ex viceministro de Chávez, detenido en España por orden de EE.UU.," *La Vanguardia*, October 27, 2017. <http://www.lavanguardia.com/politica/20171027/432390323741/prision-nervis-villalobos-chavez.html>

corruption have only increased. An analysis of Chavez's administration notes that "Venezuela has been characterized by the persistent presence of political and financial corruption within public administration."⁵³ While in power, the Chavez government did little to combat actual corruption within the government or in society. The administration even further degraded its reputation by manipulating its anti-corruption regulations in order to bring charges against political opponents as a way to subdue political challengers.⁵⁴ This trend in Venezuelan politics would, as scholars note, lead to fewer deterrents against corruption.

Nigeria:

On July 14, 2017 the U.S. District Court for the Southern District of Texas filed a "civil complaint seeking the forfeiture and recovery of approximately \$144 million in assets that are allegedly the proceeds of foreign corruption offenses and were laundered in and through the acting U.S. Attorney General Kenneth A. Blanco."⁵⁵ Further, these proceeds were the result of a bribery and corruption arrangement from 2011 to 2015 that benefitted Diezani Alison-Madueke, the former Minister of Petroleum Resources in Nigeria and former President of OPEC.⁵⁶ Similar to the scheme in Venezuela, Alison-Madueke accepted these bribes in exchange for assuring two business men, Kolawole

⁵³ Gustavo Coronel, "The Corruption of Democracy in Venezuela," *Cato Institute*, March 2008. <https://www.cato.org/publications/commentary/corruption-democracy-venezuela>

⁵⁴ Valentina Perez, "The Legacy of Hugo Chavez," *Harvard Political Review*, April 30, 2013. <http://harvardpolitics.com/world/the-legacy-of-hugo-chavez/>

⁵⁵ "Department of Justice Seeks to Recover Over \$100 Million Obtained From Corruption in the Nigerian Oil Industry," *The United States Department of Justice*, July 14, 2017. <https://www.justice.gov/opa/pr/departments-justice-seeks-recover-over-100-million-obtained-corruption-nigerian-oil-industry>

⁵⁶ The United States Department of Justice, 2017.

Akanni Aluko and Olajide Omokore, would win work contracts with the Nigerian National Petroleum Corporation (NNPC).⁵⁷

Nigerian officials followed suit the month after the U.S. civil complaint and took control of \$21 million of Alison-Madueke's assets. The anti-graft Economic and Financial Crimes Commission (EFCC) orchestrated the seizure and processed the action through Nigeria's federal high court.⁵⁸ The corruption allegations against Alison-Madueke are not new. The former minister has faced mounting accusations of corruption and unethical behavior since leaving political office in 2015. She has also been implicated in the election scandal that attempted to skew Nigerian elections in favor of former president Goodluck Jonathan.⁵⁹ While these accusations against Alison-Madueke have been present in political discussions for years, 2017 saw the issuance of true legal action against the former minister.

The personal motives present in Alison-Madueke's corrupt behavior are prominent. Her financial and political prominence within Nigeria and the international community are both factors that the personal motive school cites as corruption influencers. A significant portion of the Department of Justice civil complaint refers to various luxury items including property, maritime vessels, and artwork, that were all purchased with illicit funds.⁶⁰ The huge financial gain associated with Alison-Madueke's

⁵⁷ United States District Court Southern District of Texas, *United States of America v. The M/Y Galactica Star et al.*, July 14, 2017.

⁵⁸ "Nigeria seizes \$21m linked to Diezani Alison-Madueke," *Al Jazeera*, August 28, 2017. <https://www.aljazeera.com/news/2017/08/nigeria-seizes-21m-linked-diezani-alison-madueke-170828185617954.html>

⁵⁹ Bashir Adigun and Michelle Faul, "Nigeria's Ex-Oil Minister Charged with Money-Laundering," *US News and World Report*, April 5, 2017. <https://www.usnews.com/news/world/articles/2017-04-05/nigerias-ex-oil-minister-charged-with-money-laundering>

⁶⁰ United States District Court Southern District of Texas, 2017.

corruption scheme is also paired with her political prominence. Before the emergence of the above referenced corruption allegations, Alison-Madueke was a prominent political figure not just for Nigeria, but also for the entire continent. In 2014 she was named on the UK's *Powerlist* as "one of the 25 Africans transforming the continent."⁶¹ Through her career she served as a high-ranking member of the Nigerian government and also represented Nigeria as the country's delegation to OPEC, the first woman to do so.⁶² The prominence of her political career, while not directly influenced by increased illicit proceeds, would still stand as a factor that would encourage her continued behavior. The UN Global Programme Against Corruption (GPAC) describes corruption as "abuse of power for personal gain."⁶³ If Alison-Madueke's prospects of increased personal gain were dependent upon her elevated political stature, her main interest would be in maintaining her high-level position.

The Alison-Madueke corruption scheme also contains factors of cultural corruption. While the preceding paragraphs describe the strong personal motives that enticed Alison-Madueke, Nigeria also has a bleak history of deeply embedded corruption within government institutions. Akinola writes that "in short, corruption pervaded every stratum of Nigerian society."⁶⁴ Further, Alison-Madueke would have been the direct recipient of such cultural cues as she worked under Goodluck Jonathan's administration. Jonathan, Nigeria's president from 2010-2015, headed a presidential administration with

⁶¹ Paul Trustfull, "The Emergence of Africa," *Forbes Custom*, September 29, 2014. <https://custom.forbes.com/2014/09/29/the-emergence-of-africa/>

⁶² Trustfull, 2014.

⁶³ Geoffrey M. Hodgson and Shuxia Jiang, "The Economics of Corruption and the Corruption of Economics: An Institutionalist Perspective," *Journal of Economic Issues* 41, no. 4 (Dec 2007): 1043-1061. <http://www.jstor.org/stable/25511257>

⁶⁴ Anthony A. Akinola, "Akinola: Nigeria's History of Corruption," *The Guardian*, January 14, 2015. <https://guardian.ng/opinion/columnists/akinola-nigeria-s-history-of-corruption/>

numerous allegations of corruption involving high-ranking government officials.⁶⁵

Jonathan embraced and personally fostered a culture of corruption within Nigeria.

Alison-Madueke worked within his administration and supported Jonathan at the highest level of Nigerian politics. In addition, Alison-Madueke is facing allegations that she attempted to alter the 2015 Nigerian elections in order to secure Jonathan's victory.⁶⁶

These actions prove that not only was Alison-Madueke unbothered by the corruption within Goodluck Jonathan's administration, she was proactive in an attempt to secure his political position and therefore maintain the status-quo within Nigerian politics. Alison-Madueke would've benefitted from Jonathan's reelection, as this would've secured her own political position and ability to gain money through corruption.

Nigeria's culture of corruption is not solely comprised of Presidential abuses. The country as a whole has a history of being listed on the Financial Action Task Force's (FATF) list of Non-Cooperative Countries or Territories (NCCT). This list is comprised of countries or territories that do not have adequate institutions to prevent money-laundering within their country.⁶⁷ Nigeria was previously listed as a NCCT and was removed from the list in 2006.⁶⁸ The fact that Nigeria was ever on this list, however, attests to the fact that a pattern of ignoring or failing to combat money-laundering and

⁶⁵ Chijioke Jannah, "Corruption: Jonathan doled out N100bn, \$295m cash in 2015 – Osinbajo," *Daily Post*, October 28, 2017. <http://dailypost.ng/2017/10/28/corruption-jonathan-doled-n100bn-295m-cash-2015-osinbajo/>

⁶⁶ "Diezani Under Probe for Allegedly Trying to Risk Last Year's Elections," *Vanguard NGR*, May 4, 2016. <https://www.vanguardngr.com/2016/05/diezani-probe-allegedly-trying-rig-last-years-elections/>

⁶⁷ "High-Risk and Non-Cooperative Jurisdictions," *Financial Action Task Force*, 2018. [http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/more/more-on-high-risk-and-non-cooperative-jurisdictions.html?hf=10&b=0&s=desc\(fatf_releasedate\)](http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/more/more-on-high-risk-and-non-cooperative-jurisdictions.html?hf=10&b=0&s=desc(fatf_releasedate))

⁶⁸ "Nigeria Exists FATF Global Compliance Monitoring List; Sao Tome and Principe Handed Over to GIABA," *Inter-Governmental Action Group Against Money Laundering in West Africa*, October 18, 2013. https://www.giaba.org/media/f/624_Press

financial crime was present within the country leading up to Alison-Madueke's role in the Nigerian government.

Findings

The comparative analysis of the PDVSA and Alison-Madueke case studies has yielded certain findings and realizations that bring further insight into the dynamic of corruption as a personal or cultural matter. Primarily, these two studies fall solidly between both schools of thought. Aspects of the personal motive and cultural corruption school are present in the two scandals. Both schemes support the claims by Trevino and Youngblood; that motivating factors behind corruption require a mixture of factors that include personal greed and cultural facilitation.⁶⁹ Villalobos and Alison-Madueke both had personal motives to engage in corruption, namely the financial gain associated with rigging contracts. Specifically, the complaint against Alison-Madueke shows that her financial gain from these bribery schemes were spent on personal luxury goods such as real estate and yachts.

Both officials, however were further enticed to commit these crimes due to the lack of effective anti-corruption regulations within the country. Nigeria and Venezuela both have histories of political corruption. Villalobos and Alison-Madueke served under powerful presidential administrations that ignored, or personally engaged in, corruption.⁷⁰ Without any fear of legal ramifications both politicians would have had little hesitation to partake in corrupt activities. Thus, while these two case studies find valid points within the personal motive and cultural corruption schools, the fundamental finding here aver that aspects from both schools are necessary. These case studies show that large

⁶⁹ Trevino and Youngblood, 1990.

⁷⁰ Coronel, 2008.; Jannah, 2017.

corruption schemes involving high-level federal officials are most likely to develop when both personal and cultural factors are present.

These specific case studies display qualities that highlight unique factors within the personal motive and cultural corruption school. First, while personal greed is always a present factor, these two incidents in particular represent high-level money laundering crimes that were committed by officials who, at this point in time, were not in dire need of financial capital. De Graaf & Caiden state that corruption in economically disenfranchised countries can be driven by more practical desires for financial security. This theory, however, would not hold for Villalobos or Alison-Madueke in these instances because both officials already possessed significant societal and financial status.

The current Department of Justice indictment against Villalobos refers to criminal acts that occurred at least ten years before Villalobos began his career within Venezuelan government.⁷¹ While little documentation and reporting has been done on Villalobos' early years in political office, his position as one of Chavez's 'men' points to the conclusion that he did not suffer from financial hardship.⁷² Further, the sheer monetary value being alleged in the DOJ charges proves that Villalobos had amassed significant wealth via corruption that exceeded the limit of practical financial needs.

Diezani Alison-Madueke's biography lists an even longer history of personal wealth. Alison-Madueke was born into a prominent Nigerian family, studied in the

⁷¹ "Detuvieron a Exviceministro de Energia Nervis Villalobos en Madrid," *A Todo Momento*, October 28, 2017. <http://atodomomento.com/internacionales/detuvieron-exviceministro-nervis-villalobos-madrid/>

⁷² Altozano, 2017.

United States and United Kingdom, and began a career at Shell in 1992.⁷³ All of these factors show that Alison-Madueke would have had minimal financial need to engage in corruption as she was never financially marginalized. The true personal gain and opportunity cost related to Alison-Madueke's choice to commit further financial crimes would have been low. Thus, while other aspects such as greed are still relevant personal motives in both case studies, the assertions that personal financial need can entice one to engage in corruption is not supported by this research.

Diezani Alison-Madueke's downfall has also followed a similar timeline to that of Nervis Villalobos. Alison-Madueke faced legal action from the U.S. Department of Justice in 2017 and subsequently faced asset seizures from the Nigerian government a month later.⁷⁴ Both of these issues, however, happened after Goodluck Jonathan left political office. None of the prominent charges against Alison-Madueke occurred under the Goodluck Jonathan administration. The timing of the charges raises questions about the effectiveness of Nigerian and Venezuelan enforcement agencies. Both actions occurred after the incumbent presidential candidate had left office and were issued after the United States filed formal cases against the individuals. These factors demonstrate that the DOJ indictments served as driving factors that exposed the criminal activity and lead to subsequent government investigation by Venezuela and Nigeria. This leaves scholars to wonder if Venezuela or Nigeria would have ever taken action against these individuals had the DOJ or other external agency not filed its legal complaints.

Third, the large scale of these scandals underlines the fact that state-owned oil companies were involved in both situations. Venezuela and Nigeria are known as having

⁷³ "Biography of Diezani Allison-Madueke," *African Success*, November 16, 2015. <http://www.africansuccess.org/visuFiche.php?id=1006&lang=en>

⁷⁴ Al Jazeera, 2017.

significant, if not dominant, oil industries that support their national economies.⁷⁵

Further, oil and extractive industries have been cited as high risk industries that contain a mixture of factors that attract corruption and impropriety.⁷⁶ The factors that leave extractive industries at risk of corruption would therefore only be heightened in situations where the given oil company is exceedingly lucrative, such as those within Nigeria and Venezuela.

Conclusion

Understanding the factors that motivate a political official to engage in corruption is an ever-present question. One must acknowledge these motives in order to develop effective anti-corruption laws and regulations. This topic has therefore been addressed by scholars and policy makers alike and has resulted in the development of two main schools of thought. The personal motive school asserts that the potential for personal gain from illicit activity drives an official to use his/her position to facilitate corrupt activities. The cultural corruption school suggests that a country's reputation and attitude towards institutional corruption can affect a political official's propensity to participate in corrupt activities. Further, a prominent group of scholars share the view that actual instances of political corruption contain factors from both the personal motive and cultural corruption schools. This chapter tests the theory that both personal and cultural factors are influential in impacting a political official's proclivity to become involved in corruption.

⁷⁵ Cesar Alvarez and Stephanie Hanson, "Venezuela's Oil-Based Economy," *Council on Foreign Relations*, February 9, 2009. <https://www.cfr.org/background/venezuelas-oil-based-economy>; Elizabeth Soriola, "Importance of Crude Oil in Nigeria Economy," *Naija*, August, 2017.

<https://www.naija.ng/1120356-importance-crude-oil-nigeria-economy.html#1120356>

⁷⁶ "Managing Bribery and Corruption Risks in the Oil and Gas Industry." Ernst & Young Global Limited, 2014. [http://www.ey.com/Publication/vwLUAssets/EY-Managing-bribery-and-corruption-risk-in-the-oil-and-gas-industry/\\$FILE/EY-Managing-bribery-and-corruption-risk-in-the-oil-and-gas-industry.pdf](http://www.ey.com/Publication/vwLUAssets/EY-Managing-bribery-and-corruption-risk-in-the-oil-and-gas-industry/$FILE/EY-Managing-bribery-and-corruption-risk-in-the-oil-and-gas-industry.pdf)

The recent U.S. Department of Justice complaints against Nigerian former Minister of Petroleum Resources Diezani Alison-Madueke and former Venezuelan Vice Minister of Energy Nervis Villalobos stand as significant examples of contemporary high-level corruption schemes. These corruption scandals involve international money laundering conspiracies that involved the abuse of each country's state-owned oil company. Research analysis of both case studies supports the hypothesis that personal and cultural factors are needed to induce the development of high level corruption and bribery schemes. Desires such as personal greed were present in both the Nigeria and Venezuela scandals. This presence of personal greed is further exaggerated due to the increased potential for financial gain due to Alison-Madueke and Villalobos' proximity to the oil industry. Additionally, both countries' poor reputation regarding anti-corruption enforcement served as an enticing factor for both politicians. While personal greed is present in most instances of corruption, the lack of deterrence from the national governments would more easily push these politicians into illicit activities.

