

**Achieving Good Governance in a Public Sector with an Effective  
Anti-Corruption Actions: The Case of Azerbaijan**

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Dedicated

**For Liberty**

## **Executive Summary:**

Corruption is considered to be an enemy for the application of good governance principles in the public sector. In post Soviet transitional countries, with an emphasis to Azerbaijan, the literature indicates various reasons for the origins of corruption. The thesis argues that primary motives are the institutional design and structure of the public sector. These include existence of monopoly and abuse of discretion, while there is an absence of accountability. Based on comparison with the regional countries and the structure of the anti-corruption bodies, existence of Anti-corruption Commission in Azerbaijan is considered to be weak. Studies of various third sectors enrich the argument. According to the research question, *“if corruption is considered to be the major obstacle in post-Soviet transitional countries, which anti-corruption policy and agency would be the best suit for the case study of Azerbaijan?”*, it finds out that independence of the anti-corruption agency (ACA) is a crucial feature to fight against corruption. There is a need for preserving independence over responsibilities of various bodies of the agency, budgeting policy and the staff composition. Lastly, the thesis gives various recommendations for the government in order to implement the policy for the best of eliminating the wrongdoings in the public sector management.

**Key words:** good governance, independent anti-corruption agency, formal and informal institutions.

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The nine most terrifying words in the English Language are:  
**“I’m from the Government and I’m here to help”,**  
Ronald Reagan.

## Introduction

The motto of then-US President refers to incapability of a government monopoly to cope with problems. This thesis elaborates and applies the opinion of President Reagan in a way that in order to overcome corrupt actions in a public sector of the post-Soviet countries, existence of government run commission is not enough. There are various reasons: from being a political organ to civil servants who have informal background and involvement on corruption. Under these considerations, the thesis argues that in order to minimize, if not to eliminate, corruption in the public sector there should be independence of the Agency. This will accelerate meeting the mission (of the Agency) in effective and efficient manners.

In the past, corruption was considered a “moral” issue (IRIS, 2001: p.1). However, in the last two decades grasping the negative consequences put it on the agenda of various international umbrella organizations in order to decrease negative externalities in the mid and long run. This is intended to be via pushing national governments to establish effective and efficient state structure. As part of a cosmopolitan value, the Bretton Woods system (WB and IMF) and non-governmental organizations became supporters of this idea. Even, according to the WB, control of corruption is considered to be one of the principal indicators of the good governance principles. By definition, corruption is not only expropriation of state resources, but also attacks to the legitimacy of the government, transformation of the mechanism towards the good governance principles and the democratic culture, and devastates the impact to trust (Warren, 2004; Klitgaard, 1998; Rotherstein, 2007; World Bank, 2000). The consequence of intervention to various sectors is considered to be a government failure, since it can not provide and achieve for functional formal institutions under the evolving market system.

Overall, there are two types of corruption: political (state capture) and bureaucratic. Because of the word limitation, the thesis is going to concentrate on the bureaucratic corruption, which is a corrupt behavior between citizens and lower level civil servants. It is easily observed and followed, and can rally political force to overcome it. From the other side, it would be possible to indicate that political corruption refers to manipulation of rules and regulations by non-state agents in order to seek private benefits. Thus, according to Bagirov (1997), corruption is an “insect that eats a tree from inside”.

The aim of this thesis is to contribute for the current research on anti-corruption actions in order to fill the gap of policy making in transitional countries; with a concentration to the case study of Azerbaijan. Corruption, as a global phenomenon, brings a deadlock to all potential reforms in the country and has a big negative impact. In the process of shifting towards the market structure, it is one of the crucial concerns to transform the current formal and informal institutions. Semi-understanding of the disease by individuals and weak government policy to tackle on the public sector management create an urgent attention to take serious round of actions and measures.

On the basis of weak punishment system, as with Gray and Kaufman (1998), while there is a consolidated or institutionalized corruption “the likelihood of detection decreases, and incentives are created for corruption to increase further”. As part of human interaction, on the basis of corrupt behavior and actions, this brings additional burden to the society, in which informal institutions dominate over the formal ones (1998: p.8). And this creates a spillover for the ‘wish of cycle’ on the public sector management, which means violation of principles administrative bureaucrats becomes everyday interaction without a punishment mechanism.



The author claims that current Azerbaijani policy is weak on the basis of international standards, observations and outcome, existence of widespread challenges and abuse of discretionary power of the executive organ. Importantly enough, it creates absence of checks and balance on two dimensions; being on a horizontal level, which is among the state organs (legislative–executive–judiciary) and the second one refers to vertical level that is absence of accountability link between the government organs and the citizens. These two obstacles create additional reason to establish an independent anti-corruption agency and enhance citizenship criteria. It is expected that these encouragements will accelerate the fight against corruption and increase reputation of the public sector.

