Corruption

Edited by Justin Healey

ISSUES IN SOCIETY
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**INTRODUCTION**

Corruption is Volume 390 in the ‘Issues in Society’ series of educational resource books. The aim of this series is to offer current, diverse information about important issues in our world, from an Australian perspective.

**KEY ISSUES IN THIS TOPIC**

While there is no universal definition of ‘corruption’, the term is generally understood to include bribery, extortion, embezzlement, money laundering, illicit enrichment, and abuse of functions, position or influence.

Globally, corruption is a serious and widespread crime undermining democratic institutions, jeopardising economic development, and threatening the security and stability of governments. In Australia, barely a day goes by when the media does not report corrupt behaviour in political parties, the public sector, trade unions, sports bodies and companies. Perhaps unsurprisingly, Australia has slipped in Transparency International’s latest Corruption Perceptions Index.

This book explores the extent and impacts of corruption worldwide, and examines the latest anti-corruption efforts in Australia. Corruption can be prosecuted after the fact, but first and foremost, it requires prevention. How do we detect and deal with greed and graft?

**SOURCES OF INFORMATION**

Titles in the ‘Issues in Society’ series are individual resource books which provide an overview on a specific subject comprised of facts and opinions.

The information in this resource book is not from any single author, publication or organisation. The unique value of the ‘Issues in Society’ series lies in its diversity of content and perspectives.

The content comes from a wide variety of sources and includes:

- Newspaper reports and opinion pieces
- Website fact sheets
- Magazine and journal articles
- Statistics and surveys
- Government reports
- Literature from special interest groups

**CRITICAL EVALUATION**

As the information reproduced in this book is from a number of different sources, readers should always be aware of the origin of the text and whether or not the source is likely to be expressing a particular bias or agenda.

It is hoped that, as you read about the many aspects of the issues explored in this book, you will critically evaluate the information presented. In some cases, it is important that you decide whether you are being presented with facts or opinions. Does the writer give a biased or an unbiased report? If an opinion is being expressed, do you agree with the writer?

**EXPLORING ISSUES**

The ‘Exploring issues’ section at the back of this book features a range of ready-to-use worksheets relating to the articles and issues raised in this book. The activities and exercises in these worksheets are suitable for use by students at middle secondary school level and beyond.

**FURTHER RESEARCH**

This title offers a useful starting point for those who need convenient access to information about the issues involved. However, it is only a starting point. The ‘Web links’ section at the back of this book contains a list of useful websites which you can access for more reading on the topic.
Corruption is a problem for all economies, requiring leading financial centres in the EU and US to act together with fast-growing economies to stop the corrupt from getting away with it, anti-corruption group Transparency International said today.

In the 20th edition of the Corruption Perceptions Index, scores for China (with a score of 36 out of 100), Turkey (45) and Angola (19) were among the biggest fallers with a drop of 4 or 5 points, despite average economic growth of more than 4 per cent over the last four years.

“The 2014 Corruption Perceptions Index shows that economic growth is undermined and efforts to stop corruption fade when leaders and high level officials abuse power to appropriate public funds for personal gain,” said José Ugaz, the chair of Transparency International.

“Corrupt officials smuggle ill-gotten assets into safe havens through offshore companies with absolute impunity,” Ugaz added. “Countries at the bottom need to adopt radical anti-corruption measures in favour of their people. Countries at the top of the index should make sure they don’t export corrupt practices to underdeveloped countries.”
More than two thirds of the 175 countries in the 2014 Corruption Perceptions Index score below 50, on a scale from 0 (perceived to be highly corrupt) to 100 (perceived to be very clean). Denmark comes out on top in 2014 with a score of 92 while North Korea and Somalia share last place, scoring just eight.

The scores of several countries rose or fell by four points or more. The biggest falls were in Turkey (-5), Angola, China, Malawi and Rwanda (all -4). The biggest improvers were Côte d’Ivoire, Egypt, Saint Vincent and the Grenadines (+5), Afghanistan, Jordan, Mali and Swaziland (+4).

The Corruption Perceptions Index is based on expert opinions of public sector corruption. Countries’ scores can be helped by open government where the public can hold leaders to account, while a poor score is a sign of prevalent bribery, lack of punishment for corruption and public institutions that don’t respond to citizens’ needs.

Corruption in emerging economies
China’s score fell to 36 in 2014 from 40 in 2013, despite the fact the Chinese government launched an anti-corruption campaign targeting corrupt public officials. The government has recognised the need to follow officials who hide ill-gotten gains overseas. This January, leaked documents revealed 22,000 offshore clients from China and Hong Kong, including many of the country’s leaders.

The score matches a poor performance by Chinese companies in Transparency International’s recent report on corporate disclosure practices where all eight Chinese companies scored less than three out of ten.

Corruption and money laundering are also problems for the other BRIC countries. This year has seen questions raised related to a major oil company using secret companies to bribe politicians in Brazil (which scores 43), questions about Indians (38) using bank accounts in Mauritius (54) and Russians (27) doing the same in Cyprus (63).

“Grand corruption in big economies not only blocks basic human rights for the poorest but also creates governance problems and instability. Fast-growing economies whose governments refuse to be transparent and tolerate corruption, create a culture of impunity in which corruption thrives,” said Ugaz.

Countries on top must fight global corruption
Transparency International called on countries at the top of the index where public sector corruption is limited to stop encouraging it elsewhere by doing more to prevent money laundering and to stop secret companies from masking corruption.

While top performer Denmark has strong rule of law, support for civil society and clear rules governing the behaviour of those in public positions, it also set an example this November, announcing plans to create a public register including beneficial ownership information for all companies incorporated in Denmark. This measure, similar to those announced by Ukraine and the UK, will make it harder for the corrupt to hide behind companies registered in another person’s name.

The anti-corruption group is currently running a campaign to ‘Unmask the Corrupt’, urging European Union, United States and G20 countries to follow Denmark’s lead and create public registers that would make clear who really controls, or is the beneficial owner, of every company.

“None of us would fly on planes that do not register passengers, yet we allow secret companies to conceal illegal activity. Public registers that show who really owns a company would make it harder for the corrupt to take off with the spoils of their abuse of power,” said Transparency International Managing Director, Cobus de Swardt.

José Ugaz, chair of Transparency International
175 COUNTRIES.
175 SCORES.

HOW DOES YOUR COUNTRY MEASURE UP?

The perceived levels of public sector corruption in 175 countries/territories around the world.

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The map shows the distribution of scores across different countries, with darker colors indicating higher scores for corruption perception.
Global Corruption Barometer 2013

Introduction, key findings and recommendations from a Transparency International report which examines how corruption features in people’s lives around the world

Every day, all over the world, ordinary people bear the cost of corruption. In many countries, corruption affects people from birth until death. In Zimbabwe, women giving birth in a local hospital have been charged US$5 every time they scream as a penalty for raising false alarm. In Bangladesh, the recent collapse of a multi-story factory, which killed more than 1,100 people due to a breach of basic safety standards, has been linked to allegations of corruption.

This report examines how corruption features in people’s lives around the world. Drawing on the results of a Transparency International survey of more than 114,000 respondents in 107 countries, it addresses people’s direct experiences with bribery and details their views on corruption in the main institutions in their countries. Significantly, Transparency International’s Global Corruption Barometer also provides insights into how willing and ready people are to act to stop corruption.

The findings are clear: corruption is a very real burden, with more than one out of four respondents reporting having paid a bribe during the last year.

When people are not in a position to afford a bribe, they might be prevented from buying a home, starting a business or accessing basic services. Corruption can, and often does, infringe on fundamental rights. For those surviving on less than US$2 a day, and for women who are the primary caretakers of children around the globe, corruption and bribery are particularly devastating. For them, the additional cost of bribery can mean tradeoffs are made between health and hunger, between school entrance fees and the shoes necessary to wear to school.

Not only do people pay the costs of corruption directly, but their quality of life is also affected by less visible forms of corruption. When powerful groups buy influence over government decisions or when public funds are diverted into the coffers of the political elite, ordinary people suffer.

When there is widespread belief that corruption prevails and the powerful in particular are able to get away with it, people lose faith in those entrusted with power.

Importantly, however, the people surveyed around the world as a part of the Global Corruption Barometer do not view themselves as powerless victims of corruption. They believe they can be part of the solution. In India, in 2011, millions of people marched to demand the establishment of an independent anti-corruption commission; in Brazil, a citizen petition led to the passage of a law which bans corrupt politicians from running for office. Citizen action can lead to the exposure of corrupt acts, the sanctioning of corrupt officials and pressure upon reluctant governments to do more in the fight against corruption. The Global Corruption Barometer underscores the pressing desire of citizens to get involved in stopping corruption.
Efforts to stop corruption started in earnest in the early 1990s, at a time when corruption was a little-talked about secret. Twenty years later, the Global Corruption Barometer 2013 shows that people recognise all too well the extent of the problem and are ready to tackle this issue themselves.

### 1.1 KEY FINDINGS

- **Bribery is widespread**
  Overall, more than one in four people (27 per cent) report having paid a bribe in the last 12 months when interacting with key public institutions and services.

- **Public institutions entrusted to protect people suffer the worst levels of bribery**
  Among the eight services evaluated, the police and the judiciary are seen as the two most bribery prone. An estimated 31 per cent of people who came into contact with the police report having paid a bribe. For those interacting with the judiciary, the share is 24 per cent.

- **Governments are not thought to be doing enough to hold the corrupt to account**
  The majority of people around the world believe that their government is ineffective at fighting corruption and corruption in their country is getting worse.

- **The democratic pillars of societies are viewed as the most corrupt**
  Around the world, political parties, the driving force of democracies, are perceived to be the most corrupt institution.

- **Personal connections are seen as corrupting the public administration**
  People surveyed regard corruption in their country as more than just paying bribes: almost two out of three people believe that personal contacts and relationships help to get things done in the public sector in their country.

- **Powerful groups rather than the public good are judged to be driving government actions**
  More than one in two people (54 per cent) think their government is largely or entirely run by groups acting in their own interests rather than for the benefit of the citizens.

- **People state they are ready to change this status quo**
  Nearly 9 in 10 surveyed say they would act against corruption. The majority of people said that they would be willing to speak up and report an incident of corruption. Two-thirds of those asked to pay a bribe say they refused.

### 1.2 RECOMMENDATIONS

- **Make integrity and trust the founding principles of public institutions and services**
  - Governments must operate with transparency and open up their books and activities to public scrutiny.
  - Codes of conduct should be developed and adhered to by all public servants.
  - Governments should embed transparency in how they work by passing and implementing comprehensive access to information laws.
  - Countries should adopt and enact standards for procurement and public financial management, consistent with UN Convention against Corruption Article 9 and the OECD Principles on Enhancing Integrity in Public Procurement.
  - Governments must set up accountability mechanisms and channels that get the public engaged in oversight.
  - People should refuse to pay a bribe, wherever asked and whenever possible.

- **Bring back the rule of law**
  - Governments should prioritise anti-corruption reforms in the police, based on a thorough analysis of underlying problems.
  - Governments must ensure the independence and impartiality of their judiciaries.
  - Governments must set up adequate checks and balances to ensure that private interests and power groups do not dictate a government’s policies and actions.
• Hold the corrupt to account
  – All governments must work to end impunity by effectively preventing, detecting, investigating, prosecuting and punishing acts of corruption.
  – Elected public officials should not enjoy immunity when charged with corruption offences.
  – People should make use of existing reporting mechanisms to speak out about corruption that they witness or experience.
  – People should use their voice, vote and spending to punish the corrupt, such as only voting for clean candidates and parties that stand in elections or only buying from companies that have strong integrity systems and clean business practices.

**Around the world, political parties, the driving force of democracies, are perceived to be the most corrupt institution.**

• Clean up democratic processes
  – Governments should pass and implement laws on making party financing transparent, including requirements for political parties, political candidates and their donors to publicly disclose donations.
  – Parliaments should adopt comprehensive codes of conduct for members, including guidance on conflict of interest situations and rules for disclosure of assets, interests and income.
  – Parliaments should introduce mandatory registers of lobbyists.

• Give people the tools and protections to fight against corruption
  – Governments should pass and implement whistleblower laws. These laws should include appropriate follow up mechanisms to allow people to report wrongdoing in the public and private sectors and protect whistleblowers from retribution.
  – Governments should seek to provide people with effective mechanisms to report corruption and get redress.
  – Governments should enable independent civil society organisations to function as effective watchdogs of government and to help people to hold public officials to account.

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_Australians believe corruption increasing: global survey_

➤ The world's largest public survey on corruption has revealed that 59% of Australian respondents believe corruption has increased over the past two years, and that police and public servants are affected by corruption.

➤ More than 1,200 Australians were included in the survey of 114,000 people in 107 countries.

➤ Of the Australian respondents:
  – 81% believed corruption was a problem
  – 58% thought that political parties were affected by corruption
  – 36% thought that parliament/legislature was affected by corruption
  – 58% thought that the media was affected by corruption
  – 33% thought that police were affected by corruption, and
  – 35% thought that public officials and civil servants were affected by corruption.

➤ Importantly, the survey also showed that more than 90% of respondents from Australia were willing to report corruption.

Stopping corruption essential to growth
If corruption was an industry it would be the world’s third largest, claims G20Watch

Stopping corruption and promoting economic growth go hand in hand. Transparency International is calling for the G20 to take action on this challenge at the Leaders’ Summit in Brisbane, which is less than two weeks away. One trillion dollars is lost from developing countries each year through gaps and loopholes in the international financial system. The G20 has the power to tighten up the system.

If corruption was an industry it would be the world’s third largest, amounting to 5% of global GDP – the equivalent of more than $3 trillion. Transparency International’s Global Corruption Barometer 2013 found that only 16% of people in G20 countries said their government’s efforts to tackle corruption were effective. In a 2011 worldwide business survey conducted by Transparency International nearly 30% of the respondents lost business to a competitor who used bribery.


The B20 supports our call on the G20 leaders to address the challenge of corruption. Addressing corruption is necessary to establish conditions for the 2% growth target and to ensure the Global Infrastructure Initiative they seek to implement will be transparent and accountable.

This is why Transparency International is looking to the G20 leaders to endorse a new Anti-Corruption Action Plan to be implemented over the next two years. Key features in such a plan should include, at a minimum:

Beneficial ownership

The ultimate beneficial ownership of entities, companies and trusts is often opaque but identifying it is an essential step forward. It is a matter of the concealed individuals behind these structures. As an interim step, G20 countries should demonstrate global leadership by requiring companies involved in government procurement processes to publically disclose their beneficial ownership information.

The G20 Sherpas have already agreed to a set of Principles on Beneficial Ownership as a step to overcome company secrecy. We call on all G20 countries to follow the lead of the European Parliament which voted in favour of establishing public registers with beneficial ownership information earlier this year. The adoption of public registers of the beneficial owners of all companies is a cost-effective and efficient method to enhance transparency and would make it considerably easier for law enforcement, investors and citizens to know who is behind the companies operating in their country.

Steps towards establishing processes which will lead to the denial of entry of corrupt officials and to ensure the recovery of stolen assets, which has been a longstanding commitment of the G20 countries, will likewise strengthen the Action Plan in tackling the challenges.

A major concern is the need to tackle the lack of transparency and consequent corruption which can too often distort procurement processes. Transparency International has developed a practical guide to curbing corruption in public procurement which can inform the steps G20 countries should take to address this challenge. In parallel submissions by the B20, representing the corporate sector, this issue is also highlighted.

Foreign bribery reforms

Only four countries in the G20 are ranked as active enforcers of the OECD Convention against Bribery of Foreign Officials. All G20 members should demonstrate their commitment to tackling foreign bribery by committing to ensure there are adequate resources for detecting, investigating and prosecuting the offence of such bribery for business advantage. This was a clear commitment adopted in the 2010 Anti-Corruption Action Plan, which is now due to be renewed.

One trillion dollars is lost from developing countries each year through gaps and loopholes in the international financial system.

Moreover G20 members should ensure that settlements of cases are fair and publicly credible by making all settlements subject to court approval and by ensuring the publication of terms. This should complement the work by the B20 towards measures which encourage self-reporting, as well as to encourage their corporations to build leading practice compliance programs to guard against bribery risks.

Also the G20 should work closely with the OECD working group to publish a systematic review of sentencing practices to identify where they are not ‘effective, proportionate and dissuasive’, as required by the OECD.

For example in 2012 Australia was subject to a review by that working group. A number of significant criticisms were made in the report and reforms were recommended. The response to that report is still awaited.

Corruption today remains widespread. The World Bank estimates the cost of bribery worldwide is US$1 trillion annually. A report by Global Financial Integrity estimated the developing world lost US$946.7 billion in illicit outflows in 2011. This was a 13.7% increase over 2010.

Fortunately, combating corruption made the G20 agenda and world leaders have begun discussing how to tackle the global problem. The G20 even has its own Anti-Corruption Working Group (ACWG) to discuss measures for enhancing transparency. The group was created in November 2010 when G20 leaders adopted the ‘Seoul Action Plan’ to ensure that the G20 ‘leads by example’ in the fight against corruption.

Earlier this year Australia’s Attorney-General, George Brandis, told the G20 Anti-Corruption Roundtable that Australia was committed to stamping out corruption. He said, “Corruption is, and remains, one of the greatest barriers to global growth.” This raises an interesting question: if G20 countries are leading by example, then how well do they rate on combating corruption themselves?

**Mixed results**

Each year, Transparency International measures the perceived levels of public sector corruption in over 170 countries and territories. Examining this data for the period between 2008 (the first G20 Leaders’ Summit) to 2013 (last year’s summit) shows that G20 countries display a diverse range of ‘leadership.’

Australia holds the title for being, on average, the least corrupt G20 member state. Australia and Canada are the best performing G20 countries and are the only states to have maintained a top 10 place – globally – since 2008.

Russia is the most corrupt member state. On average, Russia ranks among the bottom third of states in the fight against corruption. Despite this Russia is also the most improved, having increased by 20 places from 147th in 2008 to 127th in 2013.