In all, certain findings stand out as unique qualities within the case studies. First, Villalobos' and Alison-Madueke's relatively prominent and lengthy political positions emphasized the fact that the monetary desires present in both situations are solidly based in greed as opposed to true financial need. Second, the presence of U.S. legal action in both cases highlights the fact that enforcement action issued by a foreign country can prompt the originating country to address their own corruption issues. Third, the highly lucrative nature of the oil industry emphasizes the fact that politicians who are surrounded by greater amounts of wealth can be drawn into even greater corruption schemes.

Corruption will always be present in societies where personal and political desires intersect with financial gain. Humans are inherently flawed creatures and it is therefore impossible to completely eradicate crime from society. As such, scholars and policy analysts must continuously analyze and understand the motives behind corrupt activities so as to better deter and prevent such illicit desires from developing into true criminal schemes. The case studies on Nigeria and Venezuela provide greater insight into contemporary corruption schemes. This helps scholars better understand the unique elements that led to the development of such large and dynamic criminal schemes within the two countries. These factors, such as personal greed and institutional corruption, highlight longstanding theories within the political literature. The findings also underline new elements such as high-risk industries that are specific to the 21st century global economy. These research findings emphasize the ways corruption can develop in the current global political economy and should be added to the preexisting scholarly discussion on how to understand and prevent future institutional corruption.

Chapter 3: Prevention Strategies: Anti-Corruption Measures Across Four Countries

Introduction

The presence of corruption in government and society is a central flaw in almost every country in the world. Corruption is indiscriminate and affects countries with varying degrees of economic success, political stability, and societal development. The issue of corruption is paramount for many of these countries because “corruption erodes trust in government and undermines the social contract”⁷⁷. Identifying an effective way to prevent corruption, therefore, is a crucial policy question for ensuring a stable global society. This chapter investigates and works to identify the methods and factors that are most effective at preventing and deterring corruption. This section, in using the findings in chapter one, seeks to identify effective anti-corruption methods that target the central motives, cultural or personal, that drive a person or entity to engage in corruption.

This investigation begins with identifying the main schools of thought within this topic. The Embedded Deterrents School of Thought and Targeted Deterrents School are newly coined and identified schools of thought that characterize the theoretical discussion on anti-corruption strategies. They propose differing core strategies and methods for deterring corruption. While the Embedded Deterrents School suggests creating built-in indirect policies that deter corruption, the Targeted Deterrents School emphasizes the need for direct and visible anti-corruption provisions. This research paper argues and tests the hypothesis that high levels of targeted deterrents lead to lower levels of corruption.

The main proponents of these two schools of thought will be evaluated and compared through an analysis comprised of four countries with contrasting degrees of

⁷⁷ “Combating Corruption,” *The World Bank*, October 4, 2018.
<http://www.worldbank.org/en/topic/governance/brief/anti-corruption>

both embedded and targeted deterrents. Singapore, France, China, and Uruguay are used within this research to identify any common themes or outlying factors that support or refute this chapter's hypothesis. A comparative analysis of the deterrents within each country provides important findings regarding the hypothesis and also poses new questions or suggestions concerning specific deterrents within each school of thought.

Literature Review: Embedded Deterrents vs. Targeted Deterrents

A central discussion on corruption prevention focuses on the style of anti-corruption measures. As discussed in the prior chapter, the different theories on why corruption occurs and the motives for corruption present varying proposals on how to eliminate unethical behavior. A notable difference in anti-corruption theories lies in the ultimate strategic approach of certain measures. The first school of thought, the Embedded Deterrents School, houses anti-corruption approaches that work to eliminate corruption problems at their origin. This school of thought emerges from the literature review as many specific policy proposals focus on inadvertent and proactive strategies that work to lessen the appeal or need for corruption. These ideas oftentimes do not seem directly related to corruption, however, scholars argue that such measures would prevent the appearance of corrupt behavior later in the governmental system. Anti-corruption measures that emerge in this school of thought include free and open press and economic freedom. This school of thought also supports the overall belief that liberal democracies lessen the prevalence of corruption.

The second scholarly group, the Targeted Deterrents school of thought, takes a more direct and focused approach at eliminating or reducing corruption. Suggested methods for deterring corruption through this school of thought involve creating

regulatory or institutional structures that pose direct penalties or hardships on individuals/groups that may participate in corruption. Proposed anti-corruption procedures include increased criminal penalties for engaging in corruption and increased levels of oversight on all government transactions. This school of thought also highlights a larger policy conversation that discusses incentives and punishment as ways to lessen crime or, in this case, corruption. Andreoni writes, “many institutional arrangements suggest that punishments and rewards each play a separate role in providing incentives.”⁷⁸ Overall, both punishment and reward can be effective in promoting compliance, however, scholars debate the degree to which each method is effective. There are varying opinions on this topic and many of these differences stem from the numerous ways policy problems exist in society. Certain scholars note that punishment can be ineffective if there is inconsistent adherence to such laws.⁷⁹ Scholars who assert that punishment is more effective in high trust societies also advance this theory.⁸⁰ Others also plainly state “one might expect less cooperation in societies where good behavior is rewarded than in those where poor behavior is punished.”⁸¹ Despite this debate, however, Agnes Batory notes that incentive-based prevention methods are significantly less

⁷⁸ James Andreoni, William Harbaugh, and Lise Vesterlund. “The Carrot or the Stick: Rewards, Punishments, and Cooperation.” *American Economic Review* 93, no. 3 (June 2003): 893–902. doi:10.1257/000282803322157142.

⁷⁹ Charles N. Noussair, Daan van Soest and Jan Stoop, “Punishment, reward, and cooperation in a framed field experiment,” *Social Choice and Welfare* 45, no. 3 (October 2015): 539.

⁸⁰ Daniel Balliet and Paul A. M. Van Lange, “Trust, Punishment, and Cooperation Across 18 Societies: A Meta-Analysis,” *Perspectives on Psychological Science* 8, no. 4 (July 2013): 363–379. <https://www.jstor.org/stable/44289909>

⁸¹ Andreoni et al., 2003.

common in anti-corruption policy.⁸² The following discussion on targeted deterrents therefore centers on penalty-driven anti-corruption methods.

Embedded Deterrents:

The hallmark of the Embedded Deterrent method lies in its overall goal of working to eliminate the temptation or window for corruption to appear. Such proposals include economic and political reforms that change an overall aspect of government so that the ability for corruption to appear is minimized. The Embedded Deterrents school of thought contains notably more suggested techniques than the Targeted Deterrents School. The ways in which to effectively enact these measures, however, are more difficult as they require an overhaul of what are sometimes engrained governmental systems. It is also noted by many scholars that all embedded deterrents do not work equally well for all countries. A central takeaway is that “not all types of corruption are the same, and that multiple, different responses are needed based on the context, stakeholders, and specific nature of corrupt behaviours.”⁸³ The need to mix and match specific types of embedded reforms depending on a country’s requirements further explains why so many options are discussed in the literature.

One central policy proposal within this school of thought is increased accountability. The Embedded Deterrents School and Targeted Deterrents School, however, argue for different types of accountability. In this case the embedded deterrents group asserts that universal accountability for government officials and private citizens is

⁸² Agnes Batory, “Why Do Anti-Corruption Laws Fail in Central Eastern Europe? A Target Compliance Perspective.” *Regulation & Governance* 6, no. 1 (March 2012): 66–82. doi:10.1111/j.1748-5991.2011.01125.x.

⁸³ “Why corruption matters: understanding causes, effects and how to address them”, *Department of International Development, UKAID*. (January 2015).

needed in order to lessen the likelihood of cultural corruption.⁸⁴ Scholars of this school, for example, highlight the need for economic stability in order to prevent private and public sector employees from engaging in corruption.⁸⁵ Many scholars express the idea that good governance and a legitimate operational government are cornerstones to promoting democracy and dissuading corruption.⁸⁶ This overall idea in particular can be applied to developed and low-income nations. Reversing the higher levels of disorganization and lack of resources that are associated with government institutions in poorer nations, as Huther and Shah note, can raise the standards of productivity and accountability for all government employees and therefore raise the personal accountability of each individual regarding his/her operational abilities.⁸⁷ This higher level of efficiency would make it more difficult for corrupt schemes to seep into an institution. Shah cites the New Public Management (NPM) literature as a group that “calls for fundamental civil service and political reforms to create a government that is under contract and accountable for results.”⁸⁸

The focus on institutional reform also encompasses humanitarians’ suggestions that well-acknowledged borders are established between government roles and private sector positions.⁸⁹ Bribery and corruption between private companies and government

⁸⁴ McMann, Kelly M. "Reducing Corruption: Policy Recommendations." In *Corruption as a Last Resort: Adapting to the Market in Central Asia*, 159-70. Cornell University Press, 2014. <http://www.jstor.org/stable/10.7591/j.ctt1287dpm.14>.

⁸⁵ Ibid, 2014.

⁸⁶ Susan Rose-Ackerman and Paul Lagunes, “Greed, Corruption, and the Modern State”, *Essays in Political Economy*. (Edward Elgar Publishing Limited: 2015). 1-17.; Anwar Shah, *Performance Accountability and Combating Corruption*, (World Bank Publications, 2007).

⁸⁷ Jeff Huther and Anwar Shah, *Anti-Corruption Policies and Programs: A Framework for Evaluation*. (The World Bank, Operations Evaluation Department: December 2000). 1-17.

⁸⁸ Shah, 2007, 240.

⁸⁹ “Why corruption matters: understanding causes, effects and how to address them”, January 2015.

entities is a significant problem in developing countries with rich natural resources. Scholars within the embedded deterrents school have specifically focused on this form of engrained corruption and note that the lack of defined boundaries between government and private sector projects/goals is a central way such corruption breaks into the system. Scholars who focus on this issue propose policy changes that are in line with Shah and Rose-Ackerman. They assert that highly organized and defined roles within the government can diminish corruption.⁹⁰

This notion of increasing accountability also pairs with the belief that transparency in politics and society is a necessity for ethical actions. McFarlane, while also being a proponent of penalty-focused deterrents, agrees with the fact that overall accountability and transparency must be incorporated into any functioning society.⁹¹ Brunetti and Weder specifically cite that a free press is a key factor that eradicates corruption. They show that there is “a strong association between the level of press freedom and the level of corruption across countries.”⁹² Fardigh further supports this correlation between a transparent media and lower levels of corruption.⁹³

Aside from political factors, many scholars within the embedded deterrents school point to economic or societal solutions. Bailey and Herzfeld et al. argue that increased

⁹⁰ “Why corruption matters: understanding causes, effects and how to address them”, January 2015.

⁹¹ McFarlane, John. "Transnational Crime: Corruption, Crony Capitalism and Nepotism in the Twenty-first Century." In *Corruption and Anti-Corruption*, edited by Larmour Peter and Wolanin Nick, 131-45. ANU Press, 2013. <http://www.jstor.org/stable/j.ctt2tt19f.11>.

⁹² Aymo Brunetti, and Beatrice Weder, “A free press is bad news for corruption”, *Journal of Public Economics* 87 (2003): 1801-1824.

⁹³ Mathias A. Fardigh, “Press Freedom and Corruption: One of the Mass Media functions in promoting Quality of Government”, *Presented as the Quality of Governance Institute*, Nice, October 23-26, 2007.

wages can deter personal motives for corruption.⁹⁴ Ades and Di Tella cast an even wider net and note that an overall active and thriving economy serves as a built-in prevention mechanism.⁹⁵ Scholars such as Brooks also propose general social betterment and equality.⁹⁶ Specifically, Brooks cites gender equality and higher education levels as being positively correlated with lower levels of corruption.⁹⁷

The suggestions and core beliefs within the embedded deterrents school stand counter to that of the targeted deterrents school for two main reasons. First, many within the embedded deterrents school see corruption as a problem that generates from a mixture of cultural and institutional shortcomings.⁹⁸ These scholars therefore most often believe that cultural issues should be directly addressed rather than focusing on specific crimes as the Targeted Deterrents School suggests. Second, certain scholars within the Embedded Deterrents School assert that high-penalty strategies are overall ineffective. They note that scare tactics via higher penalties do not aptly eliminate the possibility or presence of corruption.⁹⁹

Targeted Deterrents

Policy proposals that utilize Targeted Deterrents include notably fewer options than the Embedded Deterrent School. The strategies proposed within this school, however, are

⁹⁴ Sarah Bailey, "Need and Greed: corruption, risks, perceptions and prevention in humanitarian assistance", *Humanitarian Policy Group*, Policy Brief 32. (September 2008). 1-8. <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/3268.pdf>; Thomas Herzfeld and Christoph Weiss, "Corruption and Legal (In)-Effectiveness: An Empirical Investigation", *European Journal of Political Economy*, 19. (2003), 621-632.

⁹⁵ Alberto Ades and Rafael Di Tella, "The Causes and Consequences of Corruption." *IDS Bulletin*, 27 no. 2. (1996).

⁹⁶ G. Brooks, D. Walsh, C. Lewis, and H. Kim, *Preventing Corruption: Investigation, Enforcement and Governance*. 2013 (Springer).

⁹⁷ Brooks, 2013.

⁹⁸ "Why corruption matters: understanding causes, effects and how to address them", January 2015.

⁹⁹ Zhu, Jiangnan. "Do Severe Penalties Deter Corruption? A Game-Theoretic Analysis of the Chinese Case." *China Review* 12, no. 2 (2012): 1-32. <http://www.jstor.org/stable/23462215>.

most commonly used across nearly every nation. This school of thought was developed around the large group of research that supports institutional reform and penalty-driven enforcement provisions. These methods aim to present visible and real institutional oppositions to those attempting to engage in corruption. Proponents of this school note that the threat of consequences for unethical actions can serve as a deterrent for potentially corrupt individuals.

The presence of a secure and independent judicial system is one of the most cited penalty-driven factors to reduce both cultural and personal corruption. Overall, “a weak judicial system refers to low probability of detection and penalty.”¹⁰⁰ An effective judicial system and overall strong degree of ‘regulatory capacity’ has thus been shown to be a strong way to prevent corruption. Cavil and Sohail also identify judicial checks and accountability as a way to control political officials’ predisposition to corruption.¹⁰¹ In these cases, the knowledge that one will most likely be prosecuted or punished for corrupt acts is a direct deterrent to an individual who may otherwise seek to engage in illicit activities.

Azfar, Lee, and Swamy suggest that justice systems are central to combating cultural corruption. While they argue that corruption appears due to a mixture of personal and cultural issues, they point to the establishment of Hong Kong’s Independent Commission Against Corruption as a huge advancement for legitimacy as the commission “was given sweeping powers and was able to staff itself without relying on existing enforcement

¹⁰⁰ Harry Seldadyo and Jakob de Haan, “The Determinants of Corruption: A Literature Survey and New Evidence”, *Paper prepared for the 2006 EPCS Conference*, Turku, April 2006. https://projects.iq.harvard.edu/files/gov2126/files/seldadyo_determinants_corruption.pdf

¹⁰¹ S. Cavill and M. Sohail, “Accountability Arrangements to Combat Corruption”, from *Partnering to Combat Corruption*. Loughborough University (2007). <http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan043877.pdf>

agencies, whose integrity was suspect.”¹⁰² Scholars also support the need for higher penalties associated with corrupt actions.¹⁰³ Many cite the creation of the Foreign Corrupt Practices Act and the Hong Kong Independent Commission Against Corruption as prime examples of penalty-driven anti-corruption measures. Additionally, the most commonly used forms of anti-corruption measures are oftentimes the enforcement of civil or criminal penalties.