Thus, the research question is: “How good governance principles can be achieved over the public sector management? More precisely, if corruption is considered to be the major obstacle in post-Soviet transitional countries, which anti-corruption policy and agency would be the best suit for the case study of Azerbaijan?” On the basis of these questions, it will test whether an independent anti-corruption agency is more effective in combating the burden than the government controlled (politicized) commission over the public sector.

According to the author, the best suit methodology to answer the research question is the use of qualitative methods. As part of the primary sources, academic literature related to good governance as a target and anti-corruption as a value will be revealed. It is important to show the link between the target and the value in order to have an academic background. In addition, the papers and reports of the WB, OECD and UNDP are examined to apply academic background to practice and disclose other successful models. Also, indicators of the Transparency International and Freedom House have been used to illustrate various samples. For the case study of Azerbaijan, since there are few policy papers written on this issue, expert interviews have been conducted to elaborate the arguments. These people are

mainly anonymous higher level state officials and independent local experts who are involved to anti-corruption policy-making procedure.

The first chapter is a literature review that analyzes weakness of the public sector from the corruption side. Through the analysis of types of corruption, the concepts and the linkage between governance and corruption are formulated. It is limited to the administrative level and puts an emphasis to the fact that public sector architecture and institutional design (on the basis of Klitgaard formula) are important ingredients for the origins of corruption. In addition, for post-Soviet transitional countries the size of the government is an important element to determine the level of corruption. When it comes to overcome the burden, several featured anti-corruption agencies (ACA) are underlined that are integral part for the successful output.

The second chapter reveals the case study of Azerbaijan in the post 2000 period. Reasons for corruption are emphasized and short comparison with the regional countries is made. It is required in order to find out basis for corruption in Azerbaijan. In addition, the current institutional design of anti-corruption commission is elaborated in great detail. In order to find obstacles for elimination of corruption, institutional gaps of the current system is emphasized.

The final chapter formulates an alternative anti-corruption policy in Azerbaijan for having an effective strategy. The framework and bodies of the Agency are elaborated in a comprehensive manner for the attention of higher level executive organs in order to meet the challenge effectively and efficiently. Also, a number of suggestions are mentioned to implement the above mentioned alternative policy.

## **Chapter 1 – Weakness of Public Sector Management: Challenge of Corruption**

In this literature review, the weakness of public sector management has been analyzed and relevant anti-corruption models have been indicated in order to overcome the burden. Since corruption is the primary obstacle for the implementation of good governance principles, firstly, the concepts of corruption and governance are defined and the link between them is identified.

The perception of this connection is considered to be different between the ‘Western’ and ‘Eastern’ cultures. However, in post-Soviet transitional countries, culture does not play an important role for corruption, but rather the institutional design and the structure of public sector, which is mostly based on centralization, monopolization, abuse of discretion and absence of accountability principles. They weaken significance of formal institutions for providing good governance in the public sector.

Herein, it is possible to find an appropriate size of the government. It is believed that big government can lead to larger corruption and waste. In order to overcome corruption there is a need for multidimensional approach. In post-Soviet countries the inherited system is still present that does not follow good governance principles and discourage the elimination of corruption. Under these considerations, several types of ACAs are indicated with important principles and features. On the basis of a case study comparison on these principles and features, the thesis concludes that it is required to have an independent ACA with special powers and responsibilities.

## **1.1 Corruption and Governance concepts identified**

To being with, it would be possible to determine the cause-effect relationship between poor governance and corruption which is indeed a complicated scenario, since both of them can be cause and effect. In post-Soviet transitional countries that are striving towards the market mechanism, the problem of corruption is indeed one of the fatal enemies for the application of good governance principles. According to the World Bank (WB), corruption is one of the dimensions of the Governance Indicator (2009).

There are various ways to define the concept of corruption. ‘Misuse of public office for private benefit’ school of thought that is supported by the WB became one of the wide spread and acknowledged definitions in this respect. Josoph Nye has elaborated the *private* part as “personal, close family, or private clique or status gain or gain in influence” (Nye, in Kurer, 2005: p.225). Whatever the shape of debate, corrupt actions convey violation of ethical, normal and legal principles (IRIS; 2001: p.2). In addition, according to Amundsen, there is also an element of “secrecy” of a person in power to influence on the basis of his/her mandate (1999:p.7), which is based on two-ways of illegal communications. Transparency International gives a more comprehensive definition, in which

“corruption is one of the greatest challenges of the contemporary world... [that] undermines good governance, fundamentally distorts public policy, leads to misallocation of resources, harms the private sector and private sector development and particularly hurts the poor ” (in Amundsen, 1999: p.6)

Referring to governance, it is defined as “the manner in which public officials and institutions acquire and exercise the authority to shape public policy and provide public goods and services” (WB, 2007: p.1). UNDP explanation on governance is more comprehensive: mixture of “values, policies and institutions” in order to conduct policies on the basis of harmonization of stakeholders, being “state, civil society and private sector” (2004: p.2). These two notions are connected to each other and according to the IMF “corruption is [considered to be] a narrower concept than governance.” Existence of poor

governance creates incentive for corrupt behavior; and from the other side “promotion of good governance helps [to] combat corruption (2005).”

