Between Corruption, Integration, and Culture: The Politics of International Anti-Corruption

Sebastian Wolf and Diana Schmidt-Pfister

1. Introducing International Anti-Corruption Regimes

Even in the late 1980s, it would have been impossible to publish a whole book on international anti-corruption policies. For decades, fighting corruption at the international level was a non-issue for both practitioners and scholars. It is only since the mid-1990s that anti-corruption efforts are high on the agenda of international organisations. Since then, a bulk of literature on combating corruption has emerged. However, many publications only focus on national anti-corruption policies. We are witnessing a boom of useful single country studies, especially with regard to Eastern Europe, but there is a need for more cross-country studies which analyse the diverging effects of international anti-corruption initiatives. Moreover, valuable books dealing extensively with international and supranational anti-corruption measures often tend to be mono-disciplinary (e.g. Androulakis 2007; Nagel 2007; Pieth/Low/Cullen 2007; Warner 2007). This volume takes a multi-disciplinary approach to reflecting the last 10 to 20 years of international anti-corruption policies. The cultural dimension of corruption, often neglected in the past, is taken into account by most of the contributions. While Europe is the geographical focus of this book, several articles deal with the European Union’s (EU) external anti-corruption policies, European non-EU member states or the impact of international organisations such as the Council of Europe, the Organisation for Economic Co-operation and Development (OECD), the United Nations (UN), and the World Bank on combating corruption in Europe and abroad. Two other crucial aspects in the international fight against corruption, civil society participation and development policies, are also touched upon.

Drawing roughly on Krasner’s often used definition of international regimes,1 we conceptualise particularly the anti-corruption norms (both hard law and soft law) as well as the respective decision-making procedures (including review mechanisms) established by international organisations as ‘international anti-corruption regimes’. Descriptions such as ‘global anti-corruption norm’ (McCoy/Heckel 2001), ‘international anti-bribery legal regime’ (Marcuss 2000) or ‘multilateral normative regime’ (Windsor/Getz 2000: 762) have been used when discussing international anti-corrup-

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1 ‘Regimes can be defined as sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors’ expectations converge in a given area of international relations’ (Krasner 1986: 2).
tion policies. In contrast, we prefer to use the plural form (‘regimes’) as this allows us to distinguish the diverging approaches developed by different international organisations in this field (see Moroff 2005 and in this volume; Jakobi, in this volume). However, as international anti-corruption regimes are often characterised by special norms, decision-making bodies, and single-issue memberships, they should not be equated with the international organisations from which they originate (Wolf 2007: 11).

The practitioners’ work in the international fight against corruption since the early 1990s can be divided into three overlapping waves with diverging approaches, actors, and outcomes (see Michael/Bowser, in this volume). In contrast, when analysing the political history of anti-corruption efforts since the 20th century, one can identify five more or less clear-cut phases of international anti-corruption regimes: (1) no transnational anti-corruption initiatives, (2) unilateral action to combat overseas bribery, (3) the global anti-corruption eruption, (4) implementation of international anti-corruption rules, and (5) legitimacy crisis. In the following section of this introduction to the volume, we briefly refer to the first two phases, which are well studied, and to phases 3 and 4, which are extensively discussed in the following contributions. We then discuss in more detail the emerging phase 5 and its challenges. The last section deals with a cross-cutting and often neglected issue, the role of culture in combating national and transnational corruption.