A key aspect of effective targeted deterrents that must not be overlooked is the requirement for effectively enforced targeted deterrents. The sole presence of a justice system, for example, does not serve as a successful targeted deterrent if the organization operates within the realm of government and politics where such corruption may overlap. This is a central aspect as to why an independent and somewhat isolated justice system is needed. Similarly, anti-corruption legislation and criminal regulations only operate as effective targeted deterrents when such laws and criminal codes are enforced. The utility of the codes, rather than its sole presence, is the true targeted deterrent.

Despite the criticisms that penalty-driven anti-corruption measures may face, mainly from those within the Embedded Deterrents School, they are the most dominant type of anti-corruption provision. While the effectiveness of such anti-corruption reforms can be debated, the presence and prevalence of such laws is undeniable.¹⁰⁴ Formal anti-

¹⁰² Omar Azfar, Young Lee, and Anand Swamy, “The Causes and Consequences of Corruption”, *Annals of the American Academy of Political and Social Science*, 573, (January 2001). 52. <http://journals.sagepub.com/doi/pdf/10.1177/000271620157300103>

¹⁰³ McFarlane, 2013.; Darko Datzler and Srdan Vujovic, “Penal Policy for Corruption Offenses in Canton Sarajevo”, *Kriminologija i socijalna integracija (Criminology & Social Integration Journal)* 2013. 21. 95-112.

¹⁰⁴ “International Anti-Corruption Law Research Guide.” Georgetown Law Library, February 8, 2018. <https://guides.ll.georgetown.edu/c.php?g=363494&p=2455878>

corruption laws are necessary in creating a developed government that holds groups and individuals accountable.

It is also important to note that while the policy proposals within the Embedded Deterrents and Targeted Deterrents School are fundamentally different, there are certain scholars within the field that suggest using a combination of proposals from each school in forming a comprehensive anti-corruption strategy. Shah, for example, proposes raising political legitimacy at all government levels, an embedded deterrent, and also cites the successful implementation and effectiveness of Singapore's anti-corruption laws.¹⁰⁵

The below table provides the significant policy proposals within each school of thought. This table serves as a comprehensive categorization of the aforementioned anti-corruption strategies discussed throughout the literature review. Each policy proposal is listed under the relevant anti-corruption deterrent. The below figure is thus used as a visual guide for the relationship between specific policy proposals and the theoretical beliefs behind these proposals.:

Figure 1: Policy Proposals for Targeted and Embedded Deterrents

School of Thought	Policy Proposal
Embedded Deterrents	<ul style="list-style-type: none"> - Increase in Wages (Bailey, 2008) (Herzfeld & Weiss, 2003) - Political Legitimacy (Shah, 2007) - Improved Economy and Poverty Reduction (Ades & DiTella, 1996) (Jiang, 2007) - Higher Education & Gender equality (Brooks, 2013) (Azfar, 2001) - Free press/Public Accountability (Fardigh, 2007) (Brunetti & Weder, 2003) - Good Governance/higher operational ability (Rose-Ackerman & Lagunes, 2015) - Improved Government/Administrative Institutions (Langseth, 1999) - Public/Private Sector Barriers (Spector, 2012) - Improved Institutions/Reversal of Failed State (Shah, 2007)

¹⁰⁵ Shah, 2007.

Targeted Deterrents	<ul style="list-style-type: none"> - Increased Penalties/Legal Accountability (McFarlane, 2013) - Independent Judicial/Anti-corruption System (Momčilović, 2011) (Cavill & Sohail, 2007) (Jiang, 2007) (Azfar, 2001)
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Methodology & Hypothesis

Hypothesis:

The Embedded Deterrents and Targeted Deterrents Schools of Thought argue for differing methods of anti-corruption measures. While both schools of thought propose valid anti-corruption strategies, this chapter looks to deduce which school of thought houses the most essential measures. This paper tests the hypothesis that strategies within the Targeted Deterrents School are most effective at preventing corruption. Specifically, this hypothesis asserts that high levels of effective and enforceable targeted deterrents lead to lower levels of corruption.

According to this hypothesis, a country with higher degrees of actionable targeted deterrents, such as effective anti-corruption laws or legitimate judicial entities, will have lower levels of corruption. These two characteristics are negatively correlated. Corruption will decrease as effective targeted deterrents increase.

Methodology

The following investigation into embedded and targeted deterrents will utilize qualitative and quantitative methods in analyzing the strengths and weaknesses of both schools of thought. Namely, this research will focus on a comparative analysis of four countries that aim to highlight the differing factors or characteristics between each type of deterrent. This analysis seeks to provide insight into the true policies that deter corruption. The research design will analyze four distinct countries with differing levels of embedded and targeted deterrents in an effort to illustrate varying forms of corruption

prevention. The levels of targeted and embedded deterrents will utilize the factors presented in the literature review. Previously identified deterrents such as an open society and independent judiciary will be used to analyze the deterrents present in each country.

This investigation will employ the use of government documents and legislation, international news reporting, and statistical information in order to present a clear illustration of each country's political, social, and economic dynamic. Scrutiny of government legislation and statistical studies are critical, as it will note how and to what degree embedded and targeted deterrents are being utilized. Further, independent reports on the success and effectiveness of these laws will contribute to this chapter's review of the key strategies for preventing corruption. Statistical information on transparency and government legitimacy will also provide insight into the validity and effectiveness of anti-corruption laws or embedded political provisions. This investigation will conduct a full comparative analysis of the embedded and targeted deterrents and relative corruption rates in each country. The goal of this research is to identify any outliers and patterns that may prove or disprove the hypothesis' claim.

Analysis:

The countries selected for this investigation are as follows.

Figure 2: Country Comparison of Anti-Corruption Deterrents

	High Targeted Deterrent	Low Targeted Deterrent
Low Embedded Deterrent	Singapore	China
High Embedded Deterrent	France	Uruguay

The aforementioned four countries present unique combinations of embedded and targeted deterrents. Singapore maintains notably low embedded deterrents. The country's

freedom of expression and political participation are significantly lower than many liberal democracies.¹⁰⁶ Singapore's targeted deterrents, however, are some of the most robust in the world.¹⁰⁷ France, in contrast, boasts high levels of both embedded and targeted deterrents. This can be seen through their open freedom of speech, liberal democracy and robust judicial infrastructure.¹⁰⁸ China maintains low targeted and embedded deterrents. The presence of government censorship and societal restrictions in China demonstrates lacking embedded deterrents.¹⁰⁹ Further, China is also categorized as maintaining low targeted deterrents as the country's anti-corruption laws are "inconsistently and selectively enforced."¹¹⁰ Uruguay also maintains low targeted deterrents. Unlike China's lack of enforcement, Uruguay maintains less specific and stringent anti-corruption regulations.¹¹¹ The country's embedded deterrents, however, are well documented and can be seen in its progressive society.¹¹²

¹⁰⁶ Graham Allison, "Singapore Challenges the Idea that Democracy Is the Best Form of Government." *Huffington Post*, August 5, 2015. https://www.huffingtonpost.com/graham-allison/singapore-challenges-democracy_b_7933188.html

¹⁰⁷ Jason Chan, "Bribery & Corruption 2018, Singapore." *Global Legal Institute*, 2018. <https://www.globallegalinsights.com/practice-areas/bribery-and-corruption-laws-and-regulations/singapore>

¹⁰⁸ "Anti-Corruption Legislation, Sapin II." Business Anti-Corruption Portal. *GAN Integrity*, 2018. <https://www.business-anti-corruption.com/anti-corruption-legislation/sapin-ii-law/>

¹⁰⁹ Beina Xu and Eleanor Albert. "Media Censorship in China." *Council on Foreign Relations*. February 17, 2017. <https://www.cfr.org/backgrounder/media-censorship-china>

¹¹⁰ "China Corruption Report," *GAN Business Anti-Corruption Portal*, 2019. <https://www.ganintegrity.com/portal/country-profiles/china/>

¹¹¹ "Anti-Corruption Regulation Survey of 41 Countries: 2017-2018", *Jones Day*, 2018. <https://www.jonesday.com/files/Publication/c491d4aa-6bb5-4f4b-95fd-1f852dec1537/Presentation/PublicationAttachment/31ecbb8a-64c8-49f4-b1f4-22b794dd5cf2/Jones%20Day%20Anti-Corruption%20Regulation%20Survey%20of%2041%20Countries%202017-2018%20Edit.pdf>

¹¹² Uki Goni. "Uruguay's Quiet Democratic Miracle." *The New York Times*. February 9, 2016. <https://www.nytimes.com/2016/02/10/opinion/uruguays-quiet-democratic-miracle.html>

Analysis: Four Countries

Each country must be comparatively assessed in terms of its embedded and targeted deterrents. First, embedded deterrents will be measured based on three composite categories that summarize the characteristics listed in the above literature review. These three categories include levels of democracy, levels of economic freedom, and levels of societal openness. Analyzing each country through the lens of these specified categories will provide a profile of each country's embedded deterrents.

Embedded Deterrents:

The Economist Intelligence Unit's Democracy Index will be used to compare and analyze the varying degrees of democracy present in each country. The report accounts for ten factors of embedded deterrents that include electoral pluralism, civil liberty, and functioning accountable governments.¹¹³ The democracy rank for the chosen countries for the years 2011, 2013, 2015 and 2017 are as follows¹¹⁴:

Figure 3: The Economist Intelligence Unit Democracy Index

	2011	2013	2015	2017
Singapore	5.89	5.92	6.14	6.32
France	7.77	7.92	7.92	7.80
China	3.14	3.00	3.14	3.10
Uruguay	8.17	8.17	8.17	8.12

The above chart shows that Singapore and China in fact have the lowest rates of democratic embedded deterrents while France and Uruguay have high democracy

¹¹³ "Democracy Index 2017." *The Economist Intelligence Unit*. 2018.
http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy_Index_2017.pdf&mode=wp&campaignid=DemocracyIndex2017

¹¹⁴ "The Economist Intelligence Unit's Democracy Index." *The Economist*. 2018.
<https://infographics.economist.com/2018/DemocracyIndex/>

rankings. All four countries also have relatively stagnant ratings, with only Singapore noting a slight increase in democracy over the four years. The 2017 report, however, highlights some outlier characteristics in these countries. Singapore received a score of 3 and “unfree” ranking in Media Freedom, which is well below its overall score of 6.32.¹¹⁵ France’s 5.63 political culture score also stands out as being three points below its overall index score. China’s functioning of government is relatively high at 5.00, however its electoral process and pluralisms receives a 0.00 score.¹¹⁶

The comparative analysis of economic freedom makes use of The Heritage Foundation’s Index of Economic Freedom. The below chart lists the 2018 economic freedom scores for each country. The chart also notes the scores for targeted sections within the report.¹¹⁷

Figure 4: The Heritage Foundation Economic Freedom Country Index 2018

Country	Overall Economic Freedom	Tax Burden	Government Spending	Trade Freedom
Singapore	88.8	90.4	90.6	90.0
France	63.9	47.3	2.7	81.9
China	57.8	70.4	71.6	73.2
Uruguay	69.2	78.0	68.6	80.4

The respective scores for each country highlight the central differences between the countries’ degrees of economic freedom. Singapore notably boasts the highest score, and is the 2nd freest country in the world. Uruguay and France receive similar scores and both qualify as countries with moderate economic freedom. Lastly, China holds the

¹¹⁵ Democracy Index 2017”. *The Economist Intelligence Unit*. 2018. http://www.eiu.com/Handlers/WhitepaperHandler.ashx?fi=Democracy_Index_2017.pdf&mode=wp&campaignid=DemocracyIndex2017

¹¹⁶ Ibid, 2018.

¹¹⁷ “Country Rankings”. *The Heritage Foundation*, 2018. <https://www.heritage.org/index/ranking>

lowest score and is the only country within this study to receive a classification of “mostly unfree.”¹¹⁸

There are three specific factors within the overall study of economic freedom that stand as outliers. First, France’s scores for Tax Burden and Government Spending are significantly lower than the country’s overall score. France’s 2018 Tax Burden is considered “repressed” with a percentage of 47.3. Its government spending is even lower and falls just shy of three percent.¹¹⁹ In contrast, Singapore, Uruguay, and China all receive “moderately free” scores or above in both categories. This identifies that the burden imposed by government spending and taxes is significantly greater in France than all other countries within this study.

Second, all four countries receive generally similar scores regarding trade freedom. Singapore ranks the highest with 90% and China receives the lowest score of 73.2%, France and Uruguay fall between the two. It is important to note here, however, that all four countries are considered to be “mostly free” in regards to trade freedom.¹²⁰

Third, China’s Government Spending is an outlier that ranks the country well above its overall score. China’s 2018 Government Spending score of 71.6% also follows years of even higher degrees of freedom. The country’s 2008 score noted 89.7 percent and came just below Singapore’s 2008 rate of 93.8 percent. Overall these three factors highlight the characteristics that stand out against the countries’ overall economic freedom scores.¹²¹

¹¹⁸ “Graph the Data”. *The Heritage Foundation*, 2018.

<https://www.heritage.org/index/visualize#top>

¹¹⁹ Ibid, 2018. <https://www.heritage.org/index/visualize#top>.

¹²⁰ Ibid, 2018. <https://www.heritage.org/index/visualize#top>.

¹²¹ “Graph the Data”. *The Heritage Foundation*, 2018.

<https://www.heritage.org/index/visualize#top>

Levels of societal openness can be interpreted through more than one approach. This is due in large part to the fact that the ways in which societies operate are varied and policies meant to hinder or expand societal openness can greatly differ. This investigation focuses on two central embedded deterrents that highlight societal openness. Analysis on social globalization and free press are notable embedded deterrents that emphasize liberal societies.

The KOF Swiss Economic Institute’s analysis of social globalization focuses on cultural, interpersonal, and information sharing and openness. Specifically, KOF assesses measures such as “international voice traffic, international financial transfers, international tourism and the share of foreign-born persons.”¹²² These factors are meant to judge if and how a country’s laws are structured to facilitate an open society. The index also assesses the actual societal globalization of that country. The KOF Globalisation Index on Social Globalization lists the following 2018 results¹²³:

Figure 5: KOF Social Globalisation Index 2018

Country	2018 Social Globalization Rank	Social Globalization Index
Singapore	28	80.63
France	17	85.28
China	137	51.60
Uruguay	60	72.08

This study demonstrates that France and Singapore have notably high levels of social globalization. This is unsurprising due to the high levels of international crossover

¹²² Gygli, Savina; Haelg, Florian; Sturm, Jan-Egbert. “The KOF Globalisation Index – Revisited”. *ETH Zurich*, 2018. https://www.research-collection.ethz.ch/bitstream/handle/20.500.11850/238666/KOF_Globalisation%20Index_Revisited.pdf?sequence=7&isAllowed=y

¹²³ “KOF Globalisation Index”. *ETH Zurich*, 2018. <https://www.kof.ethz.ch/en/forecasts-and-indicators/indicators/kof-globalisation-index.html>

in Singapore and the social dynamics of France within the European Union.¹²⁴ China, however, ranks well below the other countries in social globalization. While Singapore, France, and China all receive high or moderately high scores, China ranks 137th in the country. Singapore's high index rank is important as it shows that this aspect of embedded deterrents is somewhat high for a country with an overall low rate of institutional embedded deterrents.