There are two types of corruption: political (state capture) and bureaucratic (administrative). It is claimed that political corruption is the “manipulation of the political institutions and the rules of the procedure, and therefore, it influences the institutions of government” (Amundsen, 1999: p.9). However, bureaucratic corruption is street level ordinary interaction between citizens and civil servants who “exploits his position to extract unofficial payments” (Smith; 1971: p.21). Because of the length limitation, the aim of the thesis will be limited to discuss the administrative corruption only. Corruption is not limited to bribe only; Andvig mentions others types as well, including kickbacks, embezzlement, gratuities, sweeteners, speed and grease money, fraud, extortion, favoritism and nepotism (2000: pp.14-18)<sup>1</sup>.

It is possible to agree for differences between the ‘Western’ and ‘Eastern’ cultures which are critical component for perceiving corruption. While there is an existence of misuse or abuse of power by public officials for personal interest, a dividing line between corrupt actions and right performance should be considered. Alternatively, it is possible to assume that any action performed illegally by public officials should directly be considered corruption. According to Kurer (in Rotherstein and Teorell), perception of culture should not permit violation of public management principles (2008: p. 171), since a spillover effect gives a signal and incentive to “other officials that they can make money by dragging their feet” (Johnston, 2005:p.25).

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<sup>1</sup> Bribe is an amount of money that is illegally paid to public officer(s) to receive a favorable service. It is a synonym for sweeteners as well. Kickbacks emerge when the money is paid in the envelope and in secret as part of gratitude or speeding the process. Embezzlement is expropriation of public resources, usually via misallocation. Extortion is extraction of money by use of violence and coercion, where “client” receives little benefit. Favoritism emerges via biased allocation of services to private hands, including privatization especially in post-communist countries. Nepotism is related to this, in which relatives receive more favors than other partners.

In post-Soviet transitional countries, corruption does not originate from the so-called existence of cultural norms for tolerating it, but rather from the centralized and ineffective public structure. It should be acknowledged that the debate is quite widespread; even some naïve excuses could be found to support the existence of corruption in a public sector which will be considered to be wrong and unethical:

- “*Corruption is everywhere*” and “*always existed*”, from the Netherlands to Zimbabwe (Klitgaard, 2000: p.14). Intellectual counterargument would refer to the degree of corruption rather than the vague interpretation. On the basis of country comparison chapters, there are case studies that have very few loopholes and opportunities for corrupt behavior, but most of the post-Soviet transitional country systems are built on the chain of corruption and corrupt policies. Therefore, it would be possible to claim that cultural tolerance for corruption emerges where formal institutions, including the rule of law system, are weak; rules and regulations are not consolidated or easily violated; and people are not educated to follow the formal mechanism for preserving the integrity of the institutional structure. Thus, it brings an urgent need to find strong willingness and alternative policies to overcome the burden. This problem has not only caught the attention of government leaders, but also local 3<sup>rd</sup> party actors in order to form a triangle of governance mechanism, from decision making to implementation and assessment.

In post-Soviet countries there are various factors that stimulate corrupt policies on public sector management that are analyzed in the following section of the chapter.

## **1.2 Public sector architecture and the origins of corruption**

In post-Soviet transitional countries, corruption primarily originates from the institutional design. Turmoil situation in regions and absence of punishment not only weakened the enforcement, but also delayed consolidation of legal infrastructure. This thesis only considers formal part of institutions (by temporarily abandoning the informal part), which is referred to “constitution, laws, property rights” that are aimed “to create order and reduce uncertainty in exchange” (North, 1991: p.97). Herein, according to Rothstein, there is a correlation and closeness between “high quality institutions” and good governance that runs against corruption (2007:p. 13). Thus, it is a resistance of formal institutions against the abuse of power (Eigen, 2002: p.199).

In order to have a conceptual understanding, Klitgaard gives an inclusive formula with affecting variables that “encourage corruption”:

$$C = M + D - A \text{ (1998: p.4)}$$

According to this comprehensive formula, corruption in these economies flourishes due to existence of monopoly and discretion when there is an absence of accountability measures, whether in a public or private sector. Monopoly of government refers to deficiency of governance mechanism where the policy making cycle is dominated by the government; discretion of a public agent means abuse of power and/or denying duties that weakens existence and enforcement of formal institutions; and absence of accountability (usually vertical, but lately horizontal and external) also reveals weak citizenship criterion and trembling rule of law. Combination of these three elements leads to mal-functioning framework, where intersection of public and private (or non-public) sectors and abuse of power generate illegal money for civil servants (Bagirov, 1997; Rose-Ackerman, 1999; Shleifer and Vishniy, 1993).