The G20 is an ideal forum to combat corruption. It brings every major economy together irrespective of membership to some other elite club.

Developing economies are particularly less able to eradicate corruption as they often suffer from poor legal, financial or regulatory institutions. Collectively, the BRICS group – Brazil, Russia, India, China and South Africa – ranked 89th on average. In contrast, advanced economies with more robust institutions perform much better. For instance, the ‘Anglosphere’ member states – Australia, Canada, UK and the US – ranked 14th on average.

Italy (66) is the worst performing advanced economy, outperformed by less advanced economies such as Turkey (57), South Africa (61) and Saudi Arabia (63).

Mexico displays the worst trend. The 2012 G20 host has consistently ranked worse year on year and has increased 34 places since 2008.

**International efforts against corruption**

The G20 is not the only forum to combat corruption. The United Nations has also made progress in improving global transparency. In 2005, the United Nations
Convention against Corruption (UNCAC) established the first legally binding international anti-corruption instrument. Japan and Germany remain the only two G20 countries not to have ratified the convention. As a result, one of the key priorities for the G20 Anti-Corruption Working Group is to put pressure on these states to fully implement the convention as soon as possible. This is because as top economies G20 member states should be leading the fight against corruption, as they themselves claim, by enhancing transparency, improving structural mechanisms and promoting high standards.

The OECD also has a key anti-bribery convention that established legally binding standards to “criminalise bribery of foreign public officials in international business”. All 34 OECD member countries and seven non-member countries have adopted the convention. However, four key G20 states – China, India, Indonesia and Saudi Arabia – are not OECD members and therefore are not bound by the agreement. This is what makes the G20 an ideal forum to combat corruption. It brings every major economy together irrespective of membership to some other elite club.

Australia holds the title for being, on average, the least corrupt G20 member state. Australia and Canada are the best performing G20 countries and are the only states to have maintained a top 10 place – globally – since 2008.

The G20 has contributed to combating corruption. For instance, since corruption became a key focal point at the 2010 Seoul Summit, China has amended its criminal code by introducing foreign bribery as an offence, Korea has enacted a law protecting whistleblowers in the private sector, and Saudi Arabia has established a National Anti-corruption Commission to deal with all forms of financial and administrative corruption.

Each of these incremental steps are positive and should not be discounted. However, much work is needed before we can truly say the G20 is ‘leading’ the fight against corruption.

Heath Pickering is a Research Assistant for G20 Watch.

Most international bribes are paid by large companies, usually with the knowledge of senior management, according to new OECD analysis of the cost of foreign bribery and corruption.

Bribes in the analysed cases equalled 10.9% of the total transaction value on average, and 34.5% of the profits – equal to USD 13.8 million per bribe. But given the complexity and concealed nature of corrupt transactions, this is without doubt the mere tip of the iceberg, says the OECD.

Bribes are generally paid to win contracts from state-owned or controlled companies in advanced economies, rather than in the developing world, and most bribe payers and takers are from wealthy countries.

The OECD Foreign Bribery Report analyses more than 400 cases worldwide involving companies or individuals from the 41 signatory countries to the OECD Anti-Bribery Convention who were involved in bribing foreign public officials. The cases took place between February 1999, when the Convention came into force, and June 2014.

Almost two-thirds of cases occurred in just four sectors: extractive (19%); construction (15%); transportation and storage (15%); and information and communication (10%).

Bribes were promised, offered or given most frequently to employees of state-owned enterprises (27%), followed by customs officials (11%), health officials (7%) and defence officials (6%). Heads of state and ministers were bribed in 5% of cases but received 11% of total bribes.

In most cases, bribes were paid to obtain public procurement contracts (57%), followed by clearance of customs procedures (12%). 6% of bribes were to gain preferential tax treatment.

“Corruption undermines growth and development. The corrupt must be brought to justice,” said OECD Secretary-General Angel Gurría. “The prevention of business crime should be at the centre of corporate governance. At the same time, public procurement needs to become synonymous with integrity, transparency and accountability.”

The report also reveals that the time needed to conclude cases has increased over time, from around two years on average for cases concluded in 1999 to just over seven today. This may reflect the increasing sophistication of bribers, the complexity for law enforcement agencies to investigate cases in several countries or that companies and individuals are less willing to settle than in the past.

In 41% of cases management-level employees paid or authorised the bribe, whereas the company CEO was involved in 12% of cases.

Intermediaries were involved in 3 out of 4 foreign bribery cases. These intermediaries were agents, such as local sales and marketing agents, distributors and brokers, in 41% of cases. Another 35% of intermediaries were corporate vehicles, such as subsidiary companies, companies located in offshore financial centres or tax havens, or companies established under the beneficial ownership of the public official who received the bribes.

Governments around the world should strengthen sanctions, make settlements public and reinforce protection of whistleblowers as part of greater efforts to tackle bribery and corruption. Governments around the world should strengthen sanctions, make settlements public and reinforce protection of whistleblowers as part of greater efforts to tackle bribery and corruption.


More information on the OECD’s Anti-Bribery Convention is available at www.oecd.org/corruption

FOREIGN BRIBERY FINDINGS

KEY FINDINGS FROM THE OECD FOREIGN BRIBERY REPORT

The following statistics are based on analysis of the information contained in enforcement actions against 263 individuals and 164 entities for the foreign bribery offence (a total of 427 cases) concluded between the entry into force of the OECD Anti-Bribery Convention (15 February 1999) and 1 June 2014. The data was not always available for all categories in all cases; therefore some percentages may be from a reduced data set.

Please refer to the relevant section of the full report for a detailed description of the data set for each category.

- Two-thirds of the foreign bribery cases occurred in four sectors: extractive (19%); construction (15%); transportation and storage (15%); and information and communication (10%).
- Almost half of the cases involved bribery of public officials from countries with high (22%) to very high (21%) levels of human development.
- In 41% of cases management-level employees paid or authorised the bribe, whereas the company CEO was involved in 12% of cases. In one case, a congressman was convicted of conspiracy to bribe foreign public officials.
- Intermediaries were involved in 3 out of 4 foreign bribery cases. These intermediaries were agents, such as local sales and marketing agents, distributors and brokers, in 41% of cases. Another 35% of intermediaries were corporate vehicles, such as subsidiary companies, local consulting firms, companies located in offshore financial centres or tax havens, or companies established under the beneficial ownership of the public official who received the bribe.
- Bribes were promised, offered or given most frequently to employees of public enterprises (state-owned or controlled enterprises, SOEs) (27%), followed by customs officials (11%), health officials (7%) and defence officials (6%).
- In the majority of cases, bribes were paid to obtain public procurement contracts (57%), followed by clearance of customs procedures (12%). On average, bribes equalled 10.9% of the total transaction value and 34.5% of the profits.
- One in three cases came to the attention of authorities through self-reporting by defendant companies or individuals. The next most common sources were investigations initiated directly by law enforcement authorities (13%) and foreign bribery cases that came to light in the context of formal or informal mutual legal assistance between countries (13%). Whistleblower reports and media coverage very rarely instigated a foreign bribery investigation (2% and 5%, respectively).

- Companies that self-reported became aware of the foreign bribery in their international operations primarily through internal audits (31%) and merger and acquisition due diligence procedures (28%).
- Prison sentences were handed down to 80 individuals who were found guilty of foreign bribery. The longest combined prison sentence imposed to date in a case involving a conviction for conspiracy to commit foreign bribery is 13 years for one individual. Another 38 individuals received suspended prison sentences.
- In total, there were 261 fines imposed on individuals and companies with the highest combined fine against a single company totalling EUR 1.8 billion. The highest monetary sanction imposed against an individual in a foreign bribery case was a forfeiture order amounting to USD 149 million.
- In 69% of foreign bribery cases, sanctions were imposed by way of settlement, using procedures including corporate probation (Canada); Section 153(a) of the Criminal Procedure Code (Germany); Patteggiamento (Italy); Penalty Notice (Norway); Réparation under Article 53 of the Penal Code (Switzerland); Non-Prosecution Agreements (NPAs), Deferred Prosecution Agreements (DPAs) and Plea Agreements (US).
- The United States has sanctioned individuals and entities for the foreign bribery offence in connection with 128 separate foreign bribery schemes since the entry into force of the OECD Anti-Bribery Convention. Germany has sanctioned individuals and entities for the foreign bribery offence in connection with 26 separate schemes; Korea in connection with 11; and Italy, Switzerland and the United Kingdom in connection with 6.

WE STILL DON’T HAVE A GOOD WAY TO MEASURE GLOBAL CORRUPTION

Unfortunately, because currently available corruption measures are so beset by conceptual, methodological and political problems, they are just not very good tools for effective anti-corruption policy, write Paul Heywood and Jonathan Rose

Corruption is an urgent global problem, one that costs the developing world dearly and badly slows its development down. But until recently, figuring out just how big the problem is, and what to do about it, has been fiendishly difficult.

Now, the ONE Campaign has launched an important report calling on the G20 nations to address the “trillion dollar scandal” of global corruption. In it, the campaign estimates that a web of corrupt activity robs developing nations of at least US$1 trillion every year.

Similar figures have appeared in other estimates: the World Economic Forum, for instance, has estimated the cost of corruption to be more than 5% of global GDP (US$2.6 trillion), while the World Bank believes more than $1 trillion globally is paid in bribes each year.

Of course, while there can be little doubt that corruption costs the global economy dearly, the secretive nature of corrupt exchanges makes uncovering their true extent a tricky task indeed.

Given the staggering corruption figures that are being floated, it’s hardly surprising there is a serious impetus to develop accurate ways to measure corruption – to show not only how much corruption exists in the world, but also where it occurs and with what frequency, and ultimately to provide guidance on how to stop it.

Unfortunately, because currently available corruption measures are so beset by conceptual, methodological and political problems (sometimes all at once), they are just not very good tools for effective anti-corruption policy.

Same old story

This is especially true of the most widely used measure, Transparency International’s Corruption Perceptions Index (CPI). Published yearly, usually to extensive media coverage, the CPI tries to quantify national corruption by measuring how experts, business leaders, and the public perceive it in their countries.

The CPI has been politically extremely influential; it has done a lot to raise awareness about the extent of corruption in different countries, and on its face, it provides a reasonably useful broad-brush picture of the overall extent of national corruption. But despite the way CPI is almost cherished as a data source, it’s still seriously flawed.

There are fundamental problems with the core assumption on which the CPI rests. In practice, the relationship between perceptions and experiences of corruption is both inconsistent across countries (there’s no reason why corruption should be perceived just as accurately in Bangladesh as in Burundi)
and non-linear (there’s no reason why perceptions of corruption should ebb and flow with levels of corruption themselves).

But the CPI also presents an implausible consistency in individual countries’ scores. In a recent article, we analysed this consistency over an 11-year period in CPI scores. The results are shown in the chart above.

This level of consistency across years we found is so strong that it clearly makes no sense to treat each annual score as separate. Given its lack of variation, the CPI might as well be published every five or ten years, since there would be very little loss in precision – hardly a resounding recommendation for such a widely used metric.

We repeated this analysis for another widely-cited perceptual measure of corruption, the World Bank’s Control of Corruption Index, and found essentially identical results: extreme consistency even across an 11-year time period.

These findings show that as a way to measure corruption, perceptual measures have serious – and still underappreciated – limitations.

Cooking the books

In response to concerns like these, there have been many attempts to create new corruption measures that rely on (seemingly) more objective sources – crime statistics or accountancy data, for example – in hopes that these data provide information about the objective rate of corruption.

That’s a plausible enough assumption; accounts might highlight where money is being spent with no return, and crime data might record the number of people actually convicted of a corruption-related crime.

But even these promising efforts still face big problems. Crime statistics, for instance, are particularly susceptible to subjective judgements about what corruption actually is: whether and when bribery, fraud or theft count, for example.

Using accountancy data, meanwhile, demands similar judgements about how to classify ‘missing’ resources. Is all money that has disappeared indicative of corruption? Could it be a result of theft – and could that theft still count as corruption if so? Is chronic inefficiency in some areas necessarily a result of corruption?

A different tack

And most of all, many attempts to measure corruption are undercut by a core assumption: the idea of corruption as ‘one thing’, an indivisible property that can be captured by a single number or score – which in turn is applicable to the whole of an arbitrarily selected territory. As a result, many measurements of corruption are presented in league table format, purporting to show which countries are most or least corrupt.

In practice, of course, corruption actually takes place in concrete settings and specific places, in ways that do not easily map onto the nation-state. There may be significant variance at local level when dealing with corruption in particular sectors of an economy, corruption involving trans-national or cross-border networks.

Every country, meanwhile, has regions with conspicuously worse reputations for corruption than the national average would imply – think of Illinois in the US, nearly 90% of whose voters apparently believe corruption is “typical in state government.”

Stopping the flow

A major virtue of the approach the ONE Campaign has taken is that instead of constructing an international ranking of some kind, it highlights the scale of the problem across the developing world as a whole – and shows how the G20 nations can make a concrete difference. This is a big advance on the CPI-centric idea that simply comparing countries’ individual corruption records is a serious way of addressing the problem.

As the report points out, the fact remains that many of the proceeds of corruption in the developing world are still allowed to flow through established financial

Note: The red line shows an OLS regression line fitted to the data. The purple line shows the relationship when the y values are exactly equal to the x values. The blue line is a non-parametric (LOWESS) smooth line, which can take any shape in order to follow the data.
centres in the developed world – London, New York, Hong Kong – via anonymous shell companies, who in turn funnel them to offshore tax havens.

These corrupt flows, still insufficiently understood (never mind policed), are the real corruption scandal – and cracking down on them is beyond the capacity of the developing nations they exploit.

The report’s research estimates that US$20 trillion of money illegitimately removed from developing countries is now held in offshore tax havens around the world. As the way global corruption is actually practised starts to be exposed, moving on from superficial and compromised ways of measuring the problem is the first step to ending it.

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Jonathan Rose is Research Fellow, Faculty of Social Sciences at the University of Nottingham.

Heywood, P and Rose, J (4 September 2014). We still don’t have a good way to measure global corruption. Retrieved from http://theconversation.com/au on 3 December 2014.
At least a trillion dollars a year is siphoned out of developing countries through corrupt activity involving shady deals for natural resources, the use of phantom firms, money laundering and illegal tax evasion, according to new research by The ONE Campaign. These are precious resources to fight poverty in countries that can least afford to lose them.

Launched ahead of November’s G20 summit, ONE’s latest report, The Trillion Dollar Scandal, estimates that as many as 3.6 million deaths could be prevented each year in the world’s poorest countries if concrete action is taken to end the secrecy that allows corruption and criminality to thrive.

Dr. David McNair, Transparency & Accountability Policy Director at ONE said:

“In developing countries, corruption is a killer. Up to 3.6 million lives could be saved if we end the web of secrecy that helps the criminal and corrupt. When governments are deprived of their own resources to invest in the essentials – like nurses and teachers – the human cost is devastating.”

The trillion dollars that is being lost is not development aid. It is money generated by business activity

Ending the trillion-dollar scandal

The trillion-dollar scandal robs the developing world of much needed resources that could help save the lives of millions of people, if recovered. G20 leaders have the power to help stop this scandal through a set of simple, low-cost measures that will also benefit their own countries, helping them to recover revenues from tax evaders and creating new economic opportunities.

ONE is calling on G20 leaders to take action in four areas:

1. BENEFICIAL OWNERSHIP
   - The G20 should commit to making information on the beneficial ownership of companies, trusts and similar legal structures publicly available in open data formats. Member states should adopt individual national-level action plans and should harmonise this legislation within their jurisdictions, particularly those members with overseas territories or dependencies, or with federal systems.

2. NATURAL RESOURCE TRANSPARENCY
   - The G20 should raise global standards for natural resource transparency and make progress towards a common global mandatory reporting standard that requires companies extracting natural resources to publicly disclose financial information on their operations in every country in which they have a presence, including the payments they make to governments on a project-by-project and country-by-country basis. This should be published in open data formats. G20 countries should commit to implementing this standard in their own jurisdictions.

3. TAX TRANSPARENCY
   - The G20 should commit to making the automatic exchange of financial information available to all countries, including low-income countries. Ability to provide information should not be a barrier to receiving information from others in the short term.
   - The G20 should commit to make country-by-country reporting the global standard, with companies publicly reporting on critical information including number of employees, revenues, profits, sales, physical assets, tax liabilities, taxes and payments made to the governments of all countries in which they generate income or have a legal entity. This should be published in open data formats. A version of this standard was a commitment from the G8 in 2013, the EU already requires banks to report in this way, and the OECD have recently reported this as a priority action to the G20 Development Working Group.

4. OPEN DATA
   - G20 countries should endorse and apply the principles of the Open Data Charter, make open data the common thread across the G20 agenda and support efforts that increase the capacity and space for civil society in developing countries to demand and use information.

that is illegally siphoned out of developing countries. ONE’s new analysis also shows that if only a fraction of this money was recovered and used to fight poverty, in sub-Saharan Africa alone the recovered money could be used to:

- Educate an additional 10 million children per year
- Pay for an additional half-million primary school teachers – providing all out-of-school children in 16 African countries with an education
- Provide antiretroviral drugs for over 11 million people living with HIV/AIDS, and
- Pay for almost 165 million vaccines.

According to the report, if specific policies are put in place to increase transparency and combat corruption in four key areas – natural resource deals, the use of phantom firms, tax evasion and money laundering – massive financial losses from developing countries could be significantly reduced.

Kenyan Anti-Corruption Campaigner John Githongo said:

“For too long, G20 countries have turned a blind eye to massive financial outflows from developing countries which are channeled through offshore bank accounts and secret companies. Introducing smart policies could help end this trillion dollar scandal and reap massive benefits for our people at virtually no cost. The G20 should make those changes now.”