The presence of a free press and lack of censorship are other crucial factors that determine a country's embedded deterrents with regard to societal openness. Freedom House annually tracks each country's freedom of the press score. This index places each country in its expected category based on their perceived levels of embedded deterrents. Uruguay and France both receive a high classification of "free" and a score of 24 and 26 respectively. Singapore and China, however, are classified as "unfree."¹²⁵ China's country score highlights the most glaring issues regarding free press. Most importantly, new policies and happenings in the country continue to hinder free press and target those who publish articles critical of the Chinese government. China's country report notes, "the ruling CCP maintains control over news reporting via direct ownership, accreditation of journalists, harsh penalties for online criticism, and daily directives to media outlets and websites that guide coverage of breaking news stories."¹²⁶

¹²⁴ Zakaria, Fareed. "What American can learn from Singapore about racial integration", *The Washington Post*, June 25, 2015. https://www.washingtonpost.com/opinions/from-singapore-lessons-in-harmony-and-diversity/2015/06/25/86fcbfa2-1b72-11e5-93b7-5eddc056ad8a_story.html?utm_term=.a51898fbe5be; Le Corre, Philippe. "France: A Critical Player in a Weakened Europe", *Brookings Institution*, April 2017. https://www.brookings.edu/wp-content/uploads/2017/04/le-corre_france-a-critical-player.pdf

¹²⁵ "Table of Country Scores: Freedom of the Press 2017", *Freedom House*, 2018. <https://freedomhouse.org/report/table-country-scores-fotp-2017>

¹²⁶ "China Profile: Freedom of the Press 2017". *Freedom House*, 2018. <https://freedomhouse.org/report/freedom-press/2017/china>

Media censorship is a key component of the lack of free press in both China and Singapore. While the freedom of the press index notes that Singapore has higher degrees of free press than China, Singaporean society is still subject to government censorship. BBC notes that “The government's Media Development Authority can censor traditional and online media, says Reporters Without Borders. It says the range of issues and public figures that are off limits for media coverage is growing.”¹²⁷ Still, China continues to be one of the countries with the highest degrees of censorship. Not only does the Chinese government censor media reporting, it “also employs a diverse range of methods to induce journalists to censor themselves, including dismissals and demotions, libel lawsuits, fines, arrests, and forced televised confessions.”¹²⁸ These facts undoubtedly contribute to the majority, if not all, of Singapore and China’s low free press global ranks.

Targeted Deterrents:

The levels of targeted deterrents for each country will be analyzed using two studies. The first study, Transparency International’s Government Defence Anti-Corruption Index (GI), directly “assesses the existence, effectiveness and enforcement of institutional and informal controls to manage the risk of corruption in defense and security institutions.”¹²⁹ The second study is directed by Jones Day and evaluates the status and effectiveness of anti-corruption regulations in 41 countries, which include the four selected countries for this research paper.

¹²⁷ “Singapore Profile – Media”, *BBC News*, September 5, 2017.

<https://www.bbc.com/news/world-asia-15966553>

¹²⁸ Xu, Beina, and Eleanor Albert. “Media Censorship in China”, *Council on Foreign Relations*, February 17, 2017. <https://www.cfr.org/backgrounder/media-censorship-china>

¹²⁹ Government Defence Anti-Corruption Index”. *Transparency International*, 2015. <https://government.defenceindex.org/#close>

The GI report ultimately serves as an evaluating tool for a country's ability to enforce and maintain effective controls meant to lessen corruption in the defense industry. The index places countries into certain Bands, or groups, that represent the country's corruption risk. The corruption risk rankings, ranging from Band A (Very Low) to Band F (Critical), illustrate each country's risk of exposure by assessing five key areas; political risk, financial risk, personnel risk, operations risk, and procurement risk.¹³⁰

Figure 6: Government Defence Anti-Corruption Index (GI) 2015

Country	Risk Band	Categorization
Singapore	Band B	Low Risk
France	Band C	Moderate Risk
China	Band E	Very High Risk
Uruguay	N/A	N/A

France is placed in Band C, the moderate risk category.¹³¹ The scores for political is highest, and highlights the well-established legislative and judicial provisions in place for combating corruption. A central example of such provisions is the French Parliament's "formal rights to control and question the government."¹³² France's overall score, however, is significantly lowered due to its poor operational structure. The country's defense spending and overseas peacekeeping missions, as stated in the report, is not monitored in a sufficient manner and "exacerbate[s] the lack of strong institutional measures regarding international missions."¹³³

¹³⁰ "Methodology: Government Defence Anti-Corruption Index," *Transparency International*, 2015. <https://government.defenceindex.org/methodology/>

¹³¹ "France: Government Defence and Anti-Corruption Index 2015", *Transparency International*, 2015. <http://government.defenceindex.org/countries/france/>

¹³² "Government Defence and Anti-Corruption Index 2015: France", *Transparency International*, 2015. http://government.defenceindex.org/generate-report.php?country_id=6285

¹³³ Tehmina Abbas, Eva Anderson, and Katherine Dixon, "Results G20: Government Defence Anti-Corruption Index," *Transparency International*, 2015. <https://government.defenceindex.org/downloads/docs/GI-G20-Results-web.pdf>

Singapore is placed in Band B and determined to be at low risk for corruption. This is the highest placement among ASEAN members.¹³⁴ While Singapore's financial and political risk scores are fairly aligned with France's scores, the procurement risk score is significantly higher and shows that Singapore's policies around controlling and reporting defense procurement is highly developed.¹³⁵ Singapore's low tolerance of corruption is further confirmed through the government's official response to the GI Index. "The Government of Singapore, Singapore Ministry of Defence (MINDEF) and the Singapore Armed Forces (SAF) have zero tolerance towards corruption...there are strict and systematic budgeting and procurement procedures that prevent, detect, and punish corruption."¹³⁶ The high degree of internal focus and levels of accountability from the government reflects the country's high GI score.

China, on the other hand, is part of Band E with a very high risk of corruption. While all four of China's risk categories receive poor ratings, personnel risk receives the best score of 50%. The report notes this is largely due to a plan implemented to lessen corruption among senior officials. This improvement shows the utility of instating official anti-corruption provisions, but also shows how further improvement is needed in China. Specifically, the GI index suggests "China should look at options for institutionalising mechanisms to hold military elites to account, including greater independence and

¹³⁴ "Government Defence and Anti-Corruption Index 2015: Singapore", *Transparency International*, 2015. http://government.defenceindex.org/generate-report.php?country_id=6337

¹³⁵ Ibid, 2015. http://government.defenceindex.org/generate-report.php?country_id=6337

¹³⁶ "Singapore Government Statement in Response to Transparency International's (TI) Government Defence Anti-Corruption Index 2015," *Government of Singapore*, 2015. https://government.defenceindex.org/downloads/docs/2015_Singapore_Statement.pdf

professionalism of judicial and audit institutions.”¹³⁷ This recommendation highlights the need for more targeted deterrents.

Uruguay, unfortunately, was not a selected country in the GI report. This limits the ability to fully compare Uruguay’s risk of corruption in its defense institutions. Uruguay’s overall anti-corruption and transparency provisions, however, are noted as being moderate in many other reports. The country’s institutions are cited as having “a strong rule of law and transparent institutions” with the ability to investigate and address internal issues within government and policing bodies.¹³⁸ It is also important to note, however, that investigations also point to embedded deterrents as facilitating such progress within Uruguay’s legislative and judicial structure. In reference to its improved defense against corruption, researchers note that “anti-corruption legislation in Uruguay did not bring this change; rather, it was a product of this change...the transformation of Uruguay into an ‘open access regime’ with low levels of corruption created the necessity for politicians to regulate their own actions.”¹³⁹ This summation notes the importance of both embedded and targeted deterrents in Uruguay.

The Jones Day survey more specifically evaluates each country’s actual anti-corruption regulations and their successes and/or failures. This survey focuses on corruption that stems from business and enterprise. In contrast to the GI report, which evaluates overall enforcement effectiveness, the Jones Day survey provides a narrow

¹³⁷ “Government Defence and Anti-Corruption Index 2015: China”, *Transparency International*, 2015. http://government.defenceindex.org/generate-report.php?country_id=6273

¹³⁸ “Uruguay Corruption Report”, *GAN Business Anti-Corruption Portal*, 2018. <https://www.business-anti-corruption.com/country-profiles/uruguay/>

¹³⁹ Daniel Buquet, Rafael Piñeiro, Richard Salvat, Lucía Selios and Daniela Vairo, “Corruption and Politics in Uruguay”, *European Research Centre for Anti-Corruption and State-Building*, no 33. August, 2012. <https://www.againstcorruption.eu/wp-content/uploads/2012/10/WP-33-Corruption-and-Politics-in-Uruguay.pdf>

analysis of anti-corruption provisions. France notably has the most voluminous anti-corruption provisions with many recent additions and updates in the 21st century. The Sapin II Law specifically allows the French government to force companies to create compliance programs.¹⁴⁰ Singapore also employs formalized anti-corruption legislation in prosecuting offenders. However the report notes that the government majorly targets individuals rather than company/entity offenders.¹⁴¹

Uruguay and China, however, maintain relatively little or unenforced anti-corruption laws. While both countries require improvements, their shortcomings lie in different areas. Uruguay, for example, lacks anti-corruption laws with the specificity needed to prosecute issues such as commercial bribery or protect whistleblowers during investigations. China, on the other hand, maintains substantial anti-corruption laws, however lacks any true ability or desire to enforce these laws, particularly when the offender is a PRC official.¹⁴²

Findings

The preceding analysis presents a comparative statistical analysis of the countries' embedded and targeted deterrents. The figure provided below is a composite table of the data reviewed in this investigation illustrates the overall levels of anti-corruption deterrents. The best-performing statistics are presented in bold font and the worst performing figures are noted in italics.

¹⁴⁰ “Anti-Corruption Regulation Survey of 41 Countries: 2017-2018”, *Jones Day*, 2018. <https://www.jonesday.com/files/Publication/c491d4aa-6bb5-4f4b-95fd-1f852dec1537/Presentation/PublicationAttachment/31ecbb8a-64c8-49f4-b1f4-22b794dd5cf2/Jones%20Day%20Anti-Corruption%20Regulation%20Survey%20of%2041%20Countries%202017-2018%20Edit.pdf>

¹⁴¹ *Ibid*, 2018.

¹⁴² *Ibid*, 2018.

Figure 7: Composite Data Table – Embedded and Targeted Deterrents

Country	Embedded Deterrents			Targeted Deterrents	
	Democracy Index (Figure 3)	Economic Freedom Index (Figure 4)	Social Globalisation Index (Figure 5)	GI Index	Jones Day
Singapore	6.32	88.8	80.63	Band B	High
France	7.80	63.9	85.28	Band C	High
China	<i>3.10</i>	<i>57.8</i>	<i>51</i>	<i>Band E</i>	<i>Low</i>
Uruguay	8.12	69.2	72.08	N/A	<i>Low</i>

The data above highlights the fact that targeted deterrents provide the most clear and consistent anti-corruption measures. The data on embedded deterrents, however, evidences more complex and varied results. Levels of democracy, economic freedom, and social globalization return varying results among the four countries. These results, therefore, require further comparison. A notably low democracy index score, for example, counters Singapore’s high levels of economic freedom and social globalization. These results highlight the fact that while embedded deterrents can impact levels of corruption, the way and degree to which they influence change is more complex and nonlinear.

The research provided in the prior section, when compared to Transparency International’s Corruption Perceptions Index (CPI), highlights the central factors that either contribute to a country’s robust anti-corruption infrastructure, or point out its failings in this category. The 2017 Corruption Perceptions Index for the selected countries is as follows¹⁴³:

¹⁴³ “Corruption Perceptions Index 2017.” *Transparency International*, 2018.
https://www.transparency.org/news/feature/corruption_perceptions_index_2017#table

Figure 8: Transparency International Corruption Perceptions Index 2018

Country	2017 Global Rank	2017 CPI Score
Singapore	6	84
France	23	70
China	77	41
Uruguay	23	70

The preceding data set evaluates each country's level of perceived corruption. Those countries with higher CPI scores demonstrate lower levels of perceived corruption. Transparency international also ranks each country to illustrate each country's global standing. While instances of corruption appear in each country, the way in which corruption manifests itself and how each country combats these threats, based on the research above, supports the hypothesis that strong targeted deterrents are positively correlated with lower levels of corruption. While targeted deterrents are not the only way to lessen corruption, as Uruguay exemplifies, they are arguably the most useful and effective. This idea is highlighted by the fact that Singapore, a country that heavily relies on targeted deterrents, tops the list. China, in contrast, maintains the least effective targeted deterrents and also contains the highest levels of corruption. France and Uruguay interestingly receive the same CPI rank and score, which furthers the idea that the embedded deterrents in French and Uruguayan society serve as a moderating factor which facilitates a degree of societal concord.

The hypothesis is further supported if one analyzes the presence of targeted deterrents in both France and China. France maintains robust targeted deterrents that allow for formal anti-corruption actions under the Sapin II Law.¹⁴⁴ The country's degree

¹⁴⁴ "Anti-Corruption Regulation Survey of 41 Countries: 2017-2018", *Jones Day*, 2018. <https://www.jonesday.com/files/Publication/c491d4aa-6bb5-4f4b-95fd->

of embedded deterrents also contributes to the country's overall moderately high CPI score. While both France's targeted and embedded deterrents are high, the research shows that the degree of both deterrents is not as high as what one may expect from a Western European nation. France's GI rank is still below Singapore's and its degree of embedded deterrents generally receives moderate or moderately high results.¹⁴⁵ China's lack of targeted deterrents also presents a stark contrast to the other three countries. While the embedded deterrents within Chinese government and society are glaringly low, so too are the government's targeted deterrents. These targeted deterrents are also low specifically due to their ineffectiveness or illegitimacy.¹⁴⁶ The actual utility of targeted deterrents, therefore, is a central aspect of the policies' successes.

Research into specific aspects of both targeted and embedded deterrents also identifies interesting findings that may propose further questions or ideas as to why corruption perishes or flourishes in certain cases. First, Singapore's high level of economic openness is a unique outlier that stands counter to the hypothesis as it shows that economic embedded deterrents may be aiding Singapore's low levels of corruption.¹⁴⁷ Singapore's moderate degree of social globalization also highlights positive impacts from their prosperous economy.¹⁴⁸ Economic prosperity or freedom, in this instance, lessens the prevalence of corruption in Singapore. This presents the idea that

[1f852dec1537/Presentation/PublicationAttachment/31ecbb8a-64c8-49f4-b1f4-22b794dd5cf2/Jones%20Day%20Anti-Corruption%20Regulation%20Survey%20of%2041%20Countries%202017-2018%20Edit.pdf](https://www.transparency.org/en/publications/1f852dec1537/Presentation/PublicationAttachment/31ecbb8a-64c8-49f4-b1f4-22b794dd5cf2/Jones%20Day%20Anti-Corruption%20Regulation%20Survey%20of%2041%20Countries%202017-2018%20Edit.pdf)

¹⁴⁵ Government Defence Anti-Corruption Index". *Transparency International*, 2015.