From the good governance point of view, this formula may also reveal absence of transparency and downward flow of information. It breaks the link between the citizens and the power holders; thus weakens the legitimacy of the government. Herein, “officials are likely to be self-interested” (Warren, 2004: p.330) and institutional design should provide checks and balances between power holders. It is required for shifting monopoly and misuse of discretion of civil servants towards clearly defined rules and mechanisms that are enforced by national judicial organs. According to Paul, absence of choice leaves people to be “more vulnerable to the pressures of monopolistic regulators and service providers.” Therefore, “monopolistic nature of these functions create a fertile environment for arbitrary decisions and corrupt practices that an individual citizen cannot easily monitor or fight” (Paul, 1997: p.1350).

Under these considerations it would be possible to say that government size matters for the delivery of public services and institutional framework. A big or large government mostly brings complexity and unnecessary procedure that increases transaction cost. This also creates corrupt behavior through abuse of power or neglect of duty. In order to defy corrupt actions, it is required to have a limited government. As effectiveness and efficiency are considered to be the outcome of policies, classical liberals give credit to this structure (see e.g., Palmer, 2004). This brings a snapshot of distinction between higher taxes–more delivery of public services vis-à-vis lower taxes–less direct delivery of services by a government (through redistribution and privatization).

According to Alensina and Angeletos, “large government increases corruption and rent-seeking” (2005: p.18) (but not necessarily vice-versa) that is contrasted with the situation of Nordic countries – more successful delivery of public services and high taxation. In the post-Communist transitional countries, usually the aim of public organs is not determined



precisely and the absence of monitoring for policies leads to corrupt actions. This is related to the structure of the government and shows that “when the size of bribe is large, the chance of being caught small, and the penalty if caught meager, many officials will succumb” (Klitgaard, 1998:p.4). Additionally, when there is corruption in the higher level, lower level bureaucrats bring justification to their illegal actions. Under these considerations the role of government should be limited to signing contracts with private actors and enforcement of institutions, according to Acemoglu and Verdier (in Andvig and Fjeldstad; 2001: p.20). It is important to decrease the transaction cost and waste. In order to achieve the target in merit and decrease wrongdoings, the mechanism should encourage punishment of violators of principles by relevant judiciary organs. In line with the target of the research question, herein, it would be relevant to discuss anti-corruption actions on a national level.

### ***1.3 Anti-corruption actions and policies***

In order to overcome corruption in a public sector there is a need for multidimensional approach. This means attention from the government and non-governmental sides to tackle with as a value driven approach “for tailoring strategies to the particular contour of the problem in different countries” (World Bank, 2000: p. xv).

In post-Soviet transitional countries the ‘old play of the game’ over public sector management still continues. As part of the previously planned economy, this includes centralized dependency and domination of old bureaucrats (nomenclature system), absence of value driven work, empowerment and innovation. Inherited public sector from the Soviet time left a politically motivated office, no accountability to people and vertically shaped public sector that generate additional limitation for a change (Dionisie and Checchi; 2008, p.3). Furthermore, being a Soviet-old veteran means that the authority holders are “security

mind” and “most likely want to do better within the system they know, with an incremental increase in their own authority, rather than shift to an unfamiliar system in which that might not succeed” (Klugman, 1986: p.71). Thus, it is possible to claim that the existence of an old system with “Soviet experts” just creates an obstacle for anti-corruption policy making.

According to Rose-Ackerman, the monopoly of government within the anti-corruption body would not bring any positive outcome (1999: p.39). The reason is the absence of various ethical standards and value driven policy formulation. The only way to fight corruption effectively is through establishment of an independent anti-corruption body where the bias and injustice can be eliminated. In the case study of Azerbaijan, there are various incentives and push factors outside of the government that require a change in the current policy on anti-corruption issue. They can be pervasive corruption and poor international reputation, growing individual awareness, strong citizenship criterion, oil and economic growth which require cleanness and transparency for the entire public sector management.

ACAs can be categorized under various umbrella groups. Most authors divide them into three: multi-task agencies, law enforcement institutions and corruption prevention bodies. Substantial number of ACAs are under the multi-task agency category that perform various functions, including “receiving and responding to complaints”, “intelligence gathering, monitoring, and investigation”, “prosecution and administrative orders”, “research, analysis, and technical assistance”, “ethics policy guidance, compliance review, scrutiny of assets declarations” and “public information, education and outreach” (Meager and Volland, 2006: p.5). This can include the models of Hong-Kong, Singapore, Lithuania, Botswana, Australia, etc. When it comes to law-enforcement institution, this power can be devoted to government organs to carry out anti-corruption policies. Most of the Western European countries and Central EU member states have established this model. Lastly, corruption prevention bodies

usually deal with issues like education, researching potential outcome, monitoring the process and evaluating the institutional strengths.