Managed effectively, natural resources such as oil, gas, and minerals can be a source of significant wealth and economic growth for developing countries. Yet corruption fueled by secrecy often undermines these potential gains. 20 countries in sub-Saharan Africa are rich in natural resources, but a lack of transparency means it is difficult for citizens to know if they are getting a fair deal and if their resources are being well managed. In far too many instances, they are not.

Specifically, ONE’s report calls on G20 leaders to take action in four areas:

1. **Shine a light on phantom firms**: Make information public about who owns companies and trusts, to prevent anonymous shell companies and similar legal structures from being used to launder money and to conceal the identity of corrupt and criminal individuals and businesses.

2. **Publish what you pay**: Introduce robust payment disclosure laws to increase transparency in the oil, gas and mining sectors to prevent natural resources in poor countries from being stolen from the people living above them.

3. **Crack down on tax evasion**: Institute automatic exchange of tax information so that developing countries have the information they need to collect taxes they are due, and

4. **Open data**: Publish government data so that citizens can follow the money from resources to results and hold their governments to account for the delivery of essential services.

PREVENTION

Corruption can be prosecuted after the fact, but first and foremost, it requires prevention. An entire chapter of the Convention is dedicated to prevention, with measures directed at both the public and private sectors. These include model preventive policies, such as the establishment of anti-corruption bodies and enhanced transparency in the financing of election campaigns and political parties.

Corruption can be prosecuted after the fact, but first and foremost, it requires prevention.

States must endeavour to ensure that their public services are subject to safeguards that promote efficiency, transparency and recruitment based on merit. Once recruited, public servants should be subject to codes of conduct, requirements for financial and other disclosures, and appropriate disciplinary measures. Transparency and accountability in matters of public finance must also be promoted, and specific requirements are established for the prevention of corruption, in the particularly critical areas of the public sector, such as the judiciary and public procurement. Those who use public services must expect a high standard of conduct from their public servants.

Preventing public corruption also requires an effort from all members of society at large. For these reasons, the Convention calls on countries to promote actively the involvement of non-governmental and community-based organisations, as well as other elements of civil society, and to raise public awareness of corruption and what can be done about it. Article 5 of the Convention enjoins each State Party to establish and promote effective practices aimed at the prevention of corruption.

Criminalisation

The Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption, if these are not already crimes under domestic law. In some cases, States are legally obliged to establish offences; in other cases, in order to take into account differences in domestic law, they are required to consider doing so.

The Convention goes beyond previous instruments of this kind, criminalising not only basic forms of corruption such as bribery and the embezzlement of public funds, but also trading in influence and the concealment and laundering of the proceeds of corruption. Offences committed in support of corruption, including money-laundering and obstructing justice, are also dealt with. Convention offences also deal with the problematic areas of private-sector corruption.

International cooperation

Countries agreed to cooperate with one another in every aspect of the fight against corruption, including prevention, investigation, and the prosecution of offenders. Countries are bound by the Convention to render specific forms of mutual legal assistance in gathering and transferring evidence for use in court, to extradite offenders. Countries are also required to undertake measures which will support the tracing, freezing, seizure and confiscation of the proceeds of corruption.

Asset recovery

In a major breakthrough, countries agreed on asset-recovery, which is stated explicitly as a fundamental principle of the Convention. This is a particularly

Background of the United Nations Convention against Corruption

- In its resolution 55/61 of 4 December 2000, the General Assembly recognised that an effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organised Crime (Resolution 55/25, annex I) was desirable and decided to establish an ad hoc committee for the negotiation of such an instrument in Vienna at the headquarters of the United Nations Office on Drugs and Crime.
- The text of the United Nations Convention against Corruption was negotiated during seven sessions of the Ad Hoc Committee for the Negotiation of the Convention against Corruption, held between 21 January 2002 and 1 October 2003.
- The Convention approved by the Ad Hoc Committee was adopted by the General Assembly by Resolution 58/4 of 31 October 2003. The General Assembly, in its Resolution 57/169 of 18 December 2002, accepted the offer of the Government of Mexico to host a high-level political signing conference in Merida for the purpose of signing the United Nations Convention against Corruption.
- In accordance with Article 68 (1) of Resolution 58/4, the United Nations Convention against Corruption entered into force on 14 December 2005. A Conference of the States Parties is established to review implementation and facilitate activities required by the Convention.

important issue for many developing countries where high-level corruption has plundered the national wealth, and where resources are badly needed for reconstruction and the rehabilitation of societies under new governments. Reaching agreement on this chapter has involved intensive negotiations, as the needs of countries seeking the illicit assets had to be reconciled with the legal and procedural safeguards of the countries whose assistance is sought.

Several provisions specify how cooperation and assistance will be rendered. In particular, in the case of embezzlement of public funds, the confiscated property would be returned to the state requesting it; in the case of proceeds of any other offence covered by the Convention, the property would be returned providing the proof of ownership or recognition of the damage caused to a requesting state; in all other cases, priority consideration would be given to the return of confiscated property to the requesting state, to the return of such property to the prior legitimate owners or to compensation of the victims.

The Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption, if these are not already crimes under domestic law.

Accordingly, Article 51 provides for the return of assets to countries of origin as a fundamental principle of this Convention.

Countries agreed to cooperate with one another in every aspect of the fight against corruption, including prevention, investigation, and the prosecution of offenders.

Article 43 obliges state parties to extend the widest possible cooperation to each other in the investigation and prosecution of offences defined in the Convention. With regard to asset recovery in particular, the article provides inter alia that “In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties”.


Effective asset-recovery provisions will support the efforts of countries to redress the worst effects of corruption while sending at the same time, a message to corrupt officials that there will be no place to hide their illicit assets.
**YOUR NO TO CORRUPTION COUNTS!**

People often think that they are at the mercy of corruption and that it is just a “way of life”. However, every society, sector and citizen would benefit from saying “NO” to this crime. Here are some examples from UNODC of how you can say “NO” to corruption:

<table>
<thead>
<tr>
<th><strong>Government officials, policymakers and civil servants</strong></th>
<th><strong>Strengthen democracy</strong></th>
<th>By ratifying and implementing the United Nations Convention against Corruption. States that successfully attack corruption are far more legitimate in the eyes of their citizens, creating stability and trust.</th>
</tr>
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<tbody>
<tr>
<td><strong>Promote justice</strong></td>
<td>By reporting incidents of corruption. Create an environment where the rule of law prevails. When citizens and businesses feel confidence in their legal institutions’ ability to address disputes in a fair and honest manner, they can effectively limit the impact of organised crime, illicit drugs, trafficking in human beings and terrorism.</td>
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<tr>
<td><strong>Support education</strong></td>
<td>By investing in and protecting funds for education. Future property depends on the quality and performance of the educational system. Ensuring that educational funds are administered in a fair and transparent manner protects a country’s most valuable asset, its children.</td>
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<tr>
<td><strong>Bring prosperity</strong></td>
<td>By refusing to participate in any activities that are not legal and transparent. Increases both domestic and foreign investment. Everyone is more willing to invest in countries when they see that funds are not being siphoned off into the pockets of corrupt officials.</td>
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<tr>
<td><strong>Safeguard development</strong></td>
<td>By knowing what the Convention requires of your Government and its officials. Rooting out corruption allows social and economic development. Companies, small and large, find it easier to stay in business when the artificial tax of corruption is removed.</td>
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<tr>
<td><strong>Improve public health</strong></td>
<td>By ensuring that funds are not diverted away from health care. A well-functioning and beneficial health sector is one of the most crucial services provided to citizens as it saves lives.</td>
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<tr>
<th><strong>Non-governmental organisations and civil society can fight corruption and ...</strong></th>
<th><strong>Strengthen democracy</strong></th>
<th>By encouraging your Government to ratify and enact the Convention. States that successfully attack corruption are far more legitimate in the eyes of their citizens, creating credibility and trust.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Promote justice</strong></td>
<td>By educating the public about the Government’s responsibility to be corruption free. Equal and fair justice for all is crucial for a country’s stability and growth. It also helps to effectively fight crime.</td>
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<tr>
<td><strong>Support education</strong></td>
<td>By engaging youth in discussions about what ethical behaviour consists of, what corruption is and ways of fighting it, and encouraging young people to demand their right to education. Ensuring that future generations of citizens are brought up to expect corruption-free countries is one of the best tools to ensure a brighter future.</td>
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<tr>
<td><strong>Bring prosperity</strong></td>
<td>By telling partner organisations, the private sector, Government bodies and the public about the fact that a level playing field improves a country’s competitiveness. When business environments are open and transparent, both national and international businesses are much more likely to invest.</td>
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<tr>
<td><strong>Safeguard development</strong></td>
<td>Adhere to rules on fair competition. Corruption can shield corrosive companies from fair competition, thus allowing inefficient firms to survive and distorting the marketplace.</td>
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<tr>
<td><strong>Improve public health</strong></td>
<td>By raising awareness of the public, the media and Governments about the costs of corruption for the health care system. All of society benefits from a functioning health system.</td>
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<tr>
<th><strong>The media can fight corruption and ...</strong></th>
<th><strong>Strengthen democracy</strong></th>
<th>By reporting on Government efforts to ratify and implement the Convention and on the lack of such efforts. Keeping a close and public eye on Government activities is a proven method to keep States on the right track.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Promote justice</strong></td>
<td>By using the power of the internet to protect journalists who report on corruption cases and other whistleblowers. Internet sites, social media sites and mobile phones can be used to quickly and cheaply inform large numbers of people and to publicise the plight of whistleblowers, creating protection in celebrity.</td>
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<tr>
<td><strong>Support education</strong></td>
<td>By partnering with non-governmental organisations active in education to be “watchdogs” and inform the public. Non-governmental organisations and the media can combine knowledge and access to the public to keep education projects transparent and funding going where it is intended.</td>
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<tr>
<td><strong>Bring prosperity</strong></td>
<td>By collaborating with the business community to cover private sector activities. Part of a company’s worth is its reputation in the eyes of consumers. Publicising corrupt and good practices is a powerful means of keeping the business community working within the rule of law and international good practices.</td>
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<tr>
<td><strong>Safeguard development</strong></td>
<td>By learning how to professionally promote public service broadcasting and support independent unions of journalists. A strong, free and professional media is an indicator of growth and development. Support this by staying abreast of professional journalist practices and joining independent unions of journalists.</td>
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<tr>
<td><strong>Improve public health</strong></td>
<td>By creating links with journalists, based in both rural and urban settings, who report on how health-care services are delivered to the most marginalised citizens in society. Creating linkages between local and national resources, and then using the information they have collected to inform the public, is a powerful tool.</td>
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<tr>
<td><strong>The private sector can fight corruption and ...</strong></td>
<td><strong>Strengthen democracy</strong></td>
<td>Foster economic stability by enforcing zero-tolerance practices towards corruption. A transparent and open business community is a cornerstone of any strong democracy.</td>
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<tr>
<td><strong>Promote justice</strong></td>
<td>Enact policies covering gifts, supply chain, whistleblowers and other key corruption issues, educate all employees about them. Employees will work better if they feel confident that they are operating in a fair and just environment.</td>
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<tr>
<td><strong>Support education</strong></td>
<td>Fund education programs and ensure that they are fairly administered. Supporting a strong education system through donations and advocacy is a good investment for the future.</td>
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<tr>
<td><strong>Bring prosperity</strong></td>
<td>Strictly enforce anti-corruption measure and use independent auditors to ensure compliance. Introduce 'anti-corruption strategies' into the social dialogue (see Trade Unions). In the private sector, corruption increases the cost of doing business through the added ‘tax’ of bribes, the additional management cost of negotiating with corrupt officials, and the legal and financial penalties of breached agreements or getting caught.</td>
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<tr>
<td><strong>Safeguard development</strong></td>
<td>Adhere to rules on fair competition. Corruption can shield disreputable companies from fair competition, thus allowing inefficient firms to survive and distorting the marketplace.</td>
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</tr>
<tr>
<td><strong>Improve public health</strong></td>
<td>Ensure that companies providing healthcare follow international good practices to provide services and supplies benefit all. Allowing fake medicines to enter the market for reasons of greed, for example, can endanger a whole society. Citizens and do not turn a ‘blind eye’ to corrupt public sector practices in favour of profit.</td>
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| **Trade unions can fight corruption and ...** | **Strengthen democracy** | By negotiating decent wages for public officials. Ensuring that public servants are paid a decent wage, that they have money in their pockets, goes a long way in the fight against the temptation of lining those pockets with a bribe. |
| **Promote justice** | By defending whistleblowers. Protect those who would put their lives and their livelihoods at risk to expose the corrupt and to bring them to justice. More people will come forward when they see it is safe to expose corruption. |
| **Support education** | By monitoring the integrity of education system. Our teachers not only teach and care for our children; they protect the honour of the very system that we all depend on for our kids. |
| **Bring prosperity** | By introducing anti-corruption strategies into the social dialogue and partnering with the business sector to ensure zero tolerance for corrupt practices. A corruption-free business environment is more appealing not only to employees, but also to potential customers. |
| **Safeguard development** | By mobilising the trade unions’ collective voice and bargaining power against corruption. Protecting and enhancing fair and transparent societies through collective action greatly aids development and reduce poverty. |
| **Improve public health** | By fighting for fair wages, good working conditions and improved service delivery for health-care workers. Health-care worker trade unions can improve the health-care system and working conditions of workers making them less vulnerable to corruption. They can also help root out corruption by adopting a zero tolerance approach among its members. |

| **Everybody can fight corruption and ...** | **Strengthen democracy** | By informing themselves about the rule of law and what their Government has pledged to do to fight corruption. Being a part of an informed citizenry is not only vital to a healthy democracy: it holds elected officials responsible for their actions. |
| **Promote justice** | By reporting incidences of corruption to the authorities. By coming forward, you not only stand against the corrupt, you also stand up for your community. |
| **Support education** | By teaching children that corruption is unacceptable. Parents can teach their children the value of integrity. |
| **Bring prosperity** | By refusing to pay or accept bribes, facilitation fees or gifts. Rejecting illicit rewards for work done or to be done sends a strong message not only to those who would not attempt to solicit favours, but also to those working with them. |
| **Safeguard development** | By telling elected officials that fighting corruption should be an integral part of all development policies. Reminding those you put in office that they represent you, your community and your ideals, at home and abroad, is not only your right, it’s your responsibility. |
| **Improve public health** | Demand easy access to transparent health-care information, for example on the services citizens are entitled to and their costs. Access to basic health care is a right of every citizen. Knowing your rights and asking the right questions are all part of being a responsible citizen. |

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*United Nations Office on Drugs and Crime (2015). Your NO to corruption counts!*
CORRUPTION IN AUSTRALIA
A FACT SHEET FROM THE AUSTRALIAN COLLABORATION

Corruption in Australia


Until very recently New South Wales (the Independent Commission Against Corruption), Queensland (Crime and Misconduct Commission) and Western Australia (Corruption and Crime Commission) were the only states to have specialised independent bodies to deal with corruption. In late 2012, the Victorian Government introduced legislation establishing the Independent Broad-based Anti-corruption Commission, replacing the Office of Police Integrity with a broader anti-corruption commission, modelled on the New South Wales Independent Commission Against Corruption.

The South Australian government has recently appointed its first Independent Commissioner against Corruption, in preparation for the commencement of its first anti-corruption body in late 2013. Tasmania currently has an Integrity Commission, which plays an advisory and educational role in enhancing ethical standards for those in public office. There is not, however, any similar commitment from the Australian Government or the Opposition.

There remains no statutory Commonwealth anti-corruption body. The Commonwealth Ombudsman has expressed concern that his Office has the sole responsibility for investigations into corruption allegations (Annual Report 2003-04). In the absence of a federal anti-corruption commission it is left to journalists and whistleblowers to expose wrongdoing. The fragmented nature of Australian defamation laws makes it difficult for journalists to expose corruption (Hindess, 2004), though the commencement of the Public Interest Disclosure Act in mid-2013 may prove somewhat beneficial for future Commonwealth whistleblowers.

International comparisons

Australia has a good record of anti-corruption performance on the international scales designed by Transparency International. However, Transparency International has previously criticised Australian law for its low and ineffective penalties for corruption and found in its 2009 report that Australia made ‘little or no effort’ to enforce the OECD Convention on Combating Bribery of Foreign Public Officials in international business transactions. This indicates the need for the establishment of a national anti-corruption body in Australia with powers extending beyond the monitoring of corruption and bribery within law enforcement bodies.

National anti-corruption bodies

Since June 2004, the Commonwealth has had an anti-corruption body, the Australian Commission for Law Enforcement Integrity (ACLEI). It is, however, limited in its scope to the detection, investigation and prevention of corruption in the Australian Crime Commission and the Australian Federal Police. Its jurisdiction does not cover other Commonwealth bodies or companies and corporations.

In its 2006 report, the Cole Inquiry into the UN Oil-For-Food Programme recommended that a new national commissioner with comprehensive powers should be appointed. More recently as new independent anti-corruption bodies have been introduced or announced in Tasmania, Victoria and South Australia...
there has been increasing pressure for a comparable national body to be appointed.

In 2011, the Joint Parliamentary Committee on ACLEI reported recommendations to extend the oversight of ACLEI, review the Commonwealth integrity system and examine the merits of establishing a Commonwealth Integrity Commission with anti-corruption oversight of all Commonwealth sector agencies. A national anti-corruption plan is currently being developed by the Attorney-General’s office, taking into account a 2012 United Nations Convention against Corruption independent review of Australia’s compliance and public consultations held in 2011-12.

In addition to what is traditionally thought of as corruption, Marian Sawer and others point out that ‘institutional corruption’, corrupt action for political gain, is widespread. Reforms are required to campaign finance and regulation of the use for political purposes of allowances to sitting members of parliament.

For a more detailed look at corruption in Australia and recommendations for preventing and addressing corruption, see the Australian Collaboration essay, Corruption: The abuse of entrusted power in Australia written by Hon Tim Smith QC, retired Supreme Court judge. Smith points out that Australia has access to a well-considered model in the report of the National Integrity Systems Assessment (NISA) Final Report, published by the Key Centre for Ethics Law Justice and Governance, Griffith University and Transparency International.