<https://government.defenceindex.org/#close>

¹⁴⁶ Jerome A Cohen, "A Looming Crisis for China's Legal System", *Foreign Policy*, February 22, 2016. <https://foreignpolicy.com/2016/02/22/a-looming-crisis-for-chinas-legal-system/>

¹⁴⁷ "Country Rankings". *The Heritage Foundation*, 2018. <https://www.heritage.org/index/ranking>

¹⁴⁸ "KOF Globalisation Index". *ETH Zurich*, 2018. <https://www.kof.ethz.ch/en/forecasts-and-indicators/indicators/kof-globalisation-index.html>

promoting economic freedom as an embedded deterrent can effectively remove the temptation to engage in bribery or corruption.

Second, the status of Uruguay's targeted deterrents presents an interesting profile on how and when targeted deterrents are most needed. While Uruguay's targeted deterrents have been generally low throughout recent history, the country has increased its focus on formal anti-corruption regulations and enacted new anti-money laundering legislation in 2017.¹⁴⁹ This legislation comes at an interesting time as the country did not and does not have a rampant corruption problem. Uruguay's new focus on formal anti-corruption legislation, however, does emphasize the overall importance for specific institutional provisions against such crimes. While the country does not have glaring issues with unethical behavior, it still sees the need to develop efficient and formalized regulations.

Conclusion

The importance of preventing corruption from seeping into society and politics is crucial to maintaining a stable country. Corruption can have a widespread effect that influences the legitimacy and ability for a prosperous economy, free press, stable society, and functioning government.¹⁵⁰ This chapter discusses the different aspects of embedded and targeted deterrents mean to combat corruption and tests the hypothesis that targeted deterrents are most central and are positively correlated with lower levels of corruption.

¹⁴⁹ "Anti-Corruption Regulation Survey of 41 Countries: 2017-2018", *Jones Day*, 2018.

<https://www.jonesday.com/files/Publication/c491d4aa-6bb5-4f4b-95fd-1f852dec1537/Presentation/PublicationAttachment/31ecbb8a-64c8-49f4-b1f4-22b794dd5cf2/Jones%20Day%20Anti-Corruption%20Regulation%20Survey%20of%2041%20Countries%202017-2018%20Edit.pdf>

¹⁵⁰ "We are All Affected", *Corruption Watch*, 2018. <https://www.corruptionwatch.org.za/learn-about-corruption/what-is-corruption/we-are-all-affected/>

The hypothesis is tested using a descriptive statistical analysis of four countries. Singapore, France, China, and Uruguay are all examples of countries with different degrees of embedded and targeted deterrents. Singapore, for example, has low embedded deterrents and high targeted deterrents where as China has both low embedded and targeted deterrents. The findings resulting from this analysis support the hypothesis that targeted deterrents effectively lead to lower levels of corruption. The research, however, also identifies specific aspects within both schools of thought that prove to be useful and may require further attention.

First, the high degree of economic freedom in Singaporean society highlights a strong embedded deterrent within a country that generally operates with low overall embedded factors. Second, the relatively late installation of formal anti-corruption regulations in Uruguay poses the idea that while targeted deterrents may not be necessary for removing corruption, they may be required for maintaining low levels of corruption. Third, the ineffectiveness and illegitimacy of Chinese targeted deterrents highlights the fact that formalized anti-corruption laws only serve as targeted deterrents if they are truly effective and enforceable. In all, these three findings have the potential for future research and study. This research paper identifies that targeted deterrents provide the most prominent method for preventing corruption, however specific nuance within both targeted and embedded deterrents can be further investigated. Continued research on preventative measures can advance these findings and bring us closer to corruption-free societies.

Chapter 4: Anti-Corruption Regulations: How to Influence Change Through Creating Targeted Reforms

Introduction

All levels of municipal, state and federal government face the threat of corruption. “If there is money, if there is power, there is the likelihood of corruption.”¹⁵¹ The preceding chapters discuss this threat and analyze the different motives behind corruption and subsequent anti-corruption strategies. Chapter three’s discussion of targeted deterrents highlights the most widely used form of anti-corruption strategy. Formal anti-corruption legislation and enforcement capabilities is, as noted in the prior chapter, a central aspect of preventing corruption. Several countries, political unions, and non-governmental organizations therefore spend significant time and money on working to create strong anti-corruption infrastructure and legislation. The subject of anti-corruption legislation is also at the center of international political discussions and has been for the past two decades. In 2016 the OECD Secretary General introduced the organization’s anti-corruption stance by stating, “corruption is a severe impediment to sustainable economic, political and social progress for countries at all levels of development.”¹⁵² The corruption problem leaves policymakers and scholars with the question of how to best implement anti-corruption regulations in a given country or society. This problem raises conversations such as:

- What agent, individual, or institutions should anti-corruption laws target?
- Should high penalties be used as a deterrent for corruption?
- How should anti-corruption laws be written to allow for easy implementation?
- Can domestic laws be incorporated into international anti-corruption reforms?

¹⁵¹ Jeffrey Young, “Corruption in Government, Business Can Be Found Everywhere,” *Voice of America*, February 20, 2013. <https://www.voanews.com/a/corruption-in-government-business-can-be-found-everywhere/1607603.html>

¹⁵² Organisation for Economic Co-Operation and Development. *Putting an End to Corruption*, OECD, 2016. <https://www.oecd.org/corruption/putting-an-end-to-corruption.pdf>

These questions highlight some of the central topics driving regulatory anti-corruption initiatives.

It is important to note that while there are other indirect models for reducing corruption, such as increased social equality and increased economic prosperity, this chapter specifically focuses on how legislative and regulatory infrastructure can be used to lessen corruption.¹⁵³ This chapter presents an in-depth investigation and analysis on the theories and proposals on effective anti-corruption legislation that are present in politics and academia. This research provides a comprehensive illustration of the dominant theories on anti-corruption laws and identifies how the ideas complement or conflict with the other existing theories.

First, this chapter newly categorizes the central theories on anti-corruption legislation. The overall conversation on anti-corruption legislation can be grouped into two central discussions. The first discussion debates the broad-spectrum nature of legal anti-corruption provisions. This focuses on a country's legal anti-corruption provisions as a whole. The second discussion provides a more narrow focus on individual anti-corruption reforms. Scholars of this group analyze ideas and themes within specific pieces of anti-corruption legislation.

Studies within the first discussion center their focus on the techniques and characteristics of a country's anti-corruption infrastructure as a whole. These proposals focus on themes that affect the legislation's intended purpose and structure. First, scholars discuss the strategies and applicable techniques needed in order to draft and

¹⁵³ Sarah Bailey, "Need and Greed: corruption, risks, perceptions and prevention in humanitarian assistance," *Humanitarian Policy Group*, Policy Brief 32. (September 2008). 1-8.
<https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/3268.pdf>

create effective legislation. Second, these scholars review the overall format of anti-corruption governance within a country. This includes analyzing how various countries' anti-corruption agencies and laws work as part of the overall legislative mechanism. Lastly, this group also investigates how domestic anti-corruption regulations may interact with, or fail to compliment, international anti-corruption laws.

The second and more pointed scholarly discussion on anti-corruption regulation focuses on two main aspect of creating legal infrastructure. First, many policymakers and scholars review and propose theories on the intended targets of anti-corruption legislation. These ideas influence who becomes the subject of corruption penalties, how individuals are rewarded for moral acts, and how government information is presented to the public. Second, a large portion of anti-corruption scholarship focuses on the semantics and literal construction of anti-corruption laws or regulations. These investigations study the effectiveness of certain language within legislative reforms, and analyze how legal definitions within anti-corruption laws can hinder or improve the applicability of such laws in society.¹⁵⁴

This chapter than assesses the existing theories on anti-corruption reform by conducting a case study analysis on the U.S. Foreign Corrupt Practices Act. A review of the United States' pioneering anti-corruption legislation will review the dominant traits that influence the act's success. The identified strengths and weaknesses of the FCPA will thus provide insight into the validity of the aforementioned anti-corruption theories.

In all, this chapter investigates and presents a comprehensive review of the two central conversations surrounding anti-corruption legislation. Each conversation

¹⁵⁴ George C. Christie, "Vagueness and Legal Language," *Minnesota Law Review* 48, (1963-1964) 885-911.

discusses specific theories and focuses on how to implement anti-corruption provisions. The first conversations review the broad methods on implementing and creating anti-corruption infrastructure within a country. This includes investigating how different branches of government may engage with corruption or how certain laws are filtered through a government system. The second conversation conversely presents a narrow focus on anti-corruption legislation itself. It investigates the methods and ways legislation should be written in order to effect true change and effective legal action against corruption. A case study analysis of the FCPA finds that provisions aimed at securing the Act's place within the overall structure of a country's legislative system are the strongest indicators of success. Legislation-specific focuses, while useful, do not heavily influence the effectiveness or impact of the FCPA. These findings provide crucial insights into the FCPA that may be used for future anti-corruption policy efforts.

Literature Review

Overall Nature of Anti-Corruption Legislation and Regulation

Many anti-corruption scholars and policymakers review the effectiveness and strength of anti-corruption reform based on how the overall legislative infrastructure is created in a country or community. They assess whether anti-corruption provisions work within the country's overall governance system, if the given regulations compliment other domestic or international laws, and if the anti-corruption legislation was developed and enacted in a productive way. The World Bank reflects this view by describing anti-corruption regulation as an ecosystem. "Prevention must be built on the shoulders of credible deterrence, relying on accountability and enforcement mechanisms sufficiently strong to send a message to potential wrongdoers of the potential cost of their

misconduct”.¹⁵⁵ There are three main topics within this conversation that emphasize different perspectives on how to create multilevel anti-corruption regulations. For the purposes of this investigation these groups are labeled the Pre-Legislative Method, Comprehensive Governance Method, and the Macro-level Anti-Corruption Method.

Pre-Legislative Method:

Scholars who support the Pre-Legislative Method highlight the need to conduct sufficient research and analysis of each specific country prior to creating anti-corruption reform. Proponents of this group therefore focus on the necessity of country-specific anti-corruption regulations. Conducting country-specific risk assessment, therefore, is championed as a core step in determining the needed types of anti-corruption reform. There are many ways to structure anti-corruption regulations and policymakers claim that preemptive risk assessment can aide in honing in on the best types of anti-corruption reforms for each country. Parisi contends that risk assessment is a crucial step in creating anti-corruption regulations. “The discovery of a specific risk is a necessary process for the entity, which relates to the intrinsic nature of the compliance model adopted to prevent corruption.”¹⁵⁶ The OECD further notes risk assessment as a central strategy used by member countries in creating anti-corruption regulations. Risk assessment in member countries identified danger zones for corruption and led to more educated anti-corruption strategies. Formalized risk assessment thus became a built-in anti-corruption mechanism. “A few countries use risk assessment to steer policy development for prioritizing and

¹⁵⁵ The World Bank, “Combating Corruption,” World Bank Group, October 4, 2018. <http://www.worldbank.org/en/topic/governance/brief/anti-corruption>

¹⁵⁶ Nicoletta Parisi, “Assessment of the effectiveness of anti-corruption measures for the public sector and for private entities,” *Rule of Law and Anti-Corruption Journal* (July, 2018). <http://www.qscience.com/doi/full/10.5339/rolacc.2018.2>

sequencing ethics measures and assign a central office responsible for oversight of all ethics related measures, including ensuring the consistency of legal regulations.”¹⁵⁷

Certain scholars also highlight the weak spots and problem areas of risk assessment in international aid and government policymaking. Guidelines for risk assessment can oftentimes be unclear and thus lead to unhelpful findings.¹⁵⁸ A U4 report notes that the true benefits of risk assessment, identifying the probability and impact of corruption, is oftentimes substituted with simple risk identification. This compromise can lead to less effective anti-corruption reforms that fail to truly understand a country’s corruption issues.¹⁵⁹ These potential weaknesses of anti-corruption risk assessment emphasize the need for risk assessment investigations that are specific, direct, and properly executed.

Similar to the need for individual risk assessment, scholars also support the need for personalized anti-corruption legislation that is determined based on a state’s political context. The political, social, and economic differences in each country can impact the way corruption appears and thus highlights “the importance of a return to context and complexity in order to ensure the successful implementation of reforms.”¹⁶⁰ Additionally, institutions must consider and assess each country’s level of development when enacting

¹⁵⁷ Organisation for Economic Co-Operation and Development, “Trust in Government: Ethics Measures in OECD Countries,” OECD, 2000. <https://www.oecd.org/gov/ethics/48994450.pdf>

¹⁵⁸ Elizabeth Hart, “Why is corruption risk management so hard? Assessing current practices in development aid,” Chr. Michelsen Institute (U4 Brief: 2016:1). <https://www.cmi.no/publications/5819-why-is-corruption-risk-management-so-hard>

¹⁵⁹ Jesper Stenberg Johnson, “The basics of corruption risk management: A framework for decision making and integration into project cycles,” U4 Anti-Corruption Resource Centre, no. 18 (December 2015). <https://www.u4.no/publications/the-basics-of-corruption-risk-management-a-framework-for-decision-making-and-integration-into-the-project-cycles.pdf>

¹⁶⁰ Alena Ledeneva, Roxana Bratu, and Philipp Köker, “Corruption Studies for the Twenty-First Century: Paradigm Shifts and Innovative Approaches,” *The Slavonic and East European Review* 95, no. 1 (2017): 1-20. doi:10.5699/slaveasteurorev2.95.1.0001.

new anti-corruption legislations. Anti-corruption policies should be enacted only after a comprehensive country evaluation is conducted. Societal norms and cultural factors identified through this country evaluation should then be incorporated into the implemented policies.¹⁶¹ In all, both policy suggestions emphasize the need for significant research and study before constructing or implementing anti-corruption reform or regulations.

Comprehensive Governance Method:

Second, many policy proposals state that anti-corruption legislation must be incorporated into the overall governance of a country. This includes creating complimentary anti-corruption laws or specific agencies within a country. Specifically, scholars note that a standalone anti-corruption law or policy is futile if the overall governance framework does not support open policies and legitimacy. Anti-corruption reform, for example, can be rendered useless if that country does not support open and transparent government. Messick and Kleinfeld aptly express this view. “Statutes outlawing bribery, nepotism, and other corrupt acts should be complemented by laws that help bring corruption to light. A freedom of information law is one example. Such laws require government to disclose information about its activities at the request of any citizen and can be used by watchdog groups to monitor government behavior.”¹⁶² This enforces the idea that anti-corruption reform cannot be viewed through a narrow lens and

¹⁶¹ Alina Mungiu-Pippidi, “Corruption: Diagnosis and Treatment,” *Journal of Democracy*, 17, 2006, 3, pp. 86–99.

¹⁶² Richard E. Messick, and Rachel Kleinfeld, “Writing an Effective Anticorruption Law,” PREM Notes; No. 58. World Bank, Washington, DC (2001). <http://www1.worldbank.org/prem/PREMNotes/premnote58.pdf>; Thomas Blanton, “Freedom of Information Laws: Emerging Trends and Lessons Learned,” National Security Archive, George Washington University, Washington, D.C. (2001).

should rather be viewed holistically. These reforms must work in unison with preexisting laws that support transparency and effective law enforcement.

Other proponents of the comprehensive governance methods support the principle that independent anti-corruption agencies are the most effective form of reform. These scholars argue that creating an independent agency devoted to bribery and corruption is the most effective way to incorporate anti-corruption regulations into the overall country's government structure.¹⁶³ Independent agencies, provided the government supports them, are able to deliver unbiased and direct reviews of corruption. Devoting an entire institution to anti-corruption regulations is also beneficial as it streamlines investigations on the issue and centralizes focus on anti-corruption reform. Quah in particular highlights Taiwan's effective use of anti-corruption agencies.¹⁶⁴ Conversely, China's segmented anti-corruption provisions are notably weak, as the government "responded to corruption with ambivalent signals, creating two anti-corruption agencies with overlapping jurisdictions and an unclear division of labour."¹⁶⁵ Overall, scholars who investigate the comprehensive governance method contend that independent anti-corruption agencies are most effective at rooting out corruption if complementary laws such as freedom of information and transparency policies further support those agencies.