In order to have successful ACA, several principles and features should be followed and some of them are presented below. Institutional structure should be built on independence of the body from the political forces. Cooperation with the government branches, especially with the Judiciary organ, should be limited to punishment of suspects when the principles are seriously violated. And this cooperation should not mean the weakening of independence, but rather support from the government organ. In addition, the structure of ACA should have various departments concentrating on wide range of issues. As the most important principle – powers, it should suggest possible laws in front of a legislative organ; research and investigate; and punish the guilty especially over financial issues (while there is embezzlement). Not to mention, this agency should be accountable in front of the people. This can be done through publishing performance and educating people in order to establish trust for non-state organs.

As part of the resources, staff should be recruited on a merit basis, be highly trained, easily removed and compensated relatively higher in comparison to other civil servants. The budget should originate from both a state budget based on its performance and the staff size, and various donors. There are a number of variables that affect the entire anti-corruption functions: understanding as a value driven and mission oriented work, stable economic and political situation (absence of violence), representation of stakeholders from agenda-making to process tracing (like media, NGOs, international experts, embassies, appropriate laws) and existence of appropriate ethical standards, including whistle-blowing system for protecting civil servants (Meager and Voland, 2006: pp.8-14). The below Figure 1 will make a comparison of successful case studies based on their institutional framework. The findings

show that independence and powers of anti-corruption organs are the primary variables to determine the success of the agency.

Taking into consideration appropriate anti-corruption models, it would be possible to move for the origins of corruption and anti-corruption policy in the case study of Azerbaijan.

**Figure 1: Institutional Framework of Successful Anti-Corruption Agencies**

	Independence (over the work)	Powers	Accountability	Resources	Performance (TI records – from 2000)
Hong-Kong (ICAC)	Yes	Investigation, prevention and community relations. Access to documents and witness, freeze assets and seize passports, protect informants, monitor incomes and assets, propose administrative and legislative reforms	To the Chief Executive (or then Governor) and the Legislative Organ.	Staff- recruited from any organ, including government: merit based, highly compensated with performance rewards, contract based. Consists of 1200 staff (mid June). Budget - financed from the state budget (97 million USD, 2008-9) <sup>2</sup>	Outstanding (In between of 10-15 globally).
Singapore (Corruption Practices Investigation Bureau)	Yes	Ibid (with the Hong-Kong model). Also examine the balance sheet of bank accounts and individual accounts; require answer for doubtful money, large sum of money transfers, put heavy functions,	To the Office of Prime Minister. The work is kind of secretive, which means no need to reveal the budget, approve the action/decision or be transparent for performance in front of people.	Staff – mostly less than 100. Budget – financed from the PM office, \$14 million (Fiscal Year, 2009) <sup>3</sup>	Outstanding (Top 5, globally).
Georgia	State Organ (Prosecutor's Office)	Any ad-hoc project against corrupt actions	Government Organ, to Prime Minister and the President	Budget – Financed by International Organizations and states. Staff – ad hoc and government officers	Politically driven, still good on consequence (moved from lowest level up to 67)
Botswana (Directorate on Corruption and Economic Crime)	Yes (Autonomous)	Investigate, prevent, obtain information and educate on issues related to corruption and economic crime. Can imprison and fine guilty; with the help of Attorney General can even prosecute.	To President; especially, over budgeting and important decision making.	Resources are provided by the government. Holds more than 100 ad-hoc staff.	Top 30 (among the 180 countries maximum)

**Source:** author, collected from the official web-pages.

<sup>2</sup> Independent Commission Against Corruption, Analysis of Financial Provision.

<http://www.budget.gov.hk/2008/eng/pdf/head072.pdf>

<sup>3</sup> Singapore Budget, 2009.

[http://www.singaporebudget.gov.sg/expenditure\\_overview/pmo.html](http://www.singaporebudget.gov.sg/expenditure_overview/pmo.html)

## **Chapter 2 – Analysis of Anti-Corruption attempts: The case of Azerbaijan**

The aim of this chapter is to shed-light on the anti-corruption attempts in the case study of Azerbaijan. Overall, corruption is one of the crucial problems affecting everyday life, but in Azerbaijan the policy to overcome it became a hot research topic recently.

In the first section of this chapter the status-quo in Azerbaijan is analyzed by applying the theoretical approach with the practical dynamics. It has been indicated that the inherited institutions are the primary reason for the origins of corruption. Moreover, the period of wrong privatization policy and existence of military conflicts in the entire South Caucasus region brought additional elements; while leadership was limited to political issues, rather than concentrating on public policy making. A comparison with neighboring Georgia shows that these reasons are not enough to justify weakness of anti-corruption policies, and the thesis reveals that there is an absence of willingness and desire from the leadership to cope with this concern. The argument is elaborated on the basis of the WB Group, Transparency International and Freedom House reports and benchmarks.