Proposed Australian anti-corruption reforms

A SUMMARY FROM THE AUSTRALIAN COLLABORATION

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<td>A national anti-corruption commission</td>
<td>A national anti-corruption commission should be established. It should be empowered to investigate corruption of all kinds including institutional and political corruption. (See: Anti-corruption commissions)</td>
<td>The National Integrity Commission Bill 2013, introduced by Senator Milne, is currently before Senate. The Bill establishes a National Integrity Commission as an independent statutory agency which will consist of the National Integrity Commissioner, the Law Enforcement Integrity Commissioner and the Independent Parliamentary Advisor and provide for: the investigation and prevention of misconduct and corruption in all Commonwealth departments, agencies, and federal parliamentarians and their staff; the investigation and prevention of corruption in the Australian Federal Police and the Australian Crime Commission; and independent advice to ministers and parliamentarians on conduct, ethics and matters of propriety. Also: provides for the establishment of a Parliamentary Joint Committee on the National Integrity Commission; and makes consequential amendments to the Law Enforcement Integrity Commissioner Act 2006, Ombudsman Act 1976, Privacy Act 1988 and Public Interest Disclosure Act 2013. The Attorney-General’s Department leads the Australian government’s engagement in international and regional anti-corruption forums and, since public consultations in mid-2012, has been developing a ‘national anti-corruption plan’. Recommendations were made to government by the Joint Parliamentary Committee on the Australian Commission for Law Enforcement Integrity (ACLEI) in 2011, by Transparency International Australia and by the UNCAC Implementation Review Group in 2012. Their recommendations include: • Establish second tier of jurisdiction for ACLEI to extend oversight • Review the Commonwealth Integrity system • Examine the merits of establishing a Commonwealth Integrity Commission with anti-corruption oversight of all Commonwealth sector agencies • Continue the consultative process for the development of a comprehensive national anti-corruption action plan, which will include an examination of how to make anti-corruption systems more effective.</td>
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| Electoral donations and campaign finance  | In the short term, political donations should be regulated to force disclosure in a reduced timeframe, disclosure limits should be lowered to $1,000, and donation splitting should be prohibited. Payments made to attend functions with promised access to Ministers should be detailed. In the longer term, funding for political parties should be radically reformed as has occurred in Canada. (See: Caps on donations) | Changes proposed following a national inquiry during the previous Labor Government’s term (2007-13) were not made and the 2010 Bill lapsed in the Senate at the end of Parliament. The inquiry was carried out by the Joint Standing Committee on Electoral Matters (JSCEM). Its December 2011 report into the funding of political parties and election campaigns include the following recommendations:  
- Lowering the threshold for the reporting of donations to $1,000  
- Single donations over $100,000 to be reported to the Australian Electoral Commission within 14 days  
- Banning foreign donations  
- Limiting public funding of MPs to campaign funding  
- Banning the prevention of full disclosure through the splitting of donations  
- Money paid for attending political functions treated as a normal political gift  
- Extending the powers of the Australian Electoral Commission to conduct compliance reviews.  
Two dissenting minority reports were tabled, one from Coalition members asserting that the reforms if implemented would give unfair political benefits and calling for a dedicated fraud squad within the AEC, and another from a Green Senator arguing that the reforms proposed do not go nearly far enough. |
| An independent appointment system to public offices | A merit-based independent system of appointment to public offices is needed. Legislation is needed to give force to the merit-based selection process for the selection of heads of departments, agencies and statutory corporations. (See: Independent public appointment systems) | In July 2008, the Labor Government introduced a statement of policy and guidelines for a merit-based selection process for the selection of heads of departments, agencies and statutory corporations (see www.apsc.gov.au/publications-and-media/current-publications/merit-and-transparency). Legislation remains outstanding. The National Broadcasting Legislation Amendment Bill received assent in July 2012, establishing a merit-based appointment process for the ABC and SBS non-executive directors for their respective boards and re-establishing the position of staff-elected director to the ABC Board. The current Abbott government has committed to retaining the merit-based process but this will be tested during 2014 as new appointments are required to be made. |
| Lobbying and post-retirement employment of ministers and others | The Lobbying Code needs to be extended to include in-house lobbyists and the prompt reporting of meetings and their details. Post-retirement employment restrictions on ministers, shadow ministers and public servants should be strengthened. Lobbying and post-retirement rules should be supervised by the proposed Parliamentary Integrity Commissioner. (See: Post-ministerial appointments and lobbyists) | In 2010, then Special Minister of State, Senator Ludwig, initiated a review of the Lobbying Code of Conduct that was completed in July 2011. Two areas of the Code recommended for improvement were: (1) the need for lobbyists to disclose details of any former government representatives on their declarations related to the Code; (2) the possibility of electronic submission of statutory declarations. In November 2011, the Senate referred the operation of the Lobbying Code of Conduct and the Lobbyist Register to the Senate Finance and Administration Committees for inquiry and report. The Committees’ report was provided in March 2012. Its general conclusion was that the Code was operating effectively and meeting its defined objectives, therefore no recommendations for changes were made. Reforms are needed to include details of all people engaged by lobbyists to assist their lobbying. The provisions relating to post retirement employment by ministers and others have not been strengthened. In 2014, following revelations of Liberal Minister Sinodinos involvement in lobbying for the AWH, calls have been made for tighter regulation of the employment restrictions of all political insiders. |

Australia has dropped to 11th place in a global corruption ranking, two places lower than in 2013 and four places down from 2012, reports Sylvia Varnham O'Regan for SBS News.

Australia is considered the 11th least corrupt country in the world, according to this year’s global corruption perceptions index. Transparency International’s Corruption Perceptions Index 2014, shows Denmark was the least corrupt country in the world, with New Zealand placing second. The index operated on a points system, with 100 being very clean and 0 being highly corrupt.

Australia scored 80 points in this year’s index, down one point from 81 in 2013 and 85 in 2012. Tied at last
place was Somalia and North Korea, which both scored 8 points. China, Turkey and Angola were among the biggest fallers with a drop of four or five points on 2013.

Of the 175 countries in the index, more than two-thirds scored below 50 including Egypt (37), Vietnam (31), Russia (27), Cambodia (21). Some of the biggest gains were made by Afghanistan (+4), Saint Vincent (+5) and the Grenadines (+5).

The chair of Transparency International, José Ugaz, said economic growth – the theme of this year’s G20 summit in Brisbane – was at risk.

“The 2014 Corruption Perceptions Index shows that economic growth is undermined and efforts to stop corruption fade when leaders and high level officials abuse power to appropriate public funds for personal gain,” Mr Ugaz said in a statement.

“Countries at the bottom need to adopt radical anti-corruption measures in favour of their people. Countries at the top of the index should make sure they don’t export corrupt practices to underdeveloped countries.”

Chair of Transparency International, José Ugaz

“Countries at the bottom need to adopt radical anti-corruption measures in favour of their people. Countries at the top of the index should make sure they don’t export corrupt practices to underdeveloped countries.”

Global leadership in combating corruption

Australia is a leader in working towards eliminating worldwide corruption, according to this fact sheet from the Attorney-General’s Department.

We lead Australia’s active engagement in a range of regional and international forums and initiatives including:

- **The United Nations Convention Against Corruption (UNCAC)** (ratified by Australia on 7 December 2005)
- **The United Nations Convention Against Transnational Organised Crime** (ratified by Australia on 27 May 2004)
- The Organisation for Economic Co-operation and Development (OECD) **Convention on Combating Bribery of Foreign Public Officials in International Business Transactions** (OECD Anti-Bribery Convention) (ratified by Australia on 18 October 1999)
- The G20 Anti-Corruption Working Group
- The Asia-Pacific Economic Cooperation Anti-Corruption and Transparency Experts Task Force
- Participating in the Asian Development Bank OECD Anti-Corruption Initiative for the Asia Pacific
- The Financial Action Task Force on Money Laundering
- The Commonwealth Secretariat on anti-money laundering measures.

**G20 Anti-Corruption Working Group**

Australia is a key member of the G20 Anti-Corruption Working Group.

In 2014, Australia co-chaired the G20 Anti-Corruption Working Group as part of Australia’s G20 presidency. As co-chair, Australia led the development of a new G20 Anti-Corruption Action Plan, which will guide the G20 anti-corruption agenda for 2015-16. G20 Leaders endorsed the new action plan at the Leaders’ Summit in Brisbane on 15-16 November 2014.

Australia also led the development of a 2015-16 G20 Anti-Corruption Implementation Plan, which provides a detailed outline of the G20 anti-corruption work program for 2015-16.

Under Australia’s leadership, the working group also developed G20 High-Level Principles on Beneficial Ownership Transparency. The principles outline the steps G20 countries will take to prevent the misuse of legal entities (such as shell companies) for illicit purposes such as money laundering and tax evasion, and to ensure they are transparent. G20 leaders endorsed the principles at the Leaders’ Summit in Brisbane on 15-16 November 2014.

More information is available on Australia’s G20 website: [www.g20australia.org/g20_priorities/g20_2014_agenda/fighting_corruption](http://www.g20australia.org/g20_priorities/g20_2014_agenda/fighting_corruption)

**United Nations Convention against Corruption**

The United Nations Convention against Corruption (UNCAC) is the first binding global instrument that deals with corruption. States that are parties to UNCAC are required to undergo a review of their implementation of key chapters of the convention every five years.

In 2012 Australia’s implementation of Chapters III (Criminalisation & Law Enforcement) and IV (International Cooperation) of the UNCAC was reviewed and found to be fully compliant. The report on Australia’s implementation of Chapters III and IV of the UNCAC has been finalised, and the executive summary of this report is publicly available.

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Necessary, but not sufficient: Australia’s new Fraud and Anti-Corruption Centre

An opinion piece first published by the Australian Strategic Policy Institute in The Strategist, written by Anthony Bergin and David Connery

While most of the attention on national security has focused on this Tuesday’s announcement of limited new counter-terrorism measures, last week’s news that a Fraud and Anti-Corruption Centre is to be established within the Australian Federal Police has been overlooked. The Centre will evaluate serious fraud, foreign bribery and corruption complaints and refer them on to state-based investigation teams. They will also assist in training Commonwealth agencies in fraud prevention.

The Centre will have federal police working with officials from the Australian Taxation Office, Australian Securities and Investments Commission, Australian Customs and Border Protection Service, Department of Human Services, Department of Immigration and Border Protection, Department of Defence and Department of Foreign Affairs and Trade. Importantly, the Centre will also leverage the intelligence capabilities of the Australian Crime Commission. The Centre will have out-posted officers in many state capital cities.

Issues relating to national government integrity and anti-corruption go directly to the public interest: to see money used to the public’s best interests, to ensure transparency and accountability, and to retain a high level of trust in public decision-making. A national anti-corruption plan prepared by the previous Labor government last year stated: “Corrupt practices have the potential to undermine Australia’s reputation for high standards of governance, robust law and justice institutions, equitable delivery of services, democratic and electoral accountability, and transparent and fair markets.” But the national ability to prosecute such complex cases like corruption and fraud has attracted criticism in the past.

While Australia is ranked by Transparency International as one of the world’s least corrupt countries, it’s naïve to assume that federal politicians, ministerial advisers, former politicians, lobbyists, and members of Commonwealth departments or agencies are immune to the temptations of corruption ... The same point applies to large corporates, where the stakes are high and their behaviours are cloistered far from the scrutiny of state anti-corruption bodies.

FRAUD AND ANTI-CORRUPTION CENTRE

The Fraud and Anti-Corruption Centre (FAC Centre) is a multi-agency initiative hosted by the AFP Crime Program’s Fraud and Anti-Corruption business area. Participating agencies include:

- Australian Taxation Office
- Australian Crime Commission
- Department of Human Services
- Australian Customs and Border Protection Service
- Department of Immigration and Border Protection
- Australian Securities and Investments Commission
- Department of Foreign Affairs and Trade
- Department of Defence

The FAC Centre is focused on the following objectives:

- Strengthening law enforcement capability to respond to serious and complex fraud, foreign bribery, corruption by Australian Government employees and complex identity crime
- Providing a coordinated approach to prioritising the Commonwealth operational response for matters requiring a joint agency approach
- Protecting the finance of Australia.

It’s naïve to assume that federal politicians, ministerial advisers, former politicians, lobbyists, and members of Commonwealth departments or agencies are immune to the temptations of corruption ... The same point applies to large corporates, where the stakes are high and their behaviours are cloistered far from the scrutiny of state anti-corruption bodies.

No government can afford complacency when it comes to fighting corruption. There’ll always be those who seek to influence public-sector decision-making for personal gain. At the national level in recent years we’ve seen scandals such as the AWB and the UN’s oil-for-food program and the bribery scandal that rocked the Reserve Bank.

While there are various state mechanisms in place, like the NSW Independent Commission on Corruption, we’ve had a blind spot when it comes to establishing...
an anti-corruption body at the national level.

Instead, the responsibility for reporting corrupt or inappropriate activity has rested with various parliamentary inquiries, investigative journalists and whistleblowers. The Commonwealth Ombudsman’s office is one of administrative review and oversight, rather than corruption investigation. The Australian Commission on Law Enforcement Integrity provides scrutiny of six federal law-enforcement agencies, but it excludes companies and has few investigators. The corporate watchdog, the Australian Securities and Investments Commission, doesn’t have jurisdiction in relation to foreign bribery, although it’s prepared to run civil proceedings alongside the AFP’s criminal ones.

This new Centre is a welcome step. It follows an increasing trend for government departments to work closely together in the law-enforcement space, which has included focused task forces, the Criminal Intelligence Fusion Capability, and the National Anti-Gangs Squad initiatives. It will pool resources and expertise, always important in highly technical areas such as these. And placing it within the AFP likely increases the chances of effective collaboration with the Criminal Assets Confiscation Task Force. This task force itself should receive a boost once the Commonwealth government’s legislation on unexplained wealth is put into operation.

No government can afford complacency when it comes to fighting corruption. There’ll always be those who seek to influence public-sector decision-making for personal gain.

So while the creation of the new federal Fraud and Anti-Corruption Centre is a positive development, it will need to be properly resourced and linked to other efforts. On the first point, there’s cause for concern: while other areas of national security expenditure are set to expand, the Commonwealth contribution to the AFP’s budget in four years time will likely be about 16 per cent smaller than it is now.

Effective cooperation with existing, state-based anti-corruption bodies will also be essential. Establishing jurisdiction in those cases may be an issue for prosecutors, so close cooperation with the state governments and their police will be vital.

That last point is especially important because the new Centre falls short of previous public calls for an independent federal anti-corruption agency that would have the potency of a Royal Commission and a full armoury of special powers: intercept, undercover operations, and surveillance.

Corruption by its nature is hidden and persistent. We need a Fraud and Anti-Corruption Centre sufficiently resourced to go looking for it.

Anthony Bergin is deputy director of the Australian Strategic Policy Institute.

David Connery is a senior analyst at the Australian Strategic Policy Institute.

It is not surprising that Australia has slipped in Transparency International’s Corruption Perceptions Index (CPI). Barely a day goes by when our newspapers do not report something corrupt – in political parties, trade unions, sports bodies, companies.

Any wonder that confidence in our political leaders and public officers is low.

The NSW ICAC hearings indicate that corruption occurs on both sides of the political fence. The recently launched prosecutions are good, but prosecutions and convictions are not the main aim of an ICAC, which is to uncover the bad behaviour of those entrusted with power. The NSW public is now aware of the appalling behaviour of several individuals.

The newly elected Victorian Premier should make it a priority to fix the well-publicised problems with the Independent Broad-Based Anti-Corruption Commission. IBAC’s remit is far too limited. Given that the previous government started to address the issues, both sides of politics should now join together to ensure Victoria has a proper integrity system. Only then will Victorians know if they face similar issues to NSW.

This same logic applies at the federal level. It is almost unbelievable that the Commonwealth does not have an ICAC. We have no idea what a federal ICAC might uncover. Without a federal ICAC, we simply do not know what level of corruption exists.

A federal ICAC would give added protection in government contracting – an area always ripe for corruption. The federal government is the largest spender of public money. Complete accountability for this expenditure is vital. Taxpayers should have confidence that their money is being spent fairly and appropriately. A federal ICAC would be a deterrent for those tempted to abuse the system.

In addition, governments can take some basic steps to reduce the risk of corruption in government contracting.

First, once a contract has been awarded, disclose all bids. It is rare that there is a genuine reason to keep the bids and contracts secret.

Secondly, introduce rules that debar companies and individuals from being awarded a government contract if they or their affiliates have committed an integrity offence anywhere in the world. Canada has recently implemented this approach.

Thirdly, require a company bidding for a government contract to demonstrate that it has an effective integrity and compliance program in place, including a whistleblowing service. It is time we required a whistleblowing service in all listed companies, companies bidding for government contracts, and organisations receiving government funds (including sporting bodies and charitable institutions).

Federal and state governments should adopt these measures, so that Australia starts to climb back into the top 10 cleanest nations. They might also start to address the slide in confidence in our politicians.

Abridged version of an article originally published by Fairfax Media. Neville Tiffen is a Director of TI Australia.

Transparency International Australia is a part of a global coalition working in 80 countries to fight corruption and promote integrity and accountability in government.
Anti-corruption bar set higher, but Australia still has more to do

Many countries – including Australia – still need to clean up their act on anti-corruption and whistleblowing protections, observes AJ Brown

Despite the adoption of a third two-year G20 Anti-Corruption Action Plan, corruption received only a few lines in the latest G20 leaders’ communiqué.

The credibility of the G20 as a whole now rests on doing better on the detail. After all, the driving reason why leaders have consolidated anti-corruption measures as part of the core G20 agenda is to promote honesty and integrity in the world’s governmental and financial affairs.