Macro-level Anti-Corruption Method:

¹⁶³ Transparency International, "Fighting Corruption: The Role of The Anti-Corruption Commission," Transparency International, April 28, 2014. https://www.transparency.org/news/feature/fighting_corruption_the_role_of_the_anti_corruption_commission

¹⁶⁴ Jon S.T. Quah, "Enhancing the Effectiveness of Taiwan's Anti-Corruption Agencies in Combating Corruption," *American Journal of Chinese Studies* 22, no. 2 (2015): 291-307. <http://www.jstor.org/stable/44289101>.

¹⁶⁵ Melanie Manion, "Lessons for Mainland China from Anti-corruption Reform in Hong Kong," *China Review* 4, no. 2 (2004): 81-97. <http://www.jstor.org/stable/23461885>.

Third, many scholars take an even broader approach to anti-corruption regulations. Proponents of this group suggest that domestic anti-corruption legislation must be coupled with international anti-corruption laws. This method in particular highlights the changing effects of globalization on corruption and international crime. Domestic anti-corruption laws, in an era of international business and markets, can only impact or prevent a certain level of corruption. These domestic anti-corruption regulations must therefore be mirrored in other countries in order to limit the actual impact of corruption. "Laws against bribery abroad established in countries with good institutions can help deal with bribery in corrupt countries by reducing the supply of bribes. However, [Cuervo-Cazurra] argues the laws need to be present and coordinated across multiple countries to provide a level playing field and reduce the incentive to bypass them."¹⁶⁶ This focus aptly describes international corruption as a relationship where corrupt actors from countries with strong anti-corruption infrastructure may seek refuge in less stable corruption havens. McMann also discusses how strengthening anti-corruption laws can impact domestic bad actors as well as international bad actors.¹⁶⁷ Awareness of international corruption and international organized crime is crucial for future anti-corruption reforms. Countries must look past intrinsic regulations and also assess their corruption threats based on external factors. This includes maintaining strong anti-money laundering and organized crime provisions.¹⁶⁸

¹⁶⁶ Alvaro Cuervo-Cazurra, Alvaro. "The Effectiveness of Laws against Bribery Abroad." *Journal of International Business Studies* 39, no. 4 (2008): 634-51. <http://www.jstor.org/stable/25483291>.

¹⁶⁷ Kelly M. McMann, "Reducing Corruption: Policy Recommendations," In *Corruption as a Last Resort: Adapting to the Market in Central Asia*, 159-70. ITHACA; LONDON: Cornell University Press, 2014. <http://www.jstor.org/stable/10.7591/j.ctt1287dpm.14>.

¹⁶⁸ Susan Rose-Ackerman, and Bonnie J. Palifka, *Corruption & Government: Causes, Consequences & Reform*, Cambridge University Press, 2016. 2nd Edition. 314.

Legislation-Specific Focuses

Another section of the anti-corruption conversation centers on the specific characteristics and strategies of a given anti-corruption legislation or regulation. Scholars who investigate anti-corruption methods from this perspective focus on the issues and impacts that can arise directly from a specific anti-corruption regulation. In all, this focus is comprised of two main groups. For the purpose of this investigation they have been labeled as the Legal Semantics Method and the Intended Target Method. The Legal Semantics Method analyzes the effects of language within anti-corruption regulations. Scholars within this field review the legal structure of various anti-corruption laws and point to the benefits and weaknesses of different language used within legislation. The Intended Target Method, instead, focuses on how anti-corruption reform can be structured to enforce laws against a specific group or type of corruption.

Legal Semantics Method:

Many scholars take a narrow approach when analyzing anti-corruption laws or regulations. Specifically, these scholars analyze how a piece of legislation's language, phrasing, and direction can influence the effectiveness and way a law is implemented. Some scholars point to ineffective legal language as the reason why anti-corruption reforms can fall flat in certain countries. Overall, this method focuses on how a regulation's language can impact the interpretation and implementation of anti-corruption provisions.

The subject of vague language is debated within this field. Vagueness has long been seen as a necessary aspect of legal language. Scholars often discuss how "vagueness is often an aid to precise communication and how a functioning legal system depends on

the existence of vagueness in language.”¹⁶⁹ They argue that vague language is needed in order to allow laws to stretch and mold to the inevitable uniqueness of future legal events. Many, including Patrizia Anesa, acknowledge the potential issues posed by overly vague laws or regulations, yet still maintain that vague legal language does not hinder implementation. “Vagueness does not necessarily represent a threat to the rule of law and to a just application of the law; conversely, an excessive level of precision and specificity may be seen as problematic, because it may limit the general applicability of the law.”¹⁷⁰

Opposing scholars, however, contend that vague legal language creates loopholes and gaps in legislation that allow for weak enforcement and poor legal implementation. Messick in particular notes that anti-corruption reforms in developing countries should be both practical in nature and direct in classifying illegal acts. Direct and blunt legislation, he argues, creates a body of work that is easily enacted and enforced.¹⁷¹ Messick and Kaplow both support the use of “bright-line rules”. A bright-line rule is “easy to understand, simple to apply, and demands little or no judgment in determining its applicability.”¹⁷² Ineffective legal language, and inaccurately defining corruption can present issues in the implementation of such anti-corruption laws. These implementation gaps can be spurred by “difficulties in adjusting the new anti-corruption legislation to the

¹⁶⁹ George C. Christie, “Vagueness and Legal Language,” *Minnesota Law Review* 48, (1963-1964) 885-911.

https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1207&context=faculty_scholarship

¹⁷⁰ Patrizia Anesa, “Defining Legal Vagueness: A Contradiction in Terms?” *Polemos* 8, no. 1, (2014): 193-209.

<https://pdfs.semanticscholar.org/a794/971bfbc062f81d0edc5fa013f369bcb5d7d4.pdf>

¹⁷¹ Richard E. Messick, and Rachel Kleinfeld, “Writing an Effective Anticorruption Law,” PREM Notes; No. 58. World Bank, Washington, DC (2001).

<http://www1.worldbank.org/prem/PREMNotes/premnote58.pdf>

¹⁷² Ibid, 2001.; Louis Kaplow, “Rules Versus Standards: An Economic Analysis,” *Duke Law Journal* 42 no. 3, (1992): 557–629.

vernacular legal narratives.”¹⁷³ These scholars overall highlight the importance of legal language that is effectively understood and implemented by the country and its constituents.

Intended Target Method:

Another topic within legislation-specific reforms centers on the target or direct result expected from anti-corruption laws. Individual pieces of anti-corruption laws are frequently crafted with specific bad actors in mind. These laws seek to create regulations and penalties for specific individuals, groups or entities that may commit corrupt acts. Many non-governmental institutions, as noted by Ledeneva, emphasize a standard model that places public officials and government agents at the center of law enforcement regulations.¹⁷⁴ Creating laws, in these situations, should apply focus and penalties on corrupt government officials who engage in illicit behavior. This format is common and widely used, however other critics such as Ledeneva and Heywood assert that such laws do not provide sufficient penalties for outside bad actors such as private companies that may reach international jurisdictions or tax havens.¹⁷⁵ Ledeneva also highlights the need to adjust each regulation’s intended target and penalty depending on the degree of corruption in each country. In such instances typical penalty-driven anti-corruption reforms must only be used if deemed useful. “In a context in which corruption is the

¹⁷³ Roxana Bratu, Dimitri A. Sotiropoulos, and Maya Stoyanova, "Through the Lens of Social Constructionism: The Development of Innovative Anti-Corruption Policies and Practices in Bulgaria, Greece and Romania, 2000–2015," *The Slavonic and East European Review* 95, no. 1 (2017): 117-50. doi:10.5699/slaveasteurorev2.95.1.0117.

¹⁷⁴ Alena Ledeneva, Roxana Bratu, and Philipp Köker, "Corruption Studies for the Twenty-First Century: Paradigm Shifts and Innovative Approaches," *The Slavonic and East European Review* 95, no. 1 (2017): 1-20. doi:10.5699/slaveasteurorev2.95.1.0001.

¹⁷⁵ Jonathan Rose and Paul Heywood, "Political Science Approaches to Integrity and Corruption," *Human Affairs*, 23 (2013) pp. 148–59.

expected norm, there will simply be no actors willing to take on the role of controlling corruption.”¹⁷⁶

Other scholars provide further suggestions on how to target at-risk individuals through anti-corruption regulations. Scholars who support incentive-based anti-corruption regulations argue that providing motivations for good behavior may counter the desirable financial or personal gain associated with corruption and bribery. Hanna et al., propose implementing incentive-based regulations that provide direct reasons or benefits to not engaging in corruption. Specifically, they “find convincing evidence that monitoring and incentive-based interventions (both financial and non-financial) have the potential to reduce corruption, at least in the short term.”¹⁷⁷ This type of anti-corruption policy, while maintaining the traditional government agent target, reverses the nature of anti-corruption regulations. It looks to convince the government official to chose ethical behavior based on self-interest, rather than focusing solely on successful criminal prosecution and arrest. Other scholars also provide similar non-penalty focused anti-corruption laws that target private sector bad actors. In such instances the intended targets are private citizens and entities. Anti-corruption reforms should be written to lessen the need for corruption in these groups through the “introduction of incentives for competitive delivery of public services.”¹⁷⁸

¹⁷⁶ Ledeneva, Bratu, and Köker, 2017.

¹⁷⁷ Hanna, R., Bishop, S., Nadel, S., Scheffler, G., Durlacher, K., “The effectiveness of anti-corruption policy: what has worked, what hasn’t, and what we don’t know – a systematic review.” *EPPI-Centre, Social Science Research Unit, 2011* (London: Institute of Education, University of London). ISBN: 978-907345-14-2.
https://assets.publishing.service.gov.uk/media/57a08ab8e5274a27b2000719/Anti_corruption_2011Hanna.pdf

¹⁷⁸ Jeff Huther, and Anwar Shah, “Anti-Corruption Policies and Programs: A Framework for Evaluation. Policy Research Working Paper; No. 2501,” 2000. World Bank, Washington, DC. License: CC BY 3.0 IGO. <https://openknowledge.worldbank.org/handle/10986/19753>

Lastly, many scholars choose to focus on specific institutional changes rather than law enforcement against individuals. These policy proposals support reforms that target specific weaknesses known to facilitate corruption. These theories also lessen the focus on standard penalty-centered anti-corruption legislation. Anti-corruption by way of transparency laws is a popular opinion within this scholarly discussion. A 2017 NATO review noted that countries experienced success by implementing fiscal transparency laws as a strategy for anti-corruption legislation.¹⁷⁹ Huther and Shah specifically identify targeted needs for anti-corruption laws based on the given country's level of governance and corruption. Countries with heavy corruption, for example, should work to "establish rule of law, strengthen institutions of participation and accountability, and limit government interventions to focus on core mandates."¹⁸⁰ Whereas countries with little corruption should create "explicit anti-corruption agencies and programs, stronger financial management, increased public and government awareness."¹⁸¹

Comparative Analysis

The two conversations discussed above provide an overview of the different methods and perspectives that can be used in creating anti-corruption legislation. Opinions that center on the nature of anti-corruption regulations identify ways that specific regulations fit into a country's overall political ecosystem. Legislation-specific analysis, conversely, focuses on how a specific piece of legislation should be constructed in order to influence corruption levels. The existing literature identifies three main

¹⁷⁹ Alina Mungiu-Pippidi and Niklas Kossow, "Rethinking the way we do anti-corruption," *NATO Review*, 2017. <https://www.nato.int/DOCU/review/2016/Also-in-2016/anticorruption-corruption-laws-regulation-control-anticorrp-budget-index/EN/index.htm>

¹⁸⁰ Jeff Huther, and Anwar Shah, "Anti-Corruption Policies and Programs: A Framework for Evaluation. Policy Research Working Paper; No. 2501," 2000. World Bank, Washington, DC. License: CC BY 3.0 IGO. <https://openknowledge.worldbank.org/handle/10986/19753>

¹⁸¹ Ibid, 2000.

takeaways on how to implement capable anti-corruption regulations. First, an overwhelming group of scholars from different schools of thought emphasize the need for tailored and country-specific anti-corruption reforms that address the individual needs of each country. Both Ledeneva et al. and Huther and Shah, for example, highlight the need for different forms of anti-corruption laws depending on a country's level of development and control of corruption.¹⁸²

Second, these two conversations, while different, are not mutually exclusive and policymakers should combine theories that address ideas on specific legislation and also ones that address the overall nature of corruption reform. An emphasis on pre-legislative risk assessment, for example, can be complemented by further theories and strategies on creating anti-corruption laws with specific and clear targets. Lastly, it is important to note that all of the proposed policy strategies and anti-corruption measures mentioned in this paper are highly dependent on each state's ability to enforce such laws and to implement legitimate anti-corruption reform. Bratu's discussion on the implementation gap is a prime example of the need for true enforcement to support any such anti-corruption law.¹⁸³ Hanna et al. also emphasizes that those responsible for implementing laws must be held accountable in order for the legislation or reforms to succeed.¹⁸⁴ These takeaways highlight the fact that the theories on anti-corruption legislation are flexible and complementary. Rather than standing in opposition to each other they can be used in unison.

¹⁸² Ledeneva et al., 2017.; Huther and Shah, 2000.

¹⁸³ Roxana Bratu, Dimitri A. Sotiropoulos, and Maya Stoyanova, "Through the Lens of Social Constructionism: The Development of Innovative Anti-Corruption Policies and Practices in Bulgaria, Greece and Romania, 2000–2015," *The Slavonic and East European Review* 95, no. 1 (2017): 117-50. doi:10.5699/slaveasteurorev2.95.1.0117.

¹⁸⁴ Hanna et al., 2011.

Hypothesis & Methodology

Hypothesis:

This investigation tests the hypothesis that the most effective targeted reforms address the overall nature of anti-corruption legislation and regulation. These methods include the Pre-Legislative Method, Comprehensive Governance Method, and the Macro-level Anti-Corruption Method. While legislation-specific focuses can also be useful in creating effective anti-corruption reform, this chapter argues that reforms targeting the overall nature of anti-corruption reforms are the most effective measure in preventing corruption. The below model illustrates this hypothesis.

This chapter tests the hypothesis that high levels of targeted reforms that work to control the overall nature of anti-corruption provisions will yield more effective anti-corruption legislation and lower levels of corruption. Following this hypothesis, higher levels of reforms that use the Pre-Legislative Method, Comprehensive Governance Method, and the Macro-level Anti-Corruption Method will lead to more effective anti-corruption laws and lower levels of corruption.

Methodology:

The research analysis will utilize an in-depth case study analysis of a specific country and piece of anti-corruption legislation. The United State's Foreign Corrupt Practices Act (FCPA) is the most widely enforced and well-known anti-corruption act.¹⁸⁵ The FCPA is specifically chosen as the case study for this investigation for several reasons. First, it is a longstanding piece of legislation that has been applied in various contexts and appears in both academic literature and substantive criminal prosecutions.