The second section deals with the current institutional design on anti-corruption in Azerbaijan. It is important to mention business and civil society concerns, and later on the Council of Europe actions that made the government to sign and ratify various conventions in the beginning of this century. These conventions led to the establishment of National Anti-Corruption Program. Herein, the initiated commission's structure, mandate and members, also attached Ad-Hoc Group have been revealed.

In order to grasp weakness of the current anti-corruption structure, the last part deals with obstacles for the Commission's work. Status, composition and mechanism have been

assessed to meet the target effectively. Opinion of anonymous state officials involved in this process has also been indicated.

## **2.1 The Status-quo in Azerbaijan**

There are various reasons to support weakness of formal institutions in Azerbaijan. By institutional design the thesis takes into consideration the change from centralized towards decentralized and privatized governance structure. Being a post-Soviet country and inherited centralized bureaucracy with politicized local cadres would be a primary argument for the transition period (World Bank, 2000, pp. XIX-XX). Military and harsh conflicting interests created an obstacle for the implementation of market principles in the beginning of the transition period. Concern over the territorial integrity delayed all reforms. According to the same source, wrong and illegal way of handling privatization or “extraordinary redistribution” of state assets is additional argument for the emergence of corruption. Not to mention, “rewriting of an unprecedented volume of laws, regulations, and policies” are negative spillover effect for the emergence of corruption (2000: p.25). Hence, they have created an opportunity to violate equally enforced laws and weakened the creation of strong legal infrastructure.

Since inherited system is not the only reason for corruption, “the rise of effective leaders who are able to implement and sustain policies that are inimical to corruption, are also critical to the development of the transition path” (World Bank, 2000: pp.25-26). In Azerbaijan, leadership was limited to political issues and there was confusion and mismanagement of public policies in the first decade of independence. From Bliss’s and Di-Tella’s point of view, the combination of theoretical with practical analysis would claim that “corruption always depends on power”, in which the latter can be discretionary supremacy of the

leadership or executive organ in the presidential system. Violation of rule of law structure gives a chance for “protection rackets by gangsters, whose power is that of completely illegal violence” (1997: p.1002). Rules and regulations banning corrupt policies emerged only by the end of 1990s, thanks to a local think-tank letter to then-President Aliyev.<sup>4</sup>

Rose-Ackerman underlines the relevance of the above reasons for the emergence of corruption, but she claims that they do not represent “variables that present-day reformers can influence” and the point should be the identification of the impact on public sector quality (2008: p.335). From the individual level of analysis, the origins of corruption are more than the institutional framework. From the analysis of Dwivendi, nepotism is the primary obstacle, in which “extended family system is based on a comprehensive system of mutual obligations” and “a member may call upon his uncle or cousins for assistance when he is unemployed” (1967: pp.247-248). The existence of a wide-range of problems opened a way to the domination of nepotism in the public sector management of Azerbaijan. Over the short and mid-term effects, it created an informal obligation between relatives, rather than performing job accountabilities on the basis of value-driven tasks and commitments. This weakened the roots of rules of law with the change of time.

In Mirimanova and Klein work, which is precisely concentrated on the South Caucasus, all the above mentioned reasons for corruption are assembled under one umbrella category, which are related to other post-Soviet case studies as well. In addition, they claim that the existence of corruption is also related to interstate and civil wars. And both corruption and wars “reinforce each-other”. Thus, it is obvious that the consequence is an impediment for