The high point from the summit was G20 leaders’ decision to follow the G8 with High Level Principles on Beneficial Ownership Transparency. This aims to ensure the real owners of corporations, trusts and other legal entities can be identified, in order to clamp down on the use of anonymous shell companies as vehicles for engaging in corruption and tax evasion.

Griffith University’s Professor Jason Sharman describes the text of the principles as – for the most part – a “sensible and realistic list of improvements, without over-promising”.

However, according to Sharman, they also face the inevitable problem that “talk is cheap”, with two big problems going to the credibility of G20 leaders and the G20 process.

All these issues signal what many average citizens fear – there’s a huge gap between the rhetoric of leaders and the reality of their governments’ actions.

The first trouble lies in the fact that the ‘new’ G20 commitments essentially repeat promises made by most countries since 2003, through the Financial Action Task Force (FATF), to require beneficial ownership information to be kept and made available. Despite these existing commitments, most of the countries involved have “spectacularly failed to do so, in law and practice” – as revealed by the subsequent research.

Contrary to some stereotypes, the worst offenders are not isolated tax havens, which have been responding to the moral and legal pressures to keep better records for years. It is the United States itself, followed by the United Kingdom, Canada and many others.

As Transparency International says, this is not reason to give up. Rather, the new G20 principles mean “the moral and political mandate for action has now been lifted to a new level” and, in some ways, brought home to roost. But it prompts the question: why should anyone believe these new commitments, when they just repeat old unfulfilled promises?

The second problem lies in the story that G20 countries are telling each other, and the world, about the extent to which they are making progress towards their anti-corruption goals.

Also released on the second day of the Brisbane summit were the ‘accountability reports’ of each G20 country, in which they self-assess whether they have achieved commitments in the previous action plan. There is some confusion, mixed with gilding of the lily.

Eleven of the 19 countries report
that their country already requires “the beneficial ownership and company formation of all legal persons organised for profit [to] be reported”, but in how many countries are these requirements real?

The UK’s claim is based on proposed reforms; its fine print confirms these have not yet been implemented. Turkey – next year’s G20 president – claims to have the requirements in place when actually it does not, including still being a country that allows bearer shares, which is one of the worst, most untraceable ways of transferring company ownership.

This year’s president, Australia, does not seem to be sure. Its individual accountability report claims that, “yes” it has the necessary requirements in place under basic company registration rules. The all-country summary contradicts this, by appearing to confess the true answer, which is “no”.

Whistleblower protection: getting there ... or not?
Unfortunately, there are other issues on which countries are reporting progress that they are not actually making – potentially on a more serious scale.

In their accountability reports, every country claims to have whistleblower protection legislation in place for the public sector, and all but four for the private sector. One might presume, or hope, this means laws that at least meet the principles agreed by the G20 itself in 2011, on advice from the OECD. Yet we actually know that it doesn’t.

In fact, 12 of the 19 countries are claiming they have this legislation in place when a comprehensive assessment this year by Blueprint for Free Speech, Griffith and Melbourne Universities and Transparency International Australia showed their laws – if they exist at all – are missing six or more of the 14 basic elements that define reasonable best practice.

Australia is again no saint. There is no mention of major gaps in its new federal public sector law, like the fact that claims of corruption against any government minister, politician, elected official or member of their staff will attract no protection at all.

And despite claiming to have protection laws in place for private sector whistleblowers, Australia’s limited Corporations Act provisions are missing or defective on nine of the 14 criteria.

Australia’s self-assessment simply identifies that, as a new move, ASIC proposes to establish an “Office of the Whistleblower”. What it fails to disclose is that this is in response to much more far-reaching recommendations of the June 2014 Senate Economics Committee inquiry, which identified the need for more serious overhaul of Australia’s inadequate private sector whistleblowing laws.

Can we do better?
Can Australia, or the G20 as a whole, do better than this? The answer is we must.

Why would Australia not also show its leadership by completing the decision to join the Open Government Partnership? Or announce that it intends to become a full member of the Extractive Industries Transparency Initiative, another international mechanism endorsed and encouraged by the G20?

Or back its commitments to transparency with a positive blue-print for open data and citizen rights to information, rather than abolishing the Office of the Australian Information Commissioner as is currently underway?

Or say how it intends to clean up its own “know your customer” requirements and enforcement, under the new beneficial ownership principles?

All these issues signal what many average citizens fear – there’s a huge gap between the rhetoric of leaders and the reality of their governments’ actions.

AJ Brown is Professor of Public Policy and Law at Griffith University.
Think global, act global; dealing with corruption, bribery and money laundering

Australian corruption results from PwC’s Global Economic Crime Survey

When asked which of the following three risks are perceived to be the highest risk for an organisation in doing business globally, Australian organisations ranked:

- Corruption and bribery
- Money laundering
- Competition law/anti-trust law.

Many Australian organisations are looking for growth outside our borders and in a range of diverse economies, industries and cultures. Most are aware that the risks of doing business globally are different to those in Australia. The global focus on offshore bribery and money laundering, for example, is arguably more intensive than in Australia.

These global risks can have a major impact on an organisation’s reputation, a fact not lost on Australian organisations based on the survey results. Most now appreciate that their activities offshore can have major reputational repercussions in all the markets in which they operate.

Offshore bribery, now knocking on your front door

Business leaders now consider bribery and corruption to be a C-suite issue, as each act or instance can taint not only the individuals involved but an entire organisation, sometimes long into the future. Australian organisations consider the impact to corporate reputation as the most severe outcome if an act of bribery and corruption were exposed, higher than financial loss.

Almost a third of Australian organisations (32 per cent) currently have operations in markets with high levels of bribery and corruption and 29 per cent have pursued an opportunity in such markets.

In the past two years this has led to 6 per cent of organisations having lost over AUD 1 million dollars in relation to bribery and corruption.

Less than half altered their business plan and strategy in response to the potential corruption risk. Of the organisations that have altered their business plans and strategy in response to the potential risks when pursuing opportunities in high risk jurisdictions, the majority of them have done so by performing additional due diligence procedures.

Australian organisations are starting to recognise the need to take steps to reduce the risk of bribery and corruption.

Money laundering

Money laundering or more specifically the risk of customers laundering money using your organisation is a major focus for global financial services organisations. Many global organisations have been levied with major

WITH RESPECT TO CORRUPTION/BRIBERY WHAT DO YOU PERCEIVE TO BE THE MOST SEVERE IMPACT TO YOUR ORGANISATION?

HAS YOUR ORGANISATION BEEN ASKED TO PAY A BRIBE?
fines for breaches of anti-money laundering legislation. Australia has its own money laundering laws and its own regulator, AUSTRAC. AUSTRAC has indicated that its own enforcement activities will rise over the next few years and Australian financial services organisations that are subject to the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF) cannot afford to be complacent. Whilst there have not been major fines in Australia, the reputational impact of adverse enforcement actions or of a major laundering incident would be significant.

Australian AML/CTF regulations require organisations to have a program to monitor for suspicious transactions and to identify customers – ‘Know Your Customer’ (KYC). Recent experience and global trends indicate it is the failure of KYC procedures that presents the most challenge to organisations and represents a major financial and reputational risk.

Outside financial services, although AML/CTF regulations may not apply, the due diligence principals underlying KYC remain an essential part of managing the risk of many different types of economic crime. For example, integrity checking around vendors, customers, agents and employees is a vital risk management technique, particularly for those operating offshore.

**How does bribery and corruption manifest itself?**

Bribery and corruption is not only about the clichéd brown paper bag changing hands behind the site canteen. In our recent experience it can manifest in more subtle ways:

- Breaches of procurement guidelines: direct appointment of subcontractors (plant, labour crane hire in particular), ambiguous contract arrangements, over ordering of stock for warehousing
- Labour hire: inflated hourly rates, ghost contractors, under qualified resources, inflated manpower requirements, provision of unauthorised bonus payments
- Plant hire: excessive plant on site, inflated maintenance agreements, ghost bookings, inflated plant performance, abuse of fuel privileges
- Contract variances: significant instances/levels of ‘day works’ and other variances
- Bullying and harassment: in order to facilitate above
- Misguided loyalty: where labour and plant contractors show allegiance to transient management over the organisation themselves
- Unjustified calls on bank guarantees and bonds: involving the compromise of a contract administrator.

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**CASE STUDY**

A senior Site Manager on a major construction project was found to have a non-arm’s length relationship with a number of sub-contract plant hire companies. They were found, through forensic accounting and electronic data analysis:

- To have accepted travel and entertainment (in breach of company policy) from a number of Plant hire providers
- To have privately owned a number of excavators, subsequently sub-contracted to one of his employer’s Plant hire providers.

Furthermore, investigations identified that the Manager had received two significant bonus payments from his employer (which were not in line with their employment contract). As a result of investigations, the Manager was summarily dismissed. It was subsequently discovered that they had been investigated for similar breaches by a previous construction employer.

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**IMPACTS OF CORRUPTION FROM MOST TO LEAST SEVERE WITH 1 BEING THE HIGHEST RISK**

1. Corporate reputation
2. Financial loss
3. Distraction caused by legal/regulatory enforcement action
4. Operation disruptions
5. Loss of human capital

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**CASE STUDY**

An organisation, who was partner in a major mining project, received an anonymous allegation regarding the activities of a senior Engineering Manager. It was claimed that the Manager had set up their own labour hire company and was sub-contracting staff into the organisation at inflated rates.

Through forensic accounting, interviewing and data analytics, it was established that the initial contract (signed two years previous) allowed for two staff for a three-month period. At the time of investigation, 20 contract staff had been assigned to the project, total invoicing was in excess of 30 times that originally approved. Supporting documentation was vague and incomplete.

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Australia ‘failing’ to tackle bribery by multinational companies: OECD

Australia stands accused of failing to tackle bribery by its multinational companies, according to this ABC News report by Greg Hoy

Each year, the World Bank estimates $1 trillion is squandered on bribes to public officials to gain advantage in business transactions.

Australia is a signatory to the international anti-bribery convention but unlike the US and the UK it still allows so-called facilitation payments – money paid by companies here to secure contracts overseas.

Anti-corruption campaigners say that with so many firms working in Africa and China, it is time for a different approach.

The Organisation for Economic Cooperation and Development (OECD) is rallying its members to enforce an anti-bribery convention to stamp out the culture of corruption.

In a recent report, the OECD was scathing of Australia's record, pointing out that Australia “has only one case that has led to foreign bribery prosecutions, out of 28 foreign bribery referrals received by the Australian Federal Police (AFP) ... this is of serious concern”.

Michael Ahrens from Transparency International Australia says the Government has never responded to the report.

“The Australian Government can’t avoid a large measure of responsibility for this in terms of the integrity framework of government,” he said.

By international standards, many, including Aaron Bertinetti from CGI Glass Lewis, consider Australia’s attitude towards foreign bribery as ambivalent at best.

“Australia needs a far clearer and robust approach to legislation that looks at bribery and corruption and doesn’t just lean on the Australian Federal Police,” he said.

Mini Vanderpol, a partner at law firm Baker and McKenzie, agrees.

“You’ve got ASIC (Australian Securities and Investments Commission) saying, ‘Look, we can only do what we can do’ [and] you’ve got the AFP saying, ‘We’ve limited resources’,” she said.

“I’m not certain that that message is getting through. I think the message that seems to be getting through is, ‘Don’t get caught’.”

**BHP BILLITON, PACKER’S CROWN MENTIONED IN OECD REPORT**

One of the 28 cases referred to the AFP related to two properties in Chinese Macau part owned by James Packer’s company, Crown. A former Macau official is currently serving a 289-year sentence for accepting bribes of up to $100 million, with various suspect projects named, including the casinos.

The OECD report notes Australian police did not launch a domestic investigation into any possibility of Crown’s involvement.

Crown says none of its staff or officers was cited or indicted in the case.

The AFP will not discuss individual cases.

Another of the 28 cases referred to by the OECD relates to payments made by BHP Billiton in China.

The mining giant has acknowledged it may soon face US penalties over its sponsorship of the Beijing Olympics, where it donated metals for medals.

It also allegedly provided gifts and lavish hospitality to woo high-ranking Chinese dignitaries and steel industry executives.

Mr Bertinetti says, particularly in Asia, bribery and corruption is rampant.

The only foreign bribery investigation that has resulted in prosecutions in Australia is the highly publicised case involving the Reserve Bank subsidiaries Security and Note Printing Australia.

“So the problem for Australian companies – particularly in the resources sector, because it’s the way of doing business and here back in Australia those companies are trying to drive profits – there’s a concern that perhaps the profits are coming before the best practice,” he said.

The OECD notes the US has launched two investigations into BHP Billiton.

The only foreign bribery investigation that has resulted in prosecutions in Australia is the highly publicised case involving the Reserve Bank subsidiaries Security and Note Printing Australia.

**LEIGHTON HOLDINGS’ MIDDLE EAST DEALINGS UNDER INVESTIGATION**

The OECD’s lead examiners expressed concern that the “AFP may have closed foreign bribery cases before thoroughly investigating the allegations”.

In another scandal, former Leighton Holdings construction boss Wal King has rejected suggestions he should step down from other directorships, denying all knowledge of a $42 million bribe Leighton is accused of having paid in Iraq.
He also denies he should have been aware of any such bribes.

Mr Bertinetti says Mr King is innocent until proven guilty but says “there’s a bit of a smell that can attach to those countries”.

“[The] best thing for a director to do in that situation is for that director to temporarily step aside from his role at that company until those allegations have been answered and cleared,” he said.

In October, Qantas chairman Leigh Clifford also faced calls to stand down, following reports that when he was a director of Barclays Bank in Britain, Barclays allegedly paid secret fees of $500 million to a company associated with Qatar’s royal family to secure emergency funding during the global financial crisis.

Mr Clifford denied knowledge of any secret payments. Barclays claims any payments made were legitimate. The matter is now under investigation by the UK’s Serious Fraud Office, which has the sweeping powers that some say Australia needs if it is to get serious about fighting foreign bribery.

Mr Clifford denied knowledge of any secret payments. Barclays claims any payments made were legitimate. The matter is now under investigation by the UK’s Serious Fraud Office, which has the sweeping powers that some say Australia needs if it is to get serious about fighting foreign bribery.

CRITICS QUESTION FACILITATION PAYMENTS

Critics, including the Uniting Church’s Mark Zimsak, the use of facilitation payments by Australian businesses is concerning.

“Under our Criminal Code, it is an offence to say that you have paid a small bribe to a government official in order to persuade them to do their job, provided that that bribe is a small payment and you’ve kept a record of it,” Dr Zimsak said.

Ms Vanderpol says a facilitation payment is still a bribe.

“It just happens that it’s still lawful in Australia,” she said.

“They are not small amounts. Or they’re being paid very regularly. Which of course can accumulate to being quite a large amount.”

In 2011, the federal government proposed Australia join the UK and Canada in outlawing facilitation payments.

But the idea met with fierce resistance, particularly from 220 mid-sized Australian mining companies operating across Africa, led by Anvil Mining CEO Bill Turner.

His company famously provided the transport for government troops who massacred villagers in the Congo in 2004.

The Uniting Church is compiling a report on facilitation payments.

Dr Zimsak, the church’s research director, wrote to Afro-Australian miners, requesting details of the payments they have made. The queries have met with silence.

“An iron wall of secrecy exists around these payments,” he said.

“We’ve written to governments in countries where Australian companies are operating, asking do any of these companies share information with them.

“We had no response from any of the governments.”

Australia likes to claim it remains determined to stamp out foreign bribery but Ms Vanderpol says the record tells a very different story.

“The lack of enforcement that is being conducted here in Australia, I think, is raising questions as to don’t Australian companies care? Does the Australian Government not think this is important?” she said.

“And those questions, I think, we don’t really have very good answers.”

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Survey of fraud, bribery and corruption in Australia and New Zealand

EXECUTIVE SUMMARY FROM A REPORT REVEALING FINDINGS FROM A KPMG SURVEY

**Bringing clarity to the problem of fraud**

KPMG Forensic's survey offers a unique window into an often-opaque world. Given the high cost of fraud to public and private sector organisations in Australia and New Zealand, it is imperative to bring some clarity to a problem that tends to flourish in organisational cultures where transparency is poor.

The need for understanding and transparency that facilitates better fraud prevention and management is becoming more urgent as the fraud landscape itself changes in response to a changing global environment.

With the onset of the global financial crisis the incidence of fraud in the financial services industry has increased and may well be one of the reasons behind the changing motivations for fraudsters. At the same time, technology and social media are evolving at lightning speed, posing significant challenges in relation to fraud by increasing the opportunity to collude quickly and the channels available to commit fraud.

In profiling the victims, villains and heroes of fraud, the survey provides Australian and New Zealand-based businesses with an opportunity to understand not only the impact of fraud, but also how it takes root in organisations that are not prepared to battle it.

The survey includes a wide range of information that will be invaluable to all organisations. The key findings of the report are summarised in the following infographic (see page 37). However, a few key themes have emerged that warrant focused consideration.

**The devastating impact of insider fraud**

The 2012 survey indicates that fraud committed by people within an organisation – the people you tend to trust – is the real concern for Australia and New Zealand-based organisations. Overseas, the headline cases of fraud in recent years, including rogue trading and manipulation of interest rates, have mostly been internally perpetrated. The clear lesson is that internal controls need to be more robust.

While perpetrators are more likely to be non-management employees, our survey confirms that organisations cannot afford to be laissez faire about the role of management in fraud. Over the last eight years, more senior executives and company directors in respondent firms have been involved in fraudulent actions, and data from the 2012 survey clearly demonstrates that where managers and senior executives are involved, the loss rises exponentially, so the potential for damage is heightened. For example, in the non-financial sector, management is only responsible for 1 per cent of fraud incidents, but 18 per cent of the value of fraud.

This indicates that firms need to take a broad approach to managing their fraud risks – they cannot afford to simply focus on where the majority of fraud incidents are occurring given the devastating impact staff further up the hierarchy can cause when they choose to commit a fraud.