¹⁸⁵ "US Foreign Corrupt Practices Act (FCPA)." Business Anti-Corruption Portal, *GAN Integrity Inc.*, 2019. <https://www.business-anti-corruption.com/anti-corruption-legislation/fcpa-foreign-corrupt-practices-act/>

Second, it eliminates the main caveat noted in current academic research - effectiveness. The FCPA, withstanding a certain level of imperfection, is one of the most successful and commonly applied anti-corruption legislation.¹⁸⁶ Therefore the findings in this research will face minimal amounts of error due to the lack of effectiveness or applicability.

This chapter analyzes the strengths and weaknesses of the legislation and its place with the U.S. legal system. These factors are categorized and reviewed in line with the aforementioned categories and methods (i.e., Overall Nature of Anti-Corruption Legislation and Regulation and Legislation-Specific Focuses). Findings from this investigation will then be used in conjunction with the preceding literature review to identify the true hallmarks that allow the FCPA to stand as a prominent piece of anti-corruption legislation.

Case Study Analysis: U.S. Foreign Corrupt Practices Act

Aspects of the Foreign Corrupt Practices Act must be individually measured against the anti-corruption methods and theories present in academia and politics. First, this investigation will provide a background and history of the FCPA. The case study analysis will then review the way in which the FCPA utilizes or fails to utilize methods aimed at the Overall Nature of Anti-Corruption Legislation and Regulation. The central methods within this group include the Pre-Legislative Method, Comprehensive Governance Method, and the Macro-level Anti-Corruption Method. This will then be followed by analysis of the FCPA's use of Legislation-Specific Focuses. This analysis will ultimately yield a portrait of the FCPA's overall framework.

Legislative History of the Foreign Corrupt Practices Act:

¹⁸⁶ Business Anti-Corruption Portal, *GAN Integrity Inc.*, 2019.

The Foreign Corrupt Practices act was established in 1977 as the first U.S. legislation to monitor and dictate the behavior of U.S. businesses with foreign government officials. The Department of Justice explains that the law “was enacted for the purpose of making it unlawful for certain of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business.”¹⁸⁷ The motivation to create such a law emerged in the 1970s after in-depth government investigations identified high levels of unmonitored payments between U.S. businesses and foreign officials. The Watergate Special Prosecutor, Securities and Exchange Commission, and Senator Frank Church’s Subcommittee on Multinational Corporations all investigated the “foreign corporate payments problem.”¹⁸⁸ Specific instances, such as Gulf Oil’s contributions to the President of South Korea’s political campaign, highlighted the need for comprehensive legislative reform meant to monitor and even prohibit such behavior. In all, these findings pushed congress to enact the FCPA in the late 1970s.¹⁸⁹

The FCPA drastically shifted the legislative landscape of bribery and corruption in the United States. One review aptly explains that the FCPA “was the first country to enact legislation prohibiting its own persons from bribing foreign officials.”¹⁹⁰ Prior to the FCPA, the Anti-kickback Act 41 U.S.C. 51 and Bribery and Gratuity Statue 18 U.S.C. 201 both worked to prevent bribery in the Untied States. The FCPA, however,

¹⁸⁷ “Foreign Corrupt Practices Act,” *U.S. Department of Justice*, February 3, 2017.

<https://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act>

¹⁸⁸ Mike Koehler, “The Story of the Foreign Corrupt Practices Act,” *Ohio State Law Journal* 73, no. 5 (2012): 1002. <http://fcpa.stanford.edu/academic-articles/20120101-the-story-of-the-fcpa.pdf>

¹⁸⁹ Koehler, 2012.

¹⁹⁰ Amy Deen Westbrook, “Enthusiastic Enforcement, Informal Legislation: The Unruly Expansion of the Foreign Corrupt Practices Act,” *Georgia Law Review* 45, no. 489 (2010): 492-574. <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1310&context=cjlpp>

provided specific regulations that allowed for stronger enforcement.¹⁹¹ The initiation of the FCPA further changed domestic and international anti-corruption efforts. FCPA enforcement “leveraged American corporations on the side of fighting bribery” and resulted in increased anti-corruption efforts throughout Europe and other countries.¹⁹² The FCPA’s broad influence over U.S. law and international policy speaks to the law’s revolutionary impact on anti-corruption policy.

Overall Nature of Anti-Corruption Legislation and Regulation:

First, the FCPA’s strong pre-legislative tactics are evident in its creation and can also been seen through its continued movement and change over the past several decades. The pre-legislative method in particular refers to a rule or law’s thoughtfulness and efforts to address the specific environment and context of the targeted country. The FCPA’s inception speaks to the law’s contextual relevance. The Act was formed into law in the wake of the Watergate Crisis. High profile corruption issues thus pushed the U.S. legislature to create effective provisions to change the flawed morality seen in the 1970s.¹⁹³ Further, Congress spent several years, from 1975 to 1977, investigating and drafting legislation that would eventually lead to the FCPA. “After more than two years of investigation, deliberation and consideration of the foreign corporate payments problem and the policy ramifications of such payments, and despite divergent views as to the problem and the difficult and complex issues presented, Congress completed its pioneering journey and passed the first law in the world governing domestic business

¹⁹¹ Westbrook, 2010.

¹⁹² Andrew M. Penalver, “Corporate Disconnect: The Blackwater Problem and the FCPA Solution,” *Cornell Journal of Law and Public Policy* 19, no. 2 (Spring 2010): 459-494. <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1310&context=cjlp>

¹⁹³ Koehler, 2012.

conduct with *foreign* government officials in *foreign* markets.”¹⁹⁴ The long and deliberative road leading to 1977 illustrates an intense pre-legislative review that greatly influenced the nature of the FCPA’s provisions.

Second, the FCPA received two central amendments since 1977 that demonstrate the continued effort to ensure that the act can appropriately prevent and prosecute corruption in an ever-changing society. First, “congress, in 1988 and then again in 1998, amended the FCPA to provide affirmative defenses and encourage international anti-corruption efforts to foster a level business playing field.”¹⁹⁵ These amendments furthered pre-legislative methods into the overall development and evolution of the FCPA. Kaikati also takes note of the FCPA amendments. Specifically, he highlights the 1988 amendment and its wise move to initiate the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions.¹⁹⁶ This amendment allowed the FCPA to begin expanding its scope and influencing other countries to adopt anti-bribery laws.

The FCPA also succeeds at adopting aspects of the Comprehensive Governance Method. Most noteworthy is the FCPA’s place in U.S. regulation. The Act engages two main enforcement agencies, the Securities and Exchange Commission (SEC) and the Department of Justice (DOJ). “The bill amends the Securities and Exchange Act of 1934 as well as the criminal code, thereby giving the SEC authority to enforce provisions of

¹⁹⁴ Koehler, 2012.

¹⁹⁵ Thomas McSorley, “Foreign Corrupt Practices Act,” *American Criminal Law Review* 48, no. 2. (2011): 750. <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=258265>

¹⁹⁶ Jack G. Kaikati, George M. Sullivan, John M. Virgo, T.R. Carr, and Katherine S. Virgo, “The Price of International Business Morality: Twenty Years Under the Foreign Corrupt Practices Act,” *Journal of Business Ethics* 26, no. 3 (Aug 2000): 213-222.; Michael V. Seitzinger, “Foreign Corrupt Practices Act (FCPA): Congressional Interest and Executive Enforcement, In Brief,” *Congressional Research Service* (March 15, 2016). <https://fas.org/sgp/crs/misc/R41466.pdf>

the bill as they apply to companies regulated by the Commission with the Department of Justice enforcing the bill with respect to all other domestic companies falling within the scope of the bill.”¹⁹⁷ This dual-reporting mechanism within the FCPA works to provide comprehensive coverage of all domestic companies. The nature of the FCPA allows flexibility within both the SEC and DOJ to apply the Act’s rules in the specific manner needed for regulatory enforcement and criminal prosecution. As an example, the SEC opened a specialized Unit within the enforcement division that investigates potential FCPA violations.¹⁹⁸ The FCPA, therefore, facilitates two agencies to investigate corrupt behavior.

The relationship between the FCPA and the Dodd-Frank Act is another example of more recent amalgamation between laws. Specifically, the whistle-blower provision within Dodd-Frank provides incentives for civilians to report violations, those of which can include FCPA violations. This undoubtedly strengthens the FCPA’s enforceability. While this is viewed as a positive feature for regulators, it is also significant to note the controversy of this legislative partnership.¹⁹⁹ Hansberry raises concerns about the law’s

¹⁹⁷ U.S. Congress, House, Unlawful Corporate Payments (Securities Exchange Act) Act of 1977, HR 3815, 95th Cong., 1st Sess., introduced by the House September 28, 1977, <https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2010/04/11/houseprt-95-640.pdf>

¹⁹⁸ Steven R. Peikin, “Reflections on the Past, Present, and Future of the SEC’s Enforcement of the Foreign Corrupt Practices Act,” New York University School of Law, November 9, 2017. <https://www.sec.gov/news/speech/speech-peikin-2017-11-09>

¹⁹⁹ Susan Rose-Ackerman and Sinead Hunt, “Transparency and Business Advantage: The Impact of International Anti-Corruption Policies on the United States National Interest,” *Yale Law School Legal Scholarship Repository*, 2012. https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=5168&context=fss_papers

strength. “With the added muscle that the Dodd-Frank Act’s whistleblower provision provides, the FCPA has become a monster.”²⁰⁰

Lastly, the FCPA employs choice strategies from the Macro-level Anti-Corruption Method. First, the FCPA is widely enforced and maintains an international footprint. While the law is applicable to domestic entities, the enforcement actions have a markedly international reach. FCPA violations are, in fact, seen in greater numbers in foreign countries with increased U.S. Foreign Direct Investment.²⁰¹ Further, FCPA actions have openly pursued international agreements and multilateral anti-corruption provisions.²⁰² Despite the criticism of the FCPA’s somewhat overreaching use of the Dodd-Frank Act, the Act has historically proven to heavily employ anti-corruption techniques that address the Overall Nature of Anti-Corruption Legislation and Regulation.

Legislation-specific Focuses:

Similar to the Overall Nature of Anti-Corruption Legislation and Regulation, the FCPA also displays aspects of both the Legal Semantics Method and Intended Target Method. First, the FCPA receives its most direct criticism and identified weakness from within the Legal Semantics Method. Many critics cite the FCPA’s vague language as a main shortcoming in the legislation. Critics state that the lack of specificity can leave corporations in murky legal waters. Many think the Act’s use of the terms “foreign official” and “instrumentality” create unclear guidelines as to the specific definition and

²⁰⁰ Heidi L. Hansberry, “In Spite of its Good Intentions, The Dodd-Frank Act has Created an FCPA Monster,” *The Journal of Criminal Law and Criminology* 102, no. 1 (Winter 2012): 198.

²⁰¹ Nicholas M. McLean, “Cross-National Patterns in FCPA Enforcement,” *The Yale Law Journal* 121, no. 7 (May, 2012): 1970-2012.

²⁰² Michael V. Seitzinger, “Foreign Corrupt Practices Act (FCPA): Congressional Interest and Executive Enforcement, In Brief,” *Congressional Research Service* (March 15, 2016). <https://fas.org/sgp/crs/misc/R41466.pdf>

classification.²⁰³ “It remains unsettled whether the FCPA’s definition of ‘foreign official’ includes employees of foreign companies that are owned or controlled by those companies’ governments. This is an issue that transnational companies face daily in determining how to proceed in foreign jurisdiction.”²⁰⁴ While this issue identifies a gray area in FCPA rulemaking, researchers do not argue that vague language hinders the FCPA’s effectiveness.

Second, the FCPA’s intended target is subject to both positive and negative attributes. The overall targeted approach of the FCPA is beneficial as it can transition to best fit each allegation. Baruch notes the FCPA’s discretionary tool. “In some cases, the amounts of money involved were clearly material either in absolute or proportional terms. In other cases, the enforcement staff of the SEC took the position that financial materiality was irrelevant; regardless of the dollar amount involved, the transactions were material.”²⁰⁵ The SEC’s enforcement of the FCPA shows useful flexibility that enables it to enforce crimes on more factors than one-dimensional criteria. Rather than being subject to filing cases solely based on dollar amount or an official’s title, the enforcers are able to select the most material target.

The FCPA’s use of the whistle-blower provision within the Dodd-Frank Act also faces criticism from the intended target method. Some experts state that the provision exposes corporations to an unjustified level of prosecution with little ability to fight FCPA violations. The use of anonymous whistleblowers can leave corporations at an

²⁰³ “The FCPA Landscape: Key Issues in Foreign Corrupt Practices Act Enforcement,” *Institute for National Security and Counterterrorism*, Syracuse University (Spring, 2013).
<http://insct.syr.edu/wp-content/uploads/2013/02/FCPA-Report.pdf>

²⁰⁴ Joel M. Cohen, Michael P. Holland and Adam P. Wolf, “Under the FCPA, Who Is a Foreign Official Anyway?” *The Business Lawyer* 63, no. 4 (August 2008): 1243.

²⁰⁵ Hurd Baruch, “The Foreign Corrupt Practices Act,” *Harvard Business Review*, (January 1979).
<https://hbr.org/1979/01/the-foreign-corrupt-practices-act>

undeserved disadvantage as they are provided with less information than government regulators. “Thus, companies and individuals may more frequently choose to settle or plead guilty to FCPA charges, regardless of the legitimacy of the allegations, because of the uncertainty resulting from anonymous accusations.”²⁰⁶ Based on this criticism, the FCPA in conjunction with the whistle-blower provision is exceedingly prosecutorial and leaves companies without the tools to properly defend themselves. This point raises legitimate concerns on the severity and potential imbalance of the FCPA’s strength. This emphasizes the need for checks on power and equal sharing of information.

Reservations about the FCPA and Dodd-Frank Act partnership, however, does not raise concerns about the FCPA’s applicability. The main critics of the FCPA claim that the act is overly harsh on U.S. companies. “The high penalties are seen as a handicap, disadvantaging American business through dramatic over-deterrence.”²⁰⁷ While the FCPA places a higher standard on companies, this criticism does not invalidate the Act’s effectiveness.

Findings

The aforementioned attributes of the FCPA identify the act’s strengths and weaknesses. The FCPA boasts strong provisions that reinforce its place in the overall nature of the United States’ enforcement structure. It maintains strong Pre-legislative, Comprehensive Governance, and Macro-level Anti-Corruption methods. It also maintains Legislation-specific focuses such as strong intended target methods.

²⁰⁶ Heidi L. Hansberry, “In Spite of its Good Intentions, The Dodd-Frank Act has Created an FCPA Monster,” *The Journal of Criminal Law and Criminology* 102, no. 1. (Winter 2012): 198.

²⁰⁷ Jennifer Reich, “Does the Foreign Corrupt Practices Work?” *Wharton Public Policy Initiative*, July 18, 2016. <https://publicpolicy.wharton.upenn.edu/live/news/1335-does-the-foreigncorrupt-practices-act-work>

The FCPA does, however, carry certain weaknesses. The act's vague language leaves many U.S. companies to grapple with unclear definitions. Dodd-Frank's provision for anonymous whistle-blowers also poses a legitimate concern that U.S. companies may be at an unfair disadvantage if certain information surrounding their FCPA enforcement action, such as the whistle-blower, is withheld.