2. The Emergence and Development of International Anti-corruption Regimes

Until the mid-1970s, there were no mentionable international anti-corruption efforts at all. During this first phase, corruption and the fight against corruption were seen as pure national issues, and international anti-corruption policies would have been considered as illegitimate intrusion in sovereign states’ affairs. The negative effects of corruption were mostly underestimated. Corruption was even seen by some authors, often called functionalists, as a necessary phenomenon of economic development, at least under certain circumstances (Huber-Grabenwarter, in this volume). Many Western countries considered bribing abroad as a legitimate means to gain contracts in international business transactions and even made such bribes tax-deductible (Wolf 2009: 64-65). This situation changed in the mid-1970s when the public in the United States (US), shaken by the Watergate scandal, discovered that hundreds of US companies had bribed foreign public officials and top politicians. Thus, the US government enacted the Foreign Corrupt Practices Act (FCPA), the first national law to criminalise overseas corruption (Moroff, in this volume). The second phase of international anti-corruption efforts (mid-1970s until mid-1990s) is characterised by the US’ unilateral measures. However, the FCPA was highly disputed, not least because US companies claimed competitive disadvantages with respect to firms from other Western countries (Androulakis 2007: 166-167). Thus, in the first decades of its existence, the FCPA was modified and sometimes enforced in a rather reluctant way (Hotchkiss 1998: 108; Nagel 2007: 94-107).
It was only in the mid-1990s that US efforts to reach a multilateral agreement on the criminalisation of bribery of foreign public officials were successful. The 1990s saw an unprecedented global anti-corruption boom (Holmes, in this volume; Pieth 1997). One can only speculate about the multiple and mutually reinforcing reasons (Wolf 2007: 13-14). Apart from the end of the cold war and the new geopolitical landscape (Hotchkiss 1998: 109-111), ‘the expansion of awareness raising activities in the 1990s […] – plus the active role of critical states, norm entrepreneurs and platform organisations – all contributed to motivating governments to adopt new policy and legal instruments at the national and international levels’ (McCoy/Heckel 2001: 85-86). In the third phase of international anti-corruption regimes (mid-1990s until 2005), corruption was finally seen as an ‘international policy problem’ (Elliott 2002), and almost every international organisation established anti-corruption measures (Jakobi, in this volume). Simultaneously, a general trend to promote good governance worldwide emerged (Börzel/Pamuk/Stahn, in this volume).

The third phase definitely came to an end when the first comprehensive and binding global anti-corruption instrument, the UN Convention against Corruption (UNCAC), came into force in 2005 (on UNCAC see Huber-Grabenwarter, in this volume; Webb 2005). Since the late 1990s, we are witnessing a fourth phase of the international fight against corruption which is characterised by the implementation of international anti-corruption provisions at the national level as well as more and more transnational cooperation. Most anti-corruption regimes feature special monitoring bodies to evaluate compliance with international anti-corruption hard and soft law (Jakobi; Schuler, in this volume). After more than a decade of experimenting with different forms of cooperation, it seems that twinning projects might be the most promising means to improve administrative anti-corruption capacities (Michael/Bowser, in this volume). Furthermore, it is apparent that citizens have to be empowered to combat corruption in their daily lives (Elers/Giannakopoulos/Tänzler, in this volume). However, as there is an appalling gap between perceived and experienced corruption, new awareness-raising projects might have contra-productive effects (Lugon-Moulin, in this volume).

There is some evidence that a fifth phase of international anti-corruption regimes is emerging since the early 2000s which is overlapping and gradually replacing phase 4. It may be called ‘legitimacy crisis’ or ‘new normality’ and is characterised, apart from muddling through, by at least three main features: (1) the mixed outcome of the international fight against corruption so far, (2) the potential dangers of the global financial crisis for combating transnational corruption in the future, and (3) growing concerns regarding the governance of international anti-corruption regimes.

(1) While several indices suggest that international anti-corruption measures have had a slightly positive effect in some countries – for example the post-communist EU member states (Holmes, in this volume) – in other European states the situation has not improved or even got worse in the last years. Evaluation reports from OECD and Council of Europe monitoring bodies show a mixed picture (Wolf 2007: 76). UNCAC member states were not even able to agree on a global review mechanism for several years. They have recently adopted a weak compromise which ‘does not
adequately reflect transparency, inclusiveness and effectiveness’ (Transparency International 2009). There is modest legal implementation of international anti-corruption hard and soft law at national level, but often practical enforcement is poor. Apparently, the power of international anti-corruption monitoring bodies and technical assistance institutions to blame and shame defaulting governments is rather limited. The same goes for the civil society’s potential to fight transnational corruption involving multinational companies (Schmidt-Pfister 2009). Moreover, as corruption is difficult to measure and positive factors can hardly be isolated, it is rather impossible to determine the exact impact of international anti-corruption regimes. Citizens might feel that the grandiose global fight against corruption launched in the mid-1990s has resulted in countless international conferences, conventions, soft law recommendations and codes of conduct, but has yielded hardly any concrete results in terms of reducing corruption.