**Beware of third party influence**

Organisations cannot focus their fraud risk management on internal culture alone. Survey data reflects the heavy involvement of third parties in fraudulent activity within respondent firms – over the last 12 years, external perpetrators have been responsible for 47 per cent of the value of major frauds reported. There is more collusion between employees and third parties than between internal parties, and, in 2012, external parties were responsible for 74 per cent of fraud by value in the finance sector, which includes banks, insurers, fund managers and other financial sector organisations, 69 per cent in the non-finance sector and 42 per cent in the public sector.

**Bribery, corruption and legislative risk**

Several local bribery and corruption cases have increased the domestic focus on this issue. A changing global environment is also acting as a catalyst for change. Australian and New Zealand-based businesses should be reviewing their anti-bribery and corruption arrangements given domestic requirements and relevant overseas legislation, such as the US Foreign Corrupt Practices Act and the recent enactment of the UK Bribery Act. This legislation can have significant implications for Australian and New Zealand organisations with international operations or who are dealing with US and UK-based firms; developing appropriate anti-bribery and corruption programs should be a key priority.

The survey data on third parties reveals there is a real vulnerability for respondent firms in the area of bribery and corruption, with almost three-quarters of respondents indicating they do not require confirmation from foreign agents that they have complied with the agency agreement. The tightening in bribery and corruption legislation overseas creates a real risk of Australian and New Zealand-based firms, in some cases being liable for the corrupt activities of external parties. Consequently, it will be critical for firms operating outside Australia and New Zealand to address this issue quickly.

**The power of collusion**

A striking theme of this year's survey was the increase in collusive behaviour. While most perpetrators still act alone, we are seeing more fraud involving two or more people. This alone is not necessarily the issue; the real problem is the huge impact collusion has on...
the time it takes to detect fraud – 665 days, by far the longest detection period.

With technology facilitating the proliferation of channels through which perpetrators can collude, organisations will need to create targeted strategies to detect this form of fraud.

Gambling with your company’s future

Understanding the motivation for fraud is always an important element in developing the right kind of risk framework. However, looking closely at the data on motivation is imperative. Personal financial pressure and greed/lifestyle most commonly drive the fraudster. We also note that a small proportion of fraudsters with gambling problems have perpetrated some very large frauds.


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**2012 fraud facts**

**Fraud facts**

- **$372.7m** Total value of fraud experienced by respondents
- **$3.08m** Average loss to fraud per organisation experiencing fraud
- **82%** increase in individual frauds exceeding $1 million

**The victims**

- **$322.2m** Fraud loss to respondent financial services organisations
- **$50.3m** Fraud loss to respondent non-financial services organisations

**Respondents experiencing loss by size of organisation**

- **Experiencing fraud**
  - Less than 100: 9%
  - 101-500: 69%
  - 501-1,000: 55%
  - 1,001-10,000: 44%
  - More than 10,000: 50%

- **Not experiencing fraud**
  - Less than 100: 91%
  - 101-500: 31%
  - 501-1,000: 45%
  - 1,001-10,000: 56%
  - More than 10,000: 50%

**The villains**

**Inside jobs are on the increase, with 75% of major frauds committed by insiders.**

- **2010**
  - External perpetrator: 35%
  - Internal perpetrator: 65%

- **2012**
  - External perpetrator: 25%
  - Internal perpetrator: 75%

**Management: false invoicing**

**Non-management: theft of cash**

**External parties: fraudulent tendering**

**MEN 3 times more likely to commit a fraud than WOMEN**

- **Perpetrators who COLLABORATE**
  - 2010: 23%
  - 2012: 29%

- **Perpetrators who ACT ALONE**
  - 2010: 77%
  - 2012: 71%

Collusive fraud is **GROWING**

- Most fraudsters don’t have a history of dishonesty, earn close to $100k and are motivated by greed/lifestyle or personal financial pressure

- **Perpetrators with no known history of fraud**
  - 91%

- **Increase in fraudsters earning close to $100k**
  - 82%

- **Most common motivations for fraud**
  - Greed/lifestyle
  - Personal financial pressure

**The heroes: prevention and detection**

- **Awareness training**
- **Internal controls**
- **Notification by employees**
- **Notification by external parties**

Organisations rely on internal controls and employees to detect major fraud, however awareness of fraud reporting remains quite low, particularly among third parties. Other methods of detection have increased, through the use of fraud detection procedures, anonymous reporting and internal audit. With regard to the latter, it is worth noting the revised Institute of Internal Auditors Standard (1220.A1), which now requires internal auditors to consider the probability of significant errors, fraud or non-compliance.

Source: KPMG Australia 2013.
The media, trade unions and political parties are seen as Australia’s most corrupt institutions but fewer than 1% of people have had recent direct experience of graft, a new poll shows.

There is a widespread perception that corruption in Australia has increased, with 43% taking this view and 41% seeing corruption as having remained the same.

The survey, titled *Perceptions of corruption and ethical conduct* and produced by the Australian National University’s Research School of Social Sciences, surveyed 2,020 people aged 18 years and over by phone between August and September this year, with a response rate of 43%. The results were adjusted to represent the national population.

“Satisfaction with democracy in Australia remains high by international standards, although it is lower in 2012 than at any time since 1998,” the study said, with most concerns related to the quality of government.

“There is a widespread perception that corruption in Australia has increased, with 43% taking this view and 41% seeing corruption as having remained the same,” the report said.

The police and armed forces were seen as most trustworthy while the media, trade unions and political parties were seen as most corrupt.

“The media one is interesting because it confirms a finding across 25 EU countries earlier this year about the pillars of integrity in our community – the media again came down near the bottom,” said study author, Professor Adam Graycar.

“We’ve seen a number of media stories recently globally – the Murdoch scandal in the UK. There have been issues with talk back radio and the cash for comment allegations. This poll was done before the latest talk back controversy. But it’s a global phenomenon and the implications are important because of the very important role the media has in transparency,” he said.

While less than 1% of respondents said they or a relative had experienced corruption directly, “where corruption exists, it does have a serious and deleterious effect on government, on the delivery of our services and infrastructure,” said Prof Graycar.

While political parties were seen as corrupt, more than half of respondents see ‘almost none’ or ‘a few’ federal politicians as being corrupt and public scepticism of politicians’ motives has been stable since the 1990s, the study said.

Professor Mark Findlay, Deputy Director of the University of Sydney’s Institute of Criminology, said public perceptions on crime “often have very little to do either with personal experience or factual knowledge.”

“It is particularly interesting that police corruption is no longer viewed in the serious end (when, in fact, instances of such corruption, particularly in some states such as Victoria, see no sign of abating),” he said.

“This may be explained by things as tangential as new series of *Underbelly* in this viewing season, or in more concrete variables such as a desire to believe in our institutions of public security in a political climate of border protection and prevailing concerns about local and national security.”

“The loss of confidence in politicians and trade unions is troubling but consistent with a worldwide disillusionment with conventional institutions of representative governance,” Prof Findlay said.

The police and armed forces were seen as most trustworthy while the media, trade unions and political parties were seen as most corrupt.

“What is more troubling is the belief in media corruption when, in other circumstances, the media is relied upon to expose public sector corruption. Maybe all this could be put down to the recent political scandals and degenerating level of political debate, and the biased and irresponsible role
of individual media personalities in fuelling this state of affairs.”

Overall, respondents were mostly satisfied with the direction Australia is headed in, with the economy, immigration and employment topping respondents list of most important issues and concern for the environment on the wane.

Respondents were only asked about perceptions of corruption in public institutions, not private businesses or corporations.

Darren Palmer, Associate Professor in Criminology at Deakin University said the poll showed anti-corruption agencies needed to boost their profile.

“One of the most interesting and also somewhat surprising results is that almost half of the respondents indicate they would report suspected corruption to police. This flies in the face of the major restructure of mechanisms for dealing with corruption, whereby all jurisdictions have invested heavily in various anti-corruption agencies, including those dealing with allegations or suspicion of police corruption,” he said.

While political parties were seen as corrupt, more than half of respondents see ‘almost none’ or ‘a few’ federal politicians as being corrupt and public scepticism of politicians’ motives has been stable since the 1990s.

“More needs to be done by these agencies to enhance public awareness and access to their complaints processes.”

Additional reporting by Bella Counihan.

Sunanda Creagh is an Editor at The Conversation.

Perceptions and experience of corruption
CORRUPTION SURVEY RESULTS FROM THE AUSTRALIAN NATIONAL UNIVERSITY

Key points
- Very few Australians have direct experience of corruption among public officials. Less than 1 per cent say they or a family member have often experienced corruption in the past five years.
- There is a widespread perception that corruption in Australia has increased, with 43 per cent taking this view and 41 per cent seeing corruption as having remained the same.
- The media, trade unions and political parties are viewed as the most corrupt institutions in Australian society; the armed services, the public service and the police are viewed as the least corrupt.
- Around half of those interviewed in the survey did not know to whom or where to report corruption.

Corruption has a wide range of consequences for societies, ranging from weak confidence in public institutions to the distortion of economic markets. Corruption is not the exclusive domain of developing countries or failed states. In rich countries corruption certainly exists and has implications for governance, the delivery of services, the development of infrastructure, and general economic conditions, not least if there is a widespread perception that corruption is rife or increasing.

Australia is ranked by Transparency International as one of the 10 least corrupt countries in the world.

The survey measured two separate aspects of corruption. First, the survey asked if the respondent or anyone in their family had experienced an act of bribery over the previous five years and, if so, who that act involved. Second, the survey asked a question about the public’s perceptions of whether corruption was increasing or decreasing.

The results confirm international surveys that show that the proportion of Australians who report an act of bribery involving a public official is consistently low. Less than one per cent of the Australian population report that they have ‘often’ experienced bribery, and a further 3 per cent report that they have experienced it ‘occasionally’, and 4 per cent said it had ‘seldom’ happened. More than nine out of every 10 respondents said this had not happened to them or a family member in the previous five years.

Australia is ranked by Transparency International as one of the 10 least corrupt countries in the world, and Australia’s low rate of bribery experience compares with a global average of 24 per cent of people who report in Transparency International surveys that they paid a bribe in the previous 12 months.

As we would expect, the public’s personal experience of bribery is more likely to occur among those who are in the labour force, employed in manual as opposed to non-manual occupations, and who are younger. Nevertheless, systematic variations across the population are generally weak, reflecting the relatively small numbers of people involved.

In contrast to the low levels of personal or family experience of corruption, the public believes that corruption is increasing. Around one in five think that it has increased a lot, and a further one in four think that it has increased a little; one in four think it has remained stable. Just 7 per cent believe that corruption has declined. There is only a weak relationship between experience of corruption and perceptions that it has increased (r = 0.09, p = <.00), suggesting that perceptions of corruption are rooted more in indirect sources of information, such as the mass media, rather than in personal experience.

Women were more likely than men to believe that corruption in Australia had increased (47 per cent compared with 39 per cent), and people over 55 years

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Very often: 0.1%
Quite often: 1%
Occasionally: 3%
Seldom: 4%
Never: 91%
Don’t know: 1%

"In the last five years, how often have you or a member of your immediate family come across a public official who hinted they wanted, or asked for, a bribe or a favour in return for a service in Australia?"

Source: ANUpoll on Perceptions of Corruption 2012.
of age were more likely than those under 55 to believe that corruption had increased (51 per cent compared with 39 per cent).

The media, trade unions and political parties are viewed as the most corrupt institutions in Australian society; the armed services, the public service and the police are viewed as the least corrupt.

The view among a plurality of the Australian public that corruption has increased is mirrored by the international survey findings. TI’s 2011 survey found that globally, 58 per cent of respondents believed that corruption had increased, while just 16 per cent thought it had declined. Even among the six least corrupt countries, 55 per cent of the respondents considered corruption to have increased. Low levels of personal experiences of corruption are therefore not incompatible with a belief that it is increasing across the society as a whole.

The final set of questions concerning corruption asked the respondents how corrupt they considered the 12 public and private institutions asked about earlier. The results show that there is a strong relationship between public confidence and perceptions of corruption. The media, trade unions and political parties, which registered the lowest levels of public confidence, are also seen as those that are most likely to be corrupt. For example, 44 per cent regard the media as corrupt, while less than half that number view them as not corrupt.

The three public institutions that enjoy the highest level of public confidence – the armed forces, the public service and the police – are regarded as the least corrupt. Of the three levels of government asked about in the survey – local, state and federal – local government was seen as corrupt by just 19 per cent of

<table>
<thead>
<tr>
<th>Rank</th>
<th>Corrupt</th>
<th>Neither</th>
<th>Not Corrupt</th>
<th>Don’t know</th>
<th>Corrupt – not corrupt</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Media</td>
<td>44</td>
<td>34</td>
<td>20</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>Trade unions</td>
<td>38</td>
<td>31</td>
<td>24</td>
<td>7</td>
</tr>
<tr>
<td>3</td>
<td>Political parties</td>
<td>37</td>
<td>38</td>
<td>22</td>
<td>3</td>
</tr>
<tr>
<td>4</td>
<td>Federal government in Canberra</td>
<td>32</td>
<td>34</td>
<td>32</td>
<td>2</td>
</tr>
<tr>
<td>5</td>
<td>Banks and financial institutions</td>
<td>25</td>
<td>30</td>
<td>42</td>
<td>3</td>
</tr>
<tr>
<td>6</td>
<td>State government</td>
<td>25</td>
<td>36</td>
<td>36</td>
<td>3</td>
</tr>
<tr>
<td>7</td>
<td>Legal system</td>
<td>23</td>
<td>33</td>
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<td>Local government</td>
<td>19</td>
<td>31</td>
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<td>Australian companies</td>
<td>18</td>
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<td>Police</td>
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<td>Public service</td>
<td>13</td>
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<td>12</td>
<td>Armed forces</td>
<td>8</td>
<td>19</td>
<td>69</td>
<td>4</td>
</tr>
</tbody>
</table>

“*To what extent do you see the following institutions being affected by corruption? Please answer on a scale from 1 to 5, where 1 means not at all corrupt and 5 means extremely corrupt.*” ‘Corrupt’ is coded as 1, 2, ‘neither’ as 3, ‘not corrupt’ as 4, 5.

Source: ANUpoll on Perceptions of Corruption 2012.
the respondents, followed by 25 per cent who mentioned state government. The federal government was seen as corrupt by almost one in three of the respondents.

There were some observable age differences in perceptions of corruption in Australia. People over 55 were more likely than those under 35 to think the federal government in Canberra was corrupt (36 per cent compared with 28 per cent), as they also were to think trade unions were corrupt (44 per cent compared with 29 per cent). When it comes to the media however, the reverse is observable, with 53 per cent of those under 35 believing the media is corrupt compared with 34 per cent of those aged over 55.

A systematic assessment by Transparency International in 2012 of the integrity systems of 25 European countries examined the institutional contributions to anti-corruption. While not exactly the same as this Australian survey of perceptions of corruption, in Europe both the media and political parties ranked in the bottom half of institutional performers in the integrity systems of the 25 countries. In this Australian survey, the public service ranked as one of the least corrupt institutions in Australia, but in Europe public service ranked lower on the integrity scale than the media or political parties.

A matter of policy relevance in Australia is the reporting of corruption. Three states have established or are establishing new anti-corruption agencies, and the Commonwealth government is working on a national anti-corruption plan. The survey therefore asked would people know where to report corrupt activity they might suspect or observe. Only one half of the respondents felt they knew where they would report such activity, and of those, one half nominated the police, and 15 per cent nominated the Ombudsman. Only 5 per cent of the total survey mentioned one of the existing anti-corruption agencies.

AIC REPORT EXAMINES CORRUPTION RISKS TO PUBLIC OFFICIALS

Organised crime and public sector corruption – a report which analyses corruption cases where organised crime has targeted vulnerable public officials – has been released by the Australian Institute of Criminology

As the Government tightens laws, and law enforcement adapts to prevent organised crime, criminal organisations will adjust their tactics in order to continue their activities without detection.

The criminals may, for example, use information from social networking sites to target public officials and their families which may lead to corrupt contact.

“The government and law enforcement must always be alert to the risk and potential impact of criminals developing new methods to circumvent the police. This report examines the ways they may target and corrupt public servants,” AIC Principal Criminologist Dr Russell Smith said.

“Public servants and police are important gatekeepers of information critical to the commission of serious crime, such as personal identity information; strategic police intelligence on how organised crime is being investigated and monitored, as well as confidential commercial information on government projects.

“Obtaining this information from insiders is an efficient means of planning a major criminal enterprise,” Dr Smith said.

Government and law enforcement must remain as incorruptible as possible to prevent crime and retain community trust.

Applying “crime script analysis” to recent corruption cases the paper concludes that other options to guard against the corruption of public officials include:

- Use of social networking services should be limited for public officials through codes of conduct with possible penalties for contraventions
- Contact between officials and high-risk informants should be monitored more rigorously
- Workplace personal computer surveillance should be instituted for those in sensitive positions, as well as
- Increased education of public officials to detect and recognise corrupt behaviour.

“Governments, both Commonwealth and State must be vigilant about corruption and ensure processes and protocols are in place to guard their employees against criminal contact,” Dr Smith said.

Public sector corruption

Public sector corruption refers to the misuse of public power or position with an expectation of undue private gain or advantage (for self or others). It may include instances of:

- Bribery
- Embezzlement
- Fraud
- Extortion
- Trading in influence
- Perverting the course of justice
- Exchanging goods for money or information.

Corrupt conduct can occur directly through the improper or unlawful actions of public sector officials, or through the actions of individuals operating in the private sector who attempt to inappropriately influence the functions of government.

Organised crime groups seek to corrupt public officials in an effort to gain access to public funds, information, protection and other services to facilitate criminal activities. These officials are likely to be from law enforcement agencies, border agencies, and agencies that issue identification documents.