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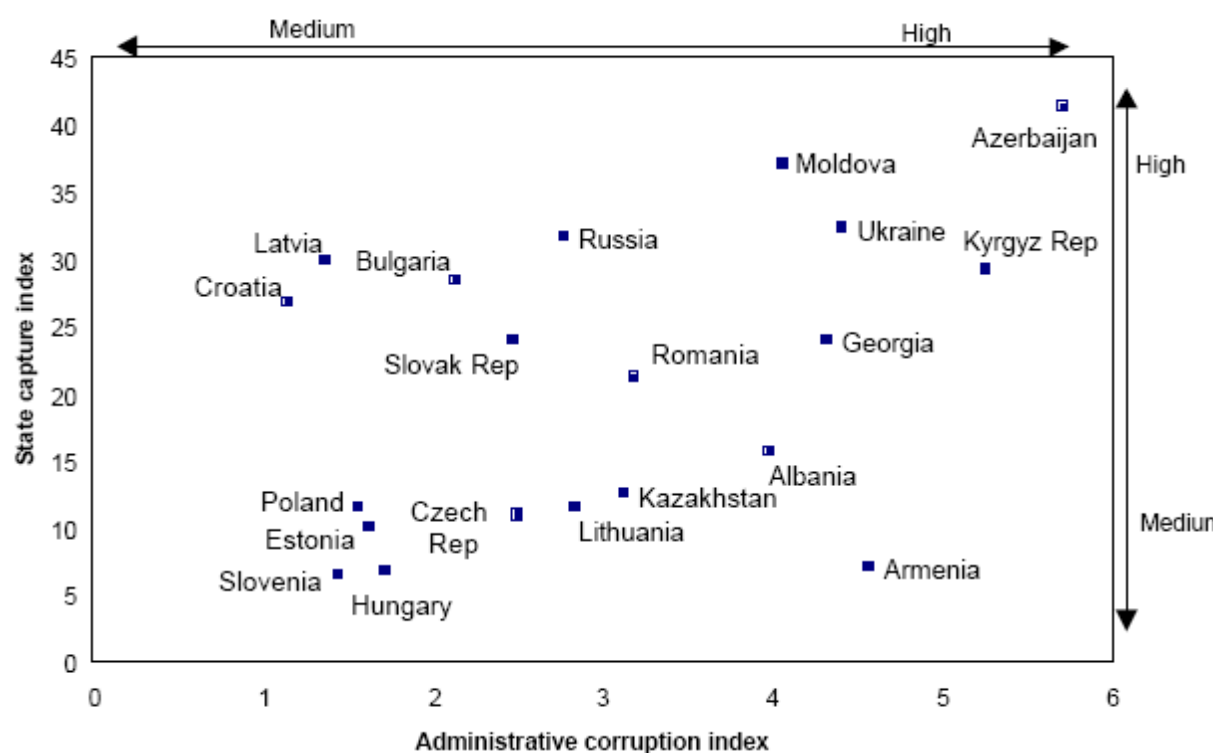
<sup>4</sup> Sabit Bagirov, President of the Baku based Economic and Political Research Center, has proposed a law to introduce anti-corruption policies that was sent to then President Haydar Aliyev. In half a year the Cabinet of Ministers prepared relevant draft laws and the first rules and regulations started to be approved by the Parliament from that period.



the consolidation of the market structure and destruction of institutions that should be based on public support (2006: p.11).

Since the thesis considers the post 2000 period, it is important to understand the WB snapshot typology of corruption levels for post-socialist transitional countries (Figure 2). Azerbaijan's administrative and political corruption levels are indicated to be the highest among all the other countries. This typology brought a big debate inside and outside of the

**Figure 2: Typology of Corruption**



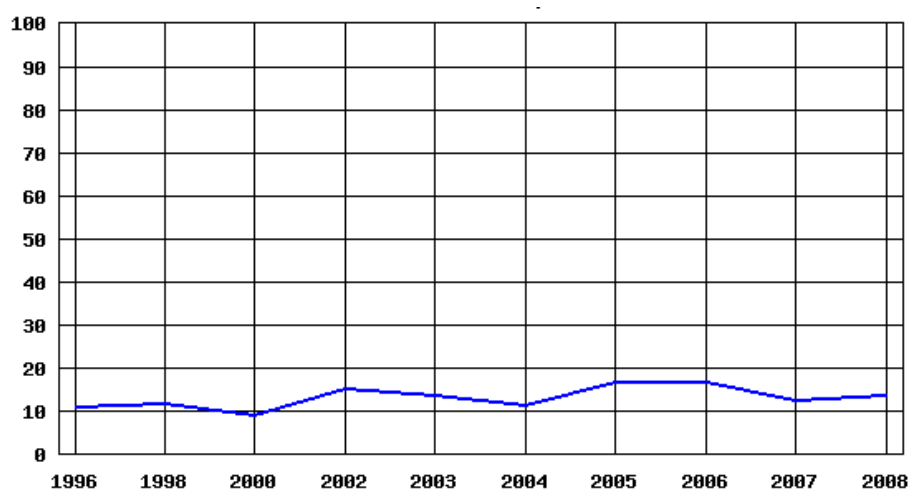
**Source:** World Bank, 2000

country. According to Sabit Bagirov, for that time it was not clear to picture high state capture. The reason was absence of oligarchs to exploit rules or tailor them for their selfish benefits (by 2000). Thus, it was early to see this typology (interview; May, 2009).

Additional argument can be the absence of institutional basis related to the anti-corruption issue in order to be violated. Under these considerations it is possible to nullify the argument of the WB for the state capture in Azerbaijan. However, there were widespread elements of corruption on the administrative level.

In addition, when we shed light for the willingness of Azerbaijani government over the “Control of Corruption”, the World Bank Governance Indicators (1996-2008) gives the Figure 3 which has been collected by various third sector representatives. According to the statistics, the control of corruption by the government has never been more than 19% on average.