(2) Because of the world economic and financial crisis, there might be more deviant behaviour and renunciation of international anti-corruption norms in the future since business and jobs are at risk (Holmes, in this volume). The BAE/Al Yamamah affair in the United Kingdom shows that Western European states might subordinate their international anti-corruption obligations to national economic interests, at least in important cases (Holmes, in this volume; Wolf 2007: 46-48). It is quite evident that the legal implementation and practical enforcement of international anti-corruption provisions at the national level can be significantly hampered by lacking political will or contradicting interests of national key actors (Huber-Grabenwarter, in this volume). If more states follow the British example and frankly disobey international anti-corruption norms because of national economic considerations, the OECD’s policy against overseas bribery – maybe the most successful international anti-corruption regime so far – is jeopardised.

(3) Apart from the questionable output legitimacy of the global fight against corruption up to now (see above), the input-oriented governance of international anti-corruption regimes has its weaknesses, too. While national parliaments and administrations are still formally responsible for deciding and executing most anti-corruptions measures, including criminal law, they are often bound by detailed international conventions and are significantly influenced by transnational monitoring bodies whose recommendations sometimes exceed the wordings of the anti-corruption provisions originally agreed upon (Schuler, in this volume). Once conventions have been ratified by the parliaments, international and national public officials as well as institutions engaged in technical assistance jointly develop further anti-corruption policies, mostly with minor participation of civil society organisations. These institutional processes as well as shifting anti-corruption discourses might lead to a depoliticisation of the fight against corruption (Moroff; Huber-Grabenwarter, in this volume). The administrative governance of international anti-corruption politics, a paramount example for politics in an era of fragmented statehood (Genschel/Zangl 2007), seems to lack democratic input legitimacy (see Börzel/Pamuk/Stahn, in this volume).
3. Culture and International Anti-corruption Regimes

The notion of culture has not featured very prominently in the international anti-corruption discourses and activities until rather recently. Among both practitioners and scholars, the search for universally applicable anti-corruption norms and procedures implied a denegation of the possibility that corruption may be a culturally determined, thus more or less justified practice in one country or another. This tendency has been bolstered by a predominantly quantitative approach towards measuring corruption across nations and according to global and timeless criteria. The old argument that corruption may well be functional to the maintenance of a political regime and an economy (Leff 1964; Huntington 1968) turned intolerable. Only at the sight of a lack of success in actually reducing corruption, at least according to given measurements, the notion of culture has been invited back in. As part of the scholarly debate about corruption and particularly about international anti-corruption efforts, this cultural turn came later than in other fields of social theory (including International Relations theory, see Lapid 1996), and still proceeds rather hesitantly. Looking at international anti-corruption regimes from a cultural perspective necessarily draws our intention towards problems of interpretation and practice, as transmitted through social interaction within particular contexts and over longer periods of time. It is in this light that both corruption and international anti-corruption efforts need to be reconsidered.

With regard to corruption, then, one needs to ask how this phenomenon is manifested and interpreted in different cultural contexts before viable models and instruments for counteraction may be found. The global anti-corruption crusade has substantially contributed to reinterpreting corruption as a global problem, or even threat, and to redirecting the focus on the negative impact of corruption on growth, economic efficiency, democratisation, or the stability of democratic regimes. This impact-oriented discourse was also mirrored in and reinforced by the earlier scholarly literature (Holmes 1993; Shleifer/Vishny 1993; Rose-Ackerman 1999). However, the more recent policy debates and reforms relating to the implementation of the UN-CAC, and especially the development of an appropriate universal monitoring mechanism, indicate that the complex controversy about the danger of cultural imperialism (Nichols 1999; 2000; Salbu 1999; 2000) is far from being settled. The same applies to the call for better in-depth empirical analysis into the culturally contextualised nature of both petty and grand corruption.