Corruption has a serious impact on government, industry and national security. It prejudices the rule of law and distorts markets. It can inhibit foreign investment and international credit ratings and damages Australia’s reputation as a safe reliable economy in which to invest and trade. It can also harm cooperation and relations with foreign governments and law enforcement agencies.

Corruption of public sector officials has substantial multiplier effects and benefits for organised crime. There may be significant links between corruption in the public sector and organised crime groups that, by their very nature, remain hidden. The key challenge in identifying and investigating corruption is that corrupt conduct occurs in secret, between consenting parties who, frequently, are skilled at deception.

In response to recent corruption scandals embroiling NSW politics, Simon Longstaff proposes that Australia’s politicians be invited to make a voluntary personal commitment.

We are seeing an act of integrity, an act of honour, the like of which we have rarely seen in Australian politics” – with these words the Prime Minister, the Hon. Tony Abbott, inadvertently condemned the character of Australian politics. How so?

Well, while commenting on the day of the resignation of the former NSW Premier, Barry O’Farrell*, the Prime Minister presented O’Farrell’s resignation as something almost ‘heroic’ rather than as an act of ordinary decency that might be expected of any public official. It is striking how many political commentators sought to portray the former Premier’s resignation as an act of remarkable political courage rather than as an entirely unremarkable act of political responsibility. And therein lies the problem.

None of this discussion detracts from the appreciation due to O’Farrell for the manner of his going. He did not hesitate to do what was right and proper when it became clear to him that his evidence to the Independent Commission Against Corruption (ICAC) had proven to be objectively false. Former NSW Premier Nick Greiner suggested that O’Farrell acted with an unerring sense of what was politically possible.

No doubt, O’Farrell recognised the impossibility of his continuing in the role of Premier. However, I think it more likely that the former Premier acted according to principle – doing what was right for its own sake rather than just bowing before the winds of political necessity. O’Farrell deserves credit for doing what was right – for fulfilling our basic expectations of a decent political leader. That is the credit he deserves; nothing more and nothing less.

So, it is strange indeed that O’Farrell’s friends and supporters within the political class have been so keen either to claim too much or too little for their colleague. Even allowing for the sudden shock at what transpired and the provisional nature of ‘off the cuff’ remarks in a moment of crisis, it is difficult to explain.

Perhaps people simply could not believe what had happened – that a person could write by hand such a specific, detailed and personal note of thanks and not recall having done so, or that a single piece of false evidence could unseat an otherwise blameless Premier.

Either way, disbelief seemed to be the order of the day. Or, perhaps there has been something else at play; namely, a common assumption amongst politicians that the events that ensnared O’Farrell are just part of ‘the way things are done’ in political life.

Perhaps the connections to lobbyists and the influence wielded by party ‘heavyweights’ have become so common as to be entirely unremarkable. If this is so, then it would explain the disbelief (even outrage) in some quarters that O’Farrell’s deeds could have such dire consequences. Indeed, this is what most likely lies at the heart of the problem.

Politics in Australia has reached a point where it is only the blatant corruption of an Eddie Obeid that seems worthy of condemnation. Obeid’s proven corruption is of the worst kind – and I hope that the law as it stands will see him brought before the courts. However, the scale of his corruption should not become the ‘index’ for political morality in

* Editor’s note: In April 2014, Barry O’Farrell resigned as NSW Premier after misleading an Independent Commission Against Corruption (ICAC) investigation over a $3,000 bottle of Grange Hermitage wine from an Australian Water Holdings executive, which he had failed to declare as a gift.
our society. Instead, we should hope that politicians will take a long, hard look at what they assume to be ‘business as usual’ and ask if it is, in fact, ethically defensible.

I have had the privilege of meeting many politicians over the years. They are, like most of us, decent people trying to do the ‘right thing’. All of the ones I meet are idealistic. All have wanted to contribute to the betterment of their society. Only a few have become utterly cynical after experiencing the grinding rigors of public life and political compromise. Yet that is not how the general public perceives politicians. And it is time for this to change.

The shadow of corruption in NSW politics has now fallen on both sides of the Parliament. Furthermore, it is trailing at the edge of Federal politics, simply because the state branches of both major political parties are the core administrative and political units standing behind both state and federal politicians. Political parties are private associations that vie for control of public power. Unfortunately, the web of influence involving unions, lobbyists, political ‘staffers’, donors, etc. is no longer simply shaping the affairs of these private associations.

Instead, the habits of political parties are now tainting the most important of our public institutions – the parliament. In our democracy, the parliament exists for the benefit of ‘the people’. It does not belong to and is not intended to serve the interests of the political class. If for no other reason, we need our politicians to rise above party politics and make a collective decision to safeguard the standing of parliament by re-calibrating expectations of what counts as ‘business-as-usual’ in the profession of politics.

It is for this reason that the Ethics Centre proposes that Australia’s politicians be invited to make a voluntary personal commitment to something like a Hippocratic Oath – written for those who would serve in elected office.

We have drafted something for all to consider (see box above); a brief document that begins with a reminder that politics is, and should be, a noble calling and then articulates two sets of principles. The first relates to the process by which people seek power and the second relates to how power should be exercised once attained. We propose this draft not in the expectation that it is the final word on the subject, but with the hope that it might prompt a fresh discussion about what we could expect from politicians, irrespective of their political allegiance or arena of contest.

Finally, we invite any member of the community to let us know what they think of this attempt to lay down an ethical foundation for political life in Australia.

Dr Simon Longstaff AO is Executive Director of St James Ethics Centre.
What’s the case for a federal ICAC?

The current fragmented system to tackle corruption at a national level is manifestly inadequate when compared to the promise of a federal ICAC, writes Gabrielle Appleby

As the public hearings of the New South Wales ICAC implicate a growing number of federal politicians, the case for a federal ICAC becomes increasingly compelling.

Corruption is a weed that can quickly strangle politics and government. Given the dangers, why are we still arguing about whether the federal government needs an anti-corruption watchdog? Is it possible to argue against a federal ICAC?

Every Australian state now has its own anti-corruption watchdog. The core function of these bodies is to investigate complaints of corruption and misconduct against politicians, government officers, the public service and judges. They have wide powers to compel testimony and documents.

**Corruption is a weed that can quickly strangle politics and government. Given the dangers, why are we still arguing about whether the federal government needs an anti-corruption watchdog? Is it possible to argue against a federal ICAC?**

In 2011, the Joint Committee on the Australian Commission for Law Enforcement Integrity recommended a full review of the Commonwealth’s integrity framework with a view to establishing a generalist, dedicated anti-corruption body. The Joint Committee noted that the lack of such a body to date meant “there could be a lot of ‘undisturbed rocks’ that need to be overturned if the public is to be fully assured that integrity in the public sector is being properly maintained and safeguarded.”

But the Commonwealth has managed to resist the establishment of a standing anti-corruption watchdog. A National Parliamentary Integrity Commissioner, promised by Julia Gillard as part of winning the support of the Greens after the 2010 election, was never introduced.

In 2012, the Gillard government claimed that there was “no convincing case for the establishment of a single overarching integrity commission”. Rather, the government championed the benefits of the fragmented system of accountability that currently exists, asserting that “no single body should be responsible”. The government explained that by distributing responsibility, “a strong system of checks and balances” is created.

There certainly are a number of other offices and mechanisms at the federal level that perform parts of the role of a federal ICAC. But do they really provide a “strong system of checks and balances” when it comes to government corruption?

The only federal office specifically directed at curbing corruption is the Integrity Commissioner, who heads the Australian Commission for Law Enforcement Integrity. The Integrity Commissioner may investigate corruption issues but is limited to investigations in the law enforcement arena. Its jurisdiction extends to bodies such as the Australian Crime Commission, the Australian Customs and Border Protection Service and the Australian Federal Police.

The Public Service Commissioner is another narrowly focused mechanism. It oversees the conduct of the Australian Public Service and monitors compliance with the APS Values and Code of Conduct, which capture corruption and misconduct.

There are, of course, the investigations undertaken by Parliament itself under our system of supposedly “responsible government”. But Question Time has slipped into theatrical farce. Parliamentary committees are increasingly wracked with political divisions and partisan bickering.

Further, as the refusal by the Immigration Minister Scott Morrison and his military offsider Lieutenant-General Angus Campbell to provide information about Operation Sovereign Borders demonstrates, Parliament’s powers to compel information are seldom used in the face of government opposition.

Nonetheless, Parliament retains importance at the federal level because it is one of few public forums in which government can be scrutinised.

The Commonwealth Ombudsman, established in 1976 out of concern that Parliament’s accountability processes were increasingly deficient, has significant investigatory powers. The primary focus of the Ombudsman’s office is on the resolution of complaints brought to it by individuals rather than uncovering corruption.

However, it can conduct own motion investigations through which it may uncover more systemic issues. (The Auditor-General and the Australian National Audit Office also conduct “general performance audits” that are similar in scope to systemic inquiries undertaken by the Ombudsman.) The Ombudsman’s office has its limits: it conducts its investigations in private and cannot investigate the conduct of ministers and parliamentarians.

In addition to these standing mechanisms, there is always the possibility of a royal commission into government corruption. Royal commissions possess wide-ranging investigative powers under statute and generally conduct their hearings in public.

Many Australians will recall the extraordinary impact of the Queensland and Western Australian royal commissions into government corruption in the 1980s.
and 1990s (indeed, these commissions led to the creation of standing anti-corruption commissions in both states). But, and here’s the catch, royal commissions are established by the government. Extraordinary political circumstances must transpire before a government will establish a wide-ranging inquiry into alleged corruption.

There are other less direct means that protect against federal corruption. The *Public Interest Disclosure Act*, passed in 2013, goes some way to encourage, support and protect government whistleblowers revealing information about corruption and misconduct. The brief of the Australian Federal Police and the Australian Crime Commission may also extend to individual investigations of government corruption.

A federal anti-corruption watchdog would not, of course, immediately or even eventually stop corruption. However, when considered against the existing, fragmented state of anti-corruption oversight, a number of strong arguments can be made in its favour.

The very act of establishing a dedicated anti-corruption body is a meaningful public acknowledgement by government that corruption, either systemic or opportunistic, is a problem that must be taken seriously. By fostering greater awareness and education, the introduction of a new body also provides an important moment around which cultural change within government can occur.

A dedicated anti-corruption body provides a means of discovering corruption across all facets of government and parliamentary administration. It provides systemic oversight, education and coordination for the existing mechanisms.

A standing anti-corruption body does not rely on the government for its establishment and terms of reference. Its ongoing nature means it is able to monitor whether the government acts on its reports. A dedicated anti-corruption body can act as a single landing pad for complaints from individuals, including whistleblowers.

In addition to the general educative functions usually bestowed on these bodies, the possibility of independent, public hearings dangles above the heads of politicians and officials, providing an incentive towards integrity and honesty in government.

Of course, standing anti-corruption bodies are not without their difficulties. It has been lamented that the public hearings of the New South Wales ICAC, while revealing to the public extraordinary levels of corruption across both sides of politics, have also claimed the scalps of good politicians.

There are dangers that standing anti-corruption commissions can become too close to government, as demonstrated by the recent revelations of discussions between the acting chair of Queensland’s CMC and the Premier’s media office about strategies to defend the government’s controversial law and order policies.

The federal government’s claims that there is already a system of mechanisms to deal with corruption are not entirely untrue. However, the current fragmented system is manifestly inadequate when compared to the promise of a federal ICAC.

A poorly funded anti-corruption body also poses a danger, providing a facade of increased commitment to integrity without adequate resources to carry through on that mandate.

The federal government’s claims that there is already a system of mechanisms to deal with corruption are not entirely untrue. However, the current fragmented system is manifestly inadequate when compared to the promise of a federal ICAC.

Dr Gabrielle Appleby is the deputy director of the Public Law and Policy Research Unit at the University of Adelaide.

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R}ecent sensational hearings at NSW’s Independent Commission Against Corruption have sparked renewed calls for a federal equivalent. If the ICAC has been so successful in exposing the extent of corruption and illegality among that state’s political class and its hangers-on, why not establish a commission to shine a similar spotlight on Canberra? After all, the federal Liberal Party has been implicated in some of the illegal donation-laundering schemes practised by the party in NSW.

The Abbott government has also had its skirmishes with alleged corruption, over parliamentarians’ travel expenses and charging for access to ministers. Previously, Labor was tarnished by the corrupt actions of Peter Slipper and Craig Thomson, MPs on whose support it depended. Against that background, the call by former ICAC head David Ipp, QC, on the ABC’s Four Corners program, for a federal ICAC to help counter a serious “breakdown of trust” will have resonated with many members of the public.

The proposal raises several issues. The first is political feasibility. What chance does a federal ICAC have of being adopted by Parliament? In the present political climate, no chance at all. The Greens are the only political party in favour. In June 2010, Bob Brown introduced a private member’s bill to establish a national integrity commission. The bill was resubmitted by Greens MP Adam Bandt two years later. In spite of crossbench support, Labor and the Coalition killed off the bill in committee. Undeterred, Christine Milne, as Greens leader, reintroduced the bill after the 2013 election but failed to garner any support. Proposing a federal ICAC appears to have become another Green perennial, more a symbolic moral gesture than a seriously intended reform.

The Coalition has no appetite for reform in this area, particularly as recent public criticism has targeted state Liberal parties and their business friends. Prime Minister Tony Abbott says Canberra has a “pretty clean polity” and does not need a new anti-corruption agency. The previous Labor government eventually drafted a National Anti-Corruption Plan, but the plan excluded politicians, involved no new agencies and was never acted on.

When last in opposition, Labor developed a comprehensive open government policy and might be expected to back moves to improve government integrity. In-principle support by the recent NSW Labor conference for a national anti-corruption agency could be a harbinger of serious intent. But it could equally be a cynical move to appease Greens-leaning left-wingers, to be quietly pigeon-holed at a later stage.

Labor politicians are currently compromised by their reliance on corrupt unions, which are being gradually exposed by the government’s royal commission. When a senior union figure, Kathy Jackson, claims that a six-figure slush fund is needed to “play the game” in union and Labor politics, any Labor calls to stop corruption in public life will sound hypocritical.

The crossbench, meanwhile, is dominated by the Palmer United Party, whose leader demonstrated his contempt for constitutional propriety with his unconscionable attacks on the Clerk of the Senate, Rosemary Laing. A mining magnate who depends on government concessions and earned his political stripes in Joh Bjelke-Petersen’s National Party is hardly likely to give top priority to improving government integrity.

Realistically, then, a federal anti-corruption agency is off the political agenda for now. Nonetheless, supporters of improved government integrity will keep the issue alive as they wait patiently for more congenial times. It is therefore worth considering whether replicating the NSW ICAC at the federal level is the best long-term option or whether alternative structures are preferable.

Anti-corruption agencies are all the rage internationally and may appear an obvious solution. But the jury is still out on whether they are always the best means of reducing government corruption. Of the eight countries ahead of Australia on the latest Transparency International Corruption Perceptions Index (2013), only Singapore has such an agency.

The key features of the ICAC are that it is comprehensive, investigating the actions of both politicians and public servants across all areas of the public sector. It also has all the powers of a judicial commission of inquiry, including the right to acquire evidence and hold public hearings, but without the power to conduct criminal prosecutions. However, it is not without critics, even among those who adopt a strong anti-corruption stance.

One issue concerns whether its inquisitorial procedures override the rights of witnesses, particularly under public cross-examination. Adverse findings are reached on the balance of probabilities rather than beyond reasonable doubt. Lawyers have complained that individuals’ reputations may be severely damaged without the protections that apply in normal court proceedings.

On the other hand, this procedural flexibility can work in the...
public interest if it exposes high-profile public figures to legitimate questioning. Too often, the legal rights of powerful individuals can be used as cover to avoid proper scrutiny.

Former NSW premier Barry O’Farrell was a victim of his own making, by adamantly denying receiving a gift as memorable as a $3,000 bottle of wine. He faced trial in the court of public opinion and was found guilty of lying. He sensibly applied parliamentary principles of ministerial responsibility, which demand resignation in the case of outright falsehood.

ICAC exposure similarly forced politically motivated and justified resignations from two other NSW ministers, Peter Hartcher and Mike Gallacher, and also compelled Arthur Sinodinos to stand aside from his federal position as assistant treasurer.

In the ICAC, the standards for political blame and responsibility are more balanced and closer to common sense than those for legal culpability, which are loaded in favour of the accused. Indeed, the gap between the evidential standards of commissions and courts more commonly provokes criticism in the opposite direction. Too few ICAC findings of corruption have led to criminal convictions. Former Labor politician Eddie Obeid, though thoroughly discredited in commission hearings, has yet to be prosecuted and exudes confidence of avoiding a guilty verdict.

The major ICAC inquiry in 2008 into corruption at the Wollongong City Council yielded a disappointing outcome in terms of actual convictions. In the event, only three of those found to be corrupt were convicted, and mostly on relatively minor charges. The public servant at the centre of the scandal, Beth Morgan, was never charged because of the lack of admissible evidence.

If the measure for assessing anti-corruption agencies is the number of successful criminal convictions, rather than political scalps, the NSW ICAC might not be the best model to follow. Indeed, internationally, comprehensive anti-corruption agencies are often criticised for failing to deliver in terms of legal enforcement. Their establishment may give the appearance of combatting corruption and, for a developing country, this may impress aid donors.
Corruption Issues in Society

anti-corruption agencies are often criticised for failing to deliver in terms of legal enforcement. Indeed, internationally, comprehensive anti-corruption agencies are often criticised for failing to deliver in terms of legal enforcement. As governments continue to move the provision of public services into the hands of commercial contractors, the opportunities for corruption in the contracting process also increase. Formal tendering procedures may be strictly laid down and generally adhered to but it would be surprising if improper pressures were wholly absent. Certainly, many large-scale, service-providing companies consider it worth their while to spend large sums on lobbying for contracts.