The FCPA's strengths, however, outweigh its shortcomings. The Act's amendments, its use by both the SEC and DOJ, and its international partnership all stand as strong attributes that contribute to its success. Many of the shortcomings, while valid, highlight concerns for the profitability of U.S. businesses rather than the effectiveness of the law. These findings overall confirm the hypothesis that higher levels of targeted reforms aimed at the overall nature of anti-corruption legislation and regulation lead to more effective anti-corruption regulations. One main criticism of the FCPA, however, should be emphasized and recognized as a warning for future anti-corruption regulations. The potential for U.S. companies to be left at an unfair disadvantage when defending themselves against enforcement actions is a central concern. While the use of anonymous whistle-blowers is valid, the government should not gain comfort in withholding information from defendant companies. U.S. corporations subject to FCPA charges should be given full information surrounding their alleged wrongdoing. If this aspect is left unchecked it could develop into a large imbalance between the enforcers and subject.

Conclusion

Corruption, bribery, and unethical behavior in government are central issues that can hinder political development, economic growth, and overall stability. "Corruption is a threat to inclusive growth by undermining the opportunities to participate equally in

social, economic and political life and impacting the distribution of income and well-being.”²⁰⁸ A direct response to this threat, in most cases, is the formation of anti-corruption reforms, regulations, and legislation. This paper discusses the different strategies and methods proposed by scholars and policymakers on how to best structure and format anti-corruption regulations and assessed the real-life strengths of these theories based on case study analysis.

The first group of discussion on anti-corruption regulation focuses on the overall nature of legislation and regulations. Scholars within this discussion analyze how anti-corruption legislation as a whole can be formed to work within a given society and made to yield specific results. The three main schools of thought within this discussion are the Pre-Legislative Method, Comprehensive Governance Method, and the Macro-level Anti-Corruption Method. The Pre-Legislative Method proposes that each country conduct specific analysis and review before implementing anti-corruption reform so as to ensure each country receives the correct regulations and reforms for its situation. Such proposals include risk assessment and country-specific reviews. The Comprehensive Governance Method emphasizes the need for anti-corruption regulations to fit within a country’s pre-existing legal framework. Proponents of this method highlight the need for complementary laws that facilitate the effective use of anti-corruption laws. Third, the Macro-level Anti-Corruption Method asserts that anti-corruption regulations must account for international influences on corruption. This includes providing measures that target international tax havens and money-laundering schemes.

²⁰⁸ Organisation for Economic Co-Operation and Development. *Putting an End to Corruption*, OECD, 2016. <https://www.oecd.org/corruption/putting-an-end-to-corruption.pdf>

The second conversation discusses theories on how to specifically compose effective anti-corruption legislation. Scholars within this group analyze how pieces of legislation or regulations should be composed and formatted to most effectively control corruption. The two main groups within this discussion are the Intended Target Method and the Legal Semantics Method. The Intended Target Method examines the overall focus of a specific regulation or law. This method highlights how each piece of regulation targets specific individuals or entities that are determined to be at a higher risk of corruption. The Legal Semantics Method, on the other hand, discusses how specific wording and structure of an anti-corruption law can influence the effectiveness of the regulation.

In all, a comparative analysis of these differing opinions against the FCPA case study highlights three main findings. First, the many different strategies proposed in this chapter show that a given country could employ various complementary strategies in forming anti-corruption reforms. Second, reforms that target the overall nature of anti-corruption legislation and regulation have more impact on the law's overall success. Third, any and all of the aforementioned strategies are contingent upon effective implementation. Anti-corruption reforms, as noted above, are only effective if successfully and consistently enforced. These three conclusions emphasize the three factors that most strongly influence anti-corruption regulation. There are varying opinions on specific tactics in forming regulations, however the overall need for complementary, unique, and effective anti-corruption regulations are constant. These findings should thus be considered and used in the creation of future policies and laws.

Chapter 5: Conclusion

Conclusion

The preceding chapters conducted an in-depth investigation on the factors that influence corruption and the ways to prevent corruption from expanding in society and politics. It sought to identify the central factors that persuade individuals or entities to engage in corruption and also identify elements that can counter such corrupt inclinations. Each chapter, while focusing on a different aspect of corruption, provided findings and insights that contribute to an overall illustration of why and how corruption thrives. These chapters identified key traits and aspects that can be applied by policymakers to future anti-corruption efforts. These findings may provide legislators and officials with the tools to create truly effective anti-corruption policies.

Chapter Two investigated the core factors and triggers that motivate individuals or entities to engage in corrupt activity. Specifically, this chapter reviewed two main scholarly theories: cultural versus personal motive. Some scholars assert that cultural factors, such as government negligence and acceptance of long-term corruption, can spark greater levels of corruption in society. Proponents of the personal motive school, however, argue that intrinsic factors such as personal greed and nepotism stand as the primary factors that drive corruption. This investigation found that both schools of thought maintain valid arguments and theories that are visible in two central case studies. Case study analysis of both Nigerian and Venezuelan corruption scandals proved that cultural and personal factors influenced both high-level corruption schemes. Diezani Alison-Madueke and Nervis Villalobos benefitted financially from their corruption schemes. These two individuals were also, however, able to commit such bold acts due to the high levels of cultural corruption in Nigeria and Venezuela. Specifically, both

presidential administrations in Nigeria and Venezuela avoided addressing corruption issues.²⁰⁹ These findings highlight the fact that both personal and cultural factors influence and allow such high-level corruption schemes, such as those in Nigeria and Venezuela, to occur.

The research also identified specific findings from within each school of thought. First, case study analysis showed that greed rather than a personal need for financial capital influenced each case study. Villalobos and Alison-Madueke both amassed significant wealth through corruption past the point of basic financial need. Second, the United States' proactive prosecution of Villalobos and Alison-Madueke highlighted Nigeria and Venezuela's slower reaction to charge or investigate political officials. Only after U.S. charges were brought against the individuals did each country initiate their own domestic investigations.²¹⁰ Third, the high dollar amount associated with both case studies is directly linked to Villalobos' and Alison-Madueke's proximity to lucrative state-owned oil companies. These two individuals thus play key roles in one of their nations' most profitable industries.

Chapter Two provided insight into the underlying factors that trigger or facilitate an individual's corrupt behavior. The conclusions found in this chapter are particularly relevant for today's politics as globalization and international economics become more central to society and governance. The investigation finds that widespread corruption

²⁰⁹ Gustavo Coronel, "The Corruption of Democracy in Venezuela," *Cato Institute*, March 2008. <https://www.cato.org/publications/commentary/corruption-democracy-venezuela>; Chijioke Jannah, "Corruption: Jonathan doles out N100bn, \$295m cash in 2015 – Osinbajo," *Daily Post*, October 28, 2017. <http://dailypost.ng/2017/10/28/corruption-jonathan-doled-n100bn-295m-cash-2015-osinbajo/>

²¹⁰ "Nigeria seizes \$21m linked to Diezani Alison-Madueke," *Al Jazeera*, August 28, 2017. <https://www.aljazeera.com/news/2017/08/nigeria-seizes-21m-linked-diezani-alison-madueke-170828185617954.html>

scandals involving senior-level politicians need a specific combination of both personal and cultural motives in order to flourish in society. Both scandals in Venezuela and Nigeria boast high degrees of personal motives, such as financial greed, and cultural factors including widespread disregard for ethical politics. Further, the financial wealth amassed by corrupt individuals through these schemes exceeds any logical financial need or purpose. The personal motives behind such scandals do not appear to have any direct purpose or payment. Counter to what some scholars proposed, Villalobos and Alison-Madueke's financial gain was not used to counter economic hardship. Instead, these actions were driven by unnecessary self-indulgence that resulted in luxury purchases.

It is also important to note that both corruption schemes originated in wealthy state-owned industries. Petroleum resources in both Nigeria and Venezuela account for a large portion of the economy.²¹¹ Villalobos and Alison-Madueke therefore held powerful political roles as they oversaw government control of highly lucrative state-owned industries. Government officials tied to less lucrative roles that do not depend on awarding contracts or are based in less profitable areas, for example, will be less likely to engage in corruption. This proximity to wealth highlights the need for increased accountability if such industries are to be held within the government's control. Lastly, foreign prosecution is a central trigger for domestic enforcement in countries with cultural acceptance of corruption. Villalobos and Alison-Madueke were both first charged by U.S. enforcement agencies. Venezuela and Nigeria later followed with domestic investigations but only after the international action. This foreign interaction emphasizes the influence that other countries may have on culturally corrupt nations.

²¹¹ Rocio Cara Labrador, "Venezuela: The Rise and Fall of a Petrostate," *Council on Foreign Relations*, January 24, 2019. <https://www.cfr.org/background/venezuela-crisis>

Chapter Three furthered this discussion on corruption and investigated which strategies are best at preventing or deterring corruption. The two styles of prevention strategies, embedded and targeted, argue for different types of anti-corruption reforms. Embedded deterrents suggest creating built-in improvements that indirectly lessen the need for corruption. Targeted deterrents in turn suggested that formal and visible anti-corruption structure is needed in order to prevent corruption. The comparative statistical analysis of Singapore, France, China, and Uruguay supported the conclusion that targeted deterrents are most necessary in lessening corruption. Embedded deterrents tout beneficial results, however targeted deterrents must be present in order to maintain stable and long-term legitimate governance.

This investigation resulted in such conclusions due to the following key findings. First, Singapore's low degree of embedded deterrents, specifically low levels of democracy, is a key finding that highlights the importance of targeted deterrents. Singapore's high degree of economic freedom, a central embedded deterrent, also stands as an interesting factor that displays the influence of economic prosperity in lessening corruption. Second, the effectiveness of these targeted deterrents is a mandatory factor that must be included in this conclusion. Targeted deterrents are only effective combatants to corruption if they are applicable and enforceable. Lastly, Uruguay's delayed initiation of targeted deterrents emphasizes the fact that while formal anti-corruption infrastructure may not be required in creating a low-corruption society, it is necessary in maintaining these low levels of corruption.

Chapter Three uncovered how different styles of anti-corruption strategies can produce different levels of success. This chapter provided a closer look at how different types of deterrents affect levels of corruption. Specifically, this research highlighted the fact that targeted deterrents are essential for sustaining legitimate governance. Formal legal infrastructure is crucial if a country or state wishes to visibly denounce corrupt behavior. Even if a country, such as Uruguay, experiences low levels of corruption, formal anti-corruption provisions are necessary for providing a check on illicit behavior and also stands as a formal rejection of such acts. An analysis of Singapore's society also shows that legitimate governance can be maintained with notably low levels of embedded deterrents. Economic freedom, however, is an outlier and may prove to be the most influential embedded deterrent. In all, enforcing and maintaining targeted anti-corruption provisions is essential if a state wishes to stand in opposition to unethical behavior.

Chapter Four thus provided an investigation into the last step in this conversation on anti-corruption. This chapter reviewed the key attributes that influence the effectiveness of targeted anti-corruption regulations. The research identified two main focuses on anti-corruption regulation. The first conversation centers on the overall nature of anti-corruption reform and the second concentrates on intrinsic legislation-specific factors. While the overall nature of anti-corruption reform focuses on a law's structure within a country's enforcement agencies and global reach, legislation-specific focuses analyze the impact of legal language and directed statutes within a law. A case study review of the Foreign Corrupt Practices Act (FCPA) found that the key factors that most greatly influence the FCPA's success are tied to provisions that address the FCPA's overall nature of anti-corruption reform.

This conclusion is based off of the following findings. First, while the FCPA faces criticism based on certain legislation-specific factors, these weaknesses do not overly impact the act's effectiveness. The FCPA contains vague language that can sometimes lead to overly strict prosecutions, however this aspect does not lead to legislative loopholes or gaps in enforcement. Second, the FCPA's main strength lies in its dynamic utility by both the Department of Justice (DOJ) and Securities and Exchange Commission (SEC). The thoughtful place of the FCPA between both criminal and enforcement agencies stands as a key attribute to its success. Third, the act's amendments prove that the legislation maintains the flexibility and adaptability needed to garner long-term success. Fourth, the FCPA's global reach and partnership with international organizations such as the OECD note a conscious effort to lower domestic and international levels of corruption.

This chapter, which continued the findings from Chapter Three, illustrated the main factors that create effective targeted reforms. Key successes of the FCPA are rooted in its impressive level of applicability. The FCPA can be applied to both SEC enforcement actions and DOJ criminal proceedings. It can also complement other pieces of legislation such as the Dodd-Frank Act. Amendments to the FCPA also attest to its flexibility and staying power in U.S. legislation. Laws must be able to adapt to a changing society and the FCPA has proven capable of such change. Additionally, the FCPA's flexibility also incorporates international perspectives. The OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions is a direct example of the FCPA's attempt to lower global effects of corruption. In all, these factors have the highest level of influence over a law's success.

Policymakers can apply the findings from each chapter to issues throughout the entire anti-corruption reform process. Findings from Chapter Two should be used when assessing a country's corruption issues and identifying where such issues originate. The insight from Chapter Three also assists in reviewing a country's existing degree of deterrents and highlights certain characteristics that may help or hinder a society's proclivity for corruption. Lastly, Chapter Four provides narrowed direction on how to best create specific anti-corruption reforms. The lessons learned in this investigation can be used in future anti-corruption policies.

First, policymakers should assess the levels of cultural corruption present in a society. While personal motives for corruption will always be present, legislators must take extra effort to understand what types of cultural corruption exist in order to combat certain issues. Domestic enforcement of corruption rules and legitimate political competition are two central factors that can illustrate a country's relationship with corruption. These factors, if weakened, should be targets for reform in order to reduce corruption. Fear of prosecution, political competition and accountability can directly prevent politicians from gaining the power and permanence needed to motivate brazen corruption scandals. Policymakers should also look to distance political interaction with highly profitable industries. Moving such industries, like the oil industry, away from government control can be a useful strategy for removing the temptation for corruption. Such corporations can be placed within the private sector in order to reduce political corruption. These companies could even further work to become publicly listed on a national exchange in order to maintain transparency and legitimacy.

Creating strong and formal anti-corruption laws is also central to preventing unethical behavior. Such laws must, first and foremost, be effective and enforceable. Many countries maintain useless anti-corruption laws. These laws are therefore meaningless in the actual fight for legitimacy. Maintaining active targeted deterrents is also useful as they stand as deterrents to personal and cultural motives for corruption. Embedded deterrents such as economic freedom, gender equality and free press are important factors to open society. Economic freedom, however, should garner added attention when aiming to indirectly lessen corruption.

Lastly, policymakers should spend significant time ensuring that formal anti-corruption laws are well placed in a country's existing legal framework. Lawmakers should thus thoughtfully research and draft these provisions prior to implementing such laws. Chapter Four discussed the importance of research and deliberation prior to passing anti-corruption provisions and this step is central to creating effective legislation. Further, The effectiveness of such laws is dependent upon their applicability. Providing the correct enforcement agency with anti-corruption responsibilities, for example, can oftentimes influence the overall success of such reforms. These laws should also work to complement and drive better international laws on corruption. Increasing globalization only heightens the need for an international consensus on anti-corruption enforcement.

In all, the preceding research and policy proposals aim to provide academics and legislators with the insights needed when creating or amending anti-corruption reforms. Understanding corruption and society is central to creating effective anti-corruption provisions. All countries suffer from different problems. This variation therefore requires an individual approach to each country's anti-corruption laws. This research also

identifies many new questions that can benefit from further review. The impact of economic freedom on levels of corruption is an outlier that warrants additional investigation. The connection between state-owned industries and corruption also deserves further review and may produce greater insights into high-level corruption scandals. In sum, while this paper does not close the book on corruption, it seeks to add additional pages to the never-ending work of understanding and preventing corrupt acts.

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Curriculum Vitae

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