Indeed, much analytical work has focused on gathering evidence about the extent of corruption in national contexts. Especially with regard to Eastern Europe, some scholars thus came to caution against an over-reliance on outsider judgements about corruption in these countries. Sajó (1998: 37), for example, contended: ‘were it not for the drumbeat of external criticism, corruption would not be construed as an acute social problem’. Since the late 1990s, survey-based research sought to generate new empirical insights to support in-depth non-judgemental description. Miller, Grødeland, and Koshechkina, for example, showed with their seminal survey about citizens’ encounters with low-level bureaucrats in various Eastern European countries.
that, although presenting a very significant source of annoyance, ‘corruption is nei-
ther the most frequently annoying nor the most intensely annoying aspect’ (Miller/
Grødeland/Koshechkina 2001: 3) of such encounters. Continuing these efforts,
Grødeland (in this volume) now sheds more light on the cultural constants facilitat-
ing as well as counteracting corrupt behaviour. Building on more recent data about
elite perception, she shows that informal practice is deeply rooted in national culture
in Eastern Europe and that such practice is conducive to corruption. These root
causes of corruption, however, have rarely been addressed by anti-corruption efforts.
Moreover, anti-corruption programmes seem to be less likely to be successful if ini-
tiated from the outside.

The debate about the possibility to measure corruption, more precisely its inter-
pretation and practice, is back on the table as well. How accurately may the percep-
tions of corruption, held by elites, experts (both domestic and foreign), and citizens
reflect the reality of corrupt practices within a given country? Lugon-Moulin (in this
volume) reminds us of the valuable contribution of victimisation-based assessments
(mainly recording bribe-paying), while also referring to a striking gap between per-
ception-based and experience-based measurements. Again, especially in Eastern
Europe where awareness-raising has been particularly pronounced in the course of
EU enlargement and democracy promotion (Schmidt-Pfister/Moroff 2010), perception
turns out much higher than victimisation. With regard to anti-corruption efforts,
these insights are instructive. Not least, countries with high levels of perception of
corruption may risk a loss of reputation (and investment) internationally and social
unrest domestically. This, in turn, brings us back to the sensitive question of how a
stronger emphasis on anti-corruption programmes oriented at law enforcement and
criminalisation, which seems needed (Lugon-Moulin, in this volume), may be
achieved without an excessive imposition of extraterritorial legislative solutions
(Salbu 2000).

In any case, it is widely acknowledged that an overreliance on top-down ap-
proaches is hardly conducive to anti-corruption successes. Citizens have to make use
of respective procedures. Amongst others, there is a lack of suitable reporting
mechanisms that may empower citizens, especially in non-democratic contexts, to
address actual cases of misconduct (Lugon-Moulin, in this volume). In this regard,
Elers, Giannakopoulos, and Tänzler (in this volume) are discussing the Advocacy
and Legal Advice Centres promoted by Transparency International (TI) as an exam-
ple of a bottom-up strategy to provide citizens with information and legal advice and
thus to enable them to file corruption-related complaints. Yet after all, one should not
forget that this can only be part of a complex and comprehensive strategy. Apart
from addressing corrupt acts, anti-corruption programmes should also include
longer-term measures aimed at strengthening a general rule of law while accounting
for the cultural root causes of corrupt practices (Grødeland, in this volume). Concrete
results of such approaches, of course, are still to be awaited and should be considered
in future analyses.

Surprisingly little attention has been paid to the interpretation and practice of the
international anti-corruption efforts with regard to culture being more than ‘national’
context. The anti-corruption battle has itself become a global industry employing countless anti-corruption professionals and involving immeasurable monetary resources (Michael/Bowser, in this volume; see also Sampson 2010). A cultural perspective should also direct our attention to different organisational routines, including varying modes of communication and interaction, within this industry. The rather technocratic character of the various monitoring efforts presents but one example. Also in this regard, the involvement of civil society deserves reconsideration. At the global level, civil society, most notably represented by TI, has without doubt played a leading role in heaving corruption at the international agenda and in opening up avenues for action. Nevertheless, international anti-corruption regimes have essentially remained intergovernmental ventures. Not least, the tendency to exclude domestic civil society actors, however inadvertently, from the development and implementation of these regimes has been fostered through rather different working cultures. With international organisations playing a main role in government- and business-oriented approaches, and national development agencies, (private) donors, and foundations in civil society-oriented approaches, the two spheres of action are too often kept apart from each other (Schmidt-Pfister 2010).

Bibliography