At the lower end, also, how many agency-level contracts for catering, cleaning or gardening are let on the basis of cronynism or the exchange of favours? A federal agency for the integrity of government contracting, with sufficient resources, full powers of investigation and willingness to follow up complaints from the public, including unsuccessful tenderers, could have plenty to do!

These alternative options do not necessarily rule out the establishment of a single, comprehensive, anti-corruption agency as the preferred mechanism for dealing with corruption at the federal level. But at least they show that other possibilities are open. Concern about corruption should not automatically lead to support for a single, ICAC-style agency as an obvious panacea. Indeed, in the current unpbirthday political climate, a multi-pronged strategy may have more chance of success.

Richard Mulgan is an emeritus professor with the Crawford School of Public Policy at the Australian National University.

The corruption scandals facing New South Wales politics are about as complex as they come. The sheer number of investigations, seemingly involving a conveyor belt of familiar faces, have made the question of “who next?” seem almost as valid as “what next?”.

Perhaps not surprisingly, given the high-profile scalps already claimed by these investigations (including premier Barry O’Farrell), the recent scandals have caused some, such as political commentator Gerard Henderson and former NSW Liberal MP Bruce Baird, to argue the power and efficacy of the NSW Independent Commission Against Corruption (ICAC) are too strong.

Other groups, such as the Greens, have called for the establishment of a “national ICAC equivalent” to ensure a “clear separation between business and politics”. This is not the first time these calls have been made, but they continue to gain little traction.

The ongoing ICAC hearings in NSW have revealed that there should be greater regulation and monitoring of Australian politics by an independent organisation or committee. However, implementing a national body would be fraught with difficulties in practice.

Independent anti-corruption organisations already exist in New South Wales, Queensland, Western Australia, Victoria, Tasmania and South Australia. These vary slightly in operational structure and scope, but all focus on reducing levels of corruption.

As each of these bodies is supported by state-based legislation, definitions (and thus understandings) of corruption vary slightly between the states. Any national body would have to navigate potential jurisdictional overlaps, as well as differences in legalistic understandings of corruption, across the states and territories. This is not an easy task.

Such a proposed federal body should not focus solely on the link between politics and business, as the Greens have suggested. Strong ties between politics and business present a corruption risk, but it is not the only one.

Other risks include the handling of confidential information, and improper supervision. The case last year of Victorian police officers socialising with bikies also demonstrates that not all risks occur during business hours. Creating an organisational focus based on the problems of the day risks creating an organisation that isn’t relevant to the problems of tomorrow.

However, a number of countries have succeeded in establishing effective national independent anti-corruption organisations. Two of note are Singapore’s Corrupt Practices Investigation Bureau (CPIB) and the Hong Kong ICAC. Both of these organisations were established in light of widespread corruption and in the face of strong opposition. Both continue to have a strong presence.

What makes these organisations notable in comparison to Australia is the length of time that they have been operational. The CPIB was established in 1952 and the Hong Kong ICAC in 1974. It is the model of the Hong Kong ICAC that is adopted in most Australian states.

These organisations have weathered scandals, and through a conscious effort of education and community engagement – in addition to ongoing internal reviews – have ensured ongoing relevancy and efficacy.

Independent anti-corruption organisations already exist in New South Wales, Queensland, Western Australia, Victoria, Tasmania and South Australia. These vary slightly in operational structure and scope, but all focus on reducing levels of corruption.

The current critiques levelled at the NSW ICAC have had a flow-on effect to other Australian independent anti-corruption organisations. Victoria’s Independent Broad-based Anti-corruption Commission (IBAC) was recently criticised for not having enough “runs on the board”. Lawyer Eric Dyrenfurth painted an Orwellian picture of Victorian politics, in which politicians are subservient to the self-power-enriching, ideology-free
mindset of the ‘machine’.

This, Dyrenfurth argued, is what caused the “toothless tiger” that is the Victorian IBAC.

It should be noted that Dyrenfurth is not the first person to consider the IBAC a toothless tiger. I have made the point previously in The Conversation. However, to say that this is proved by the lack of “completed investigations” listed in the IBAC’s latest report is problematic.

As each of these bodies is supported by state-based legislation, definitions (and thus understandings) of corruption vary slightly between the states. Any national body would have to navigate potential jurisdictional overlaps, as well as differences in legalistic understandings of corruption, across the states and territories. This is not an easy task.

Dyrenfurth identifies that listing ten completed investigations out of 24 commenced is “hardly runs on the board” and is proof of both the weak-kneed nature of Victoria’s IBAC and the comparative success of the NSW ICAC. When you consider that between 2012 and 2013, the NSW ICAC conducted 22 investigations from 3,000 complaints – and that only six of these 22 resulted in reports to parliament – it becomes clear that adequately fighting corruption is often less about getting runs on the board and more about creating awareness.

In addition, only half of those surveyed said they knew where to report corruption. Of that half, only 5% said they would report it to an anti-corruption organisation.

There is a lot of confusion surrounding corruption in Australia, both in and out of politics. Corruption organisations need legislative teeth, yet they also need a strong community presence. We only need to look to Hong Kong and Singapore to see the role that education and prevention efforts play in ensuring both the strength of an organisation and the effective management of corruption levels.

When it comes to fighting corruption in Australia, let’s focus on improving what we have. We need better efforts, not more of them.

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WORKSHEETS AND ACTIVITIES

The Exploring Issues section comprises a range of ready-to-use worksheets featuring activities which relate to facts and views raised in this book.

The exercises presented in these worksheets are suitable for use by students at middle secondary school level and beyond. Some of the activities may be explored either individually or as a group.

As the information in this book is compiled from a number of different sources, readers are prompted to consider the origin of the text and to critically evaluate the questions presented.

Is the information cited from a primary or secondary source? Are you being presented with facts or opinions?

Is there any evidence of a particular bias or agenda? What are your own views after having explored the issues?

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Brainstorm, individually or as a group, to find out what you know about corruption.

1. What is corruption, and who can be affected by it?

2. What is bribery, and why is it considered unethical?

3. What is an offshore company, and how would it be used in relation to corruption?

4. What is a whistleblower, and what laws in Australia are in place to protect them?
The media, trade unions and political parties are viewed as the most corrupt institutions in Australian society; the armed services, the public service and the police are viewed as the least corrupt.

Perceptions of Corruption and Ethical Conduct, ANUPoll October 2012.

Consider the above statement. Do you agree? Who would you consider as the most corrupt, and least corrupt institutions in Australia? Write a few paragraphs explaining why you feel that these institutions are more corrupt, or less corrupt than the others. Include the types of corruption that may be found within these institutions, and cite recent examples.
Complete the following multiple choice questionnaire by circling or matching your preferred responses. The answers are at the end of this page.

1. In what year was the *United Nations Convention Against Corruption* ratified in Australia?
   a. 1975  
   b. 1980  
   c. 1985  
   d. 1990  
   e. 1995  
   f. 2005  
   g. 2015

2. Which of the following could be considered as examples of bribery and corruption? (select all that apply)
   a. Over ordering of stock for warehousing  
   b. Provision of unauthorised bonus payments  
   c. Superannuation payments  
   d. Abuse of fuel privileges  
   e. Reimbursement of expenses  
   f. Ambiguous contract arrangements  
   g. Ghost contractors

3. Match the following abbreviations to the correct organisations.

1. ICAC  
   a. Multi-agency initiative hosted by the AFP Crime Program’s Fraud and Anti-Corruption business area.

2. ACLEI  
   b. Australia’s anti-money laundering and counter-terrorism financing regulator.

3. AUSTRAC  
   c. Established in 1989 as an independent organisation to protect the public interest, prevent breaches of public trust and guide the conduct of public officials in the NSW public sector.

4. IBAC  
   d. The first binding global instrument that deals with corruption.

5. FAC Centre  
   e. Commission whose primary role is to investigate law enforcement-related corruption issues, giving priority to serious and systemic corruption.

6. UNCAC  
   f. Victorian anti-corruption agency responsible for identifying and preventing corruption and police misconduct across the public sector. This includes Members of Parliament, the judiciary and state and local government.

**MULTIPLE CHOICE ANSWERS**

- a. 1995
- a, b, d, f, g
- c
- Multi-agency initiative hosted by the AFP Crime Program’s Fraud and Anti-Corruption business area.
- b. Australia’s anti-money laundering and counter-terrorism financing regulator.
- c. Established in 1989 as an independent organisation to protect the public interest, prevent breaches of public trust and guide the conduct of public officials in the NSW public sector.
- d. The first binding global instrument that deals with corruption.
- e. Commission whose primary role is to investigate law enforcement-related corruption issues, giving priority to serious and systemic corruption.
- f. Victorian anti-corruption agency responsible for identifying and preventing corruption and police misconduct across the public sector. This includes Members of Parliament, the judiciary and state and local government.
More than two thirds of the 175 countries in the 2014 Corruption Perceptions Index score below 50, on a scale from 0 (perceived to be highly corrupt) to 100 (perceived to be very clean). Denmark comes out on top in 2014 with a score of 92 while North Korea and Somalia share last place, scoring just 8 (Transparency International, Corruption Perceptions Index 2014: Clean growth at risk). (p.2)

- Globally, more than one in four people (27%) report having paid a bribe in the last 12 months when interacting with key public institutions and services (Transparency International, Global Corruption Barometer 2013). (p.5)

- 59% of Australians believe corruption has increased over the past 2 years, and that police and public servants are affected by corruption (IBAC, Australians believe corruption is increasing: worldwide survey). (p.6)

- If corruption was an industry it would be the world’s third largest, amounting to 5% of global GDP – the equivalent of more than $3 trillion (Melbourne School of Government, Stopping corruption essential to growth). (p.7)

- The World Bank estimates the cost of bribery worldwide is US$1 trillion annually (Pickering, H, Combating corruption: Are G20 states leading by example?). (p.8)

- A report estimated the developing world lost US$946.7 billion in illicit outflows in 2011. This was a 13.7% increase over 2010 (ibid). (p.8)

- Australia holds the title for being, on average, the least corrupt G20 member state. Australia and Canada are the best performing G20 countries and are the only states to have maintained a top 10 place, globally, since 2008 (ibid). (p.8)

- To June 2014, the highest monetary sanction imposed against an individual in a foreign bribery case was a forfeiture order amounting to US$149 million (OECD, OECD Foreign Bribery Report: An Analysis of the Crime of Bribery of Foreign Public Officials). (p.11)

- Research estimates that US$20 trillion of money illegally obtained from developing countries is now held in offshore tax havens around the world (Heywood, P and Rose, J, We still don’t have a good way to measure global corruption). (p.14)

- It has been estimated that as many as 3.6 million deaths could be prevented each year in the world’s poorest countries if concrete action is taken to end the secrecy that allows corruption and criminality to thrive (ONE, ONE shines light on the “Trillion Dollar Scandal”). (p.15)

- Australia is a signatory to two international anti-corruption conventions: the United Nations Convention against Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials (Australian Collaboration, Democracy in Australia – Corruption). (p.21)

- Since June 2004, the Commonwealth has had an anti-corruption body, the ACLEI. It is, however, limited in its scope to the detection, investigation and prevention of corruption in the Australian Crime Commission and the Australian Federal Police (ibid). (p.21)

- Australia is considered the 11th least corrupt country in the world (Varnham O’Regan, S, Australia drops to 11th place in global corruption, 2014). (p.24)

- More than 100 allegations are being made each month of crime, corruption or serious incompetence by Commonwealth government officials under new whistleblower protections laws (Bergin, A and Connery, D, Necessary, but not sufficient: Australia’s new Fraud and Anti-Corruption Centre). (p.27)

- 32% of Australian organisations currently have operations in markets with high levels of bribery and corruption and 29% have pursued an opportunity in such markets. In the past 2 years this has led to 6% of organisations having lost over AU$1 million dollars in relation to bribery and corruption (PriceWaterhouseCoopers, PwC’s 2014 Global Economic Crime Survey: The Australian Story). (p.32)

- Australia has only one case that has led to foreign bribery prosecutions, out of 28 foreign bribery referrals received by the Australian Federal Police (Hoy, G, Australia ‘failing’ to tackle bribery by multinational companies: OECD, 2014). (p.34)

- In the non-financial sector, management is only responsible for 1% of fraud incidents, but 18% of the value of fraud (KPMG Forensic, A survey of fraud, bribery and corruption in Australia & New Zealand 2012). (p.36)

- In 2012, external parties were responsible for 74% of fraud by value in the finance sector, which includes banks, insurers, fund managers and other financial sector organisations, 69% in the non-finance sector and 42% in the public sector (ibid). (p.36)

- Men are three times more likely to commit a fraud than women (KPMG Australia). (p.37)

- Most fraudsters don’t have a history of dishonesty, earn close to $100K, and are motivated by greed/lifestyle or personal financial pressure (ibid). (p.37)

- The media, trade unions and political parties are seen as Australia’s most corrupt institutions (Creagh, S, Media, unions and political parties seen as Australia’s most corrupt institutions). (p.39)

- Very few Australians have direct experience of corruption among public officials. Less than 1% say they or a family member have often experienced corruption in the past 5 years (ANU, Perceptions of Corruption and Ethical Conduct, ANUPoll October 2012). (p.40)

- The three public institutions that enjoy the highest level of public confidence – the armed forces, the public service and the police – are regarded as the least corrupt (ibid). (p.41)

- The only federal office specifically directed at curbing corruption is the Integrity Commissioner, who heads the Australian Commission for Law Enforcement Integrity (Appleby, G, What’s the case for a federal ICAC?). (p.46)

- Independent anti-corruption organisations exist in NSW, QLD, WA, Vic, TAS and SA. These vary slightly in operational structure and scope, but all focus on reducing levels of corruption (Monaghan, O, A national ICAC? We need better anti-corruption bodies, not more). (p.51)
**Anonymous shell companies**
Refers to any company or trust with a hidden ownership structure that makes it difficult or impossible to identify the beneficial owner(s). They are commonly used by corrupt entities to launder or hide money.

**Blackmail**
Demanding money or property with menaces or threats.

**Bribery**
Receiving or offering an undue reward by or to a public official in order to influence that person’s performance of their duty and to act contrary to accepted rules of honesty and integrity.

**Collusion**
A secret agreement for a fraudulent purpose.

**Conflict of interest**
A conflict of interest occurs when the private interests of a public official come into conflict with their duty to act in the public interest.

**Corruption**
Corruption is the abuse of entrusted power for private gain. It is deliberate or intentional wrongdoing, not negligence or a mistake. While there is no universal definition of ‘corruption’, the term is generally understood to include bribery, extortion, embezzlement, money laundering, illicit enrichment, and abuse of functions, position or influence.

**Embezzlement**
To appropriate for one’s own use, money or property belonging to your employer.

**Extortion**
Demanding property or money with menaces or force with the intention of stealing the property or money.

**Fraud**
An intentional act or omission done with the purpose of deceiving.

**Fraudster**
Person who commits fraud, especially in business dealings.

**Graft**
Form of political corruption; the unscrupulous use of a politician’s authority for personal gain.

**I illicit financial flows**
Cross-border movement of funds that are illegally acquired, transferred or used.

**Internal fraud**
Any incident of suspected fraud allegedly committed by an employee or contractor.

**Money laundering**
Financial transactions in which criminals attempt to disguise the proceeds and sources of their illicit activities by transforming them into ostensibly legitimate money or other assets.

**Offshore company**
Corporation or other type of legal entity which is incorporated or registered in an offshore financial centre or ‘tax haven’. Offshore companies are used for a variety of commercial and private purposes, some legitimate and economically beneficial, whilst others may be harmful or even criminal. Allegations are frequently made in the press about offshore companies being used for money laundering, tax evasion, fraud, and other forms of white collar crime.

**Perjury**
Giving false evidence.

**Perverting the course of justice**
Deliberately attempting to pervert the administration of justice.

**Phantom firms**
Anonymous shell companies which only exist on paper; used by criminals and corrupt businesses to hide money, rip off governments and avoid tax.

**Public sector corruption**
The misuse of public power or position with an expectation of undue private gain or advantage (for self or others).

**Rogue trading**
When an employee authorised to make trades on behalf of their employer makes unauthorised trades. The term is most often applied to financial trading, when rogue professional traders make unapproved financial transactions.

**Stolen assets**
The illegal confiscation, control, use or transfer of public funds by government officials or politically exposed persons for personal gain.

**Tax evasion**
Involves people or companies purposefully and illegally hiding their wealth and income to circumvent paying taxes that they owe.

**Tax haven**
Country or jurisdiction providing financial or banking secrecy or which provides financial services to non-residents on a scale that is not commensurate with the size and financing of its domestic economy.

**Trading in influence**
When a person who has real or apparent influence on the decision-making of a public official exchanges this influence for an undue advantage.

**Whistleblower**
A person who exposes misconduct, alleged dishonest or illegal activity occurring in an organisation.
Websites with further information on the topic

Attorney-General’s Department   www.ag.gov.au
Australian Commission for Law Enforcement Integrity  www.aclei.gov.au
Australian Crime Commission   www.crimecommission.gov.au
Australian Federal Police      www.afp.gov.au
Australian Human Rights Commission  www.humanrights.gov.au
Corruption and Crime Commission (Western Australia)  www.ccc.wa.gov.au
Corruption Prevention Network  www.corruptionprevention.net
Crime and Corruption Commission (Queensland)  www.ccc.qld.gov.au
G20 Watch  g20watch.edu.au
Independent Broad-Based Anti-Corruption Commission (Victoria)  www.ibac.vic.gov.au
Independent Commission Against Corruption (New South Wales)  www.icac.nsw.gov.au
Independent Commissioner Against Corruption (South Australia)  www.icac.sa.gov.au
Integrity Commission (Tasmania)  www.integrity.tas.gov.au
ONE Campaign  www.one.org
Organisation for Economic Co-operation and Development  www.oecd.org
St James Ethics Centre  www.ethics.org.au
The Australian Collaboration  www.australiancollaboration.com.au
Transparency International Australia  http://transparency.org.au
United Nations Office on Drugs and Crime  www.unodc.org

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