**Figure 3: Control of Corruption**

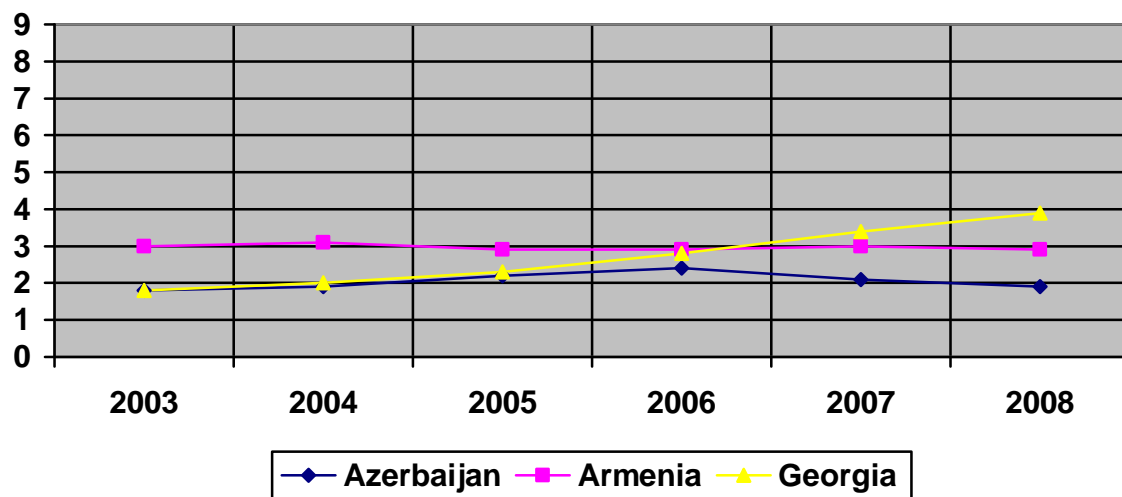


**Source:** World Bank, Governance Matters, 2009

As it has been underlined that the shape of institutions is one of the important inducements for corruption, the above figure can be reflected on a comparative basis with other South Caucasian countries. This is important in order to see the trend on the anti-corruption policy. According to the Transparency International, Corruption Perception Index (CPI) score

(Figure 4), just before the change of governments (2003) the level of corruption was almost the same in all regional countries.

**Figure 4: Corruption Perception Index (CPI).**



**Source:** author; collected from the Country Chapters of Transparency International.

**Georgia:** willingness in the post-Revolutionary period revealed that the institutional factor and the existence of wars are not strong arguments to justify corruption in the public sector. Saakashvili led government received strong public support over the anti-corruption work and established a public sector based on good governance practice. The experience shows that in post-Soviet countries there is a need for the creation of willingness, desire and value oriented job performance in public sector management that originates from the educated and young experts. The underlying idea of Georgian public management is to be a “servant” for the citizens, rather than pursue self interest policies. Good governance and anti-corruption policies will function simultaneously when political leadership will be ready to amend the current institutional framework. According to the figure above, Georgian perception score on corruption within the last five years accelerated from less than 2 to 4 (with 9 the least corrupt), in which willingness tramples all obstacles to fight against corruption.

**Azerbaijan:** for the last 5 years there has not been any progress on the basis of CPI score of the Transparency International. Even though there have been small positive changes in 2006, over the entire time frame (from 2003 until 2008) it remained at 2 (out of 9). Additionally, over the same period, confidence level to government has even decreased. The same source indicates a peak of 2.5, while the minimum has been 1.2 on the aggregate amount, with the highest in 2006 (2.2-2.6, out of 10 – the highest) (Country chapters; 2003-2008). Furthermore, Freedom House country chapters show similar results. The level of corruption has been static, on 6.25 (with 7 the worst) from the beginning of the century (Nations in Transit, Country Report). There is a general tendency by the (opposition) political elite to claim that corruption is the required element of the current government in order to build their power and preserve stability inside the country (in Bagirov, 2002, p.2). And this stability only refers to the preservation of the status-quo with hard power.

Hence, twenty years old inherited institutions from the Soviet time and the war should not justify the existence of corruption. There is a need for strong belief, support and willingness from the top leadership to fight against all mismanagements in various levels and sectors. This is relevant for the successful case study of Georgia that needs to be taken into consideration seriously in order to establish consolidated good governance principles on the public sector management.

## ***2.2 Anti-Corruption Policy on the Agenda of Azerbaijani Government***

### **2.2.1 Process towards the National Anti-corruption Program**

The concern of corruption in Azerbaijan started to signal by the end of 1990s, mainly with the pressure of external actors. Weak institutional structure and the absence of rule of law resulted in a decrease of investment. Due to the proposal of the civil society, the first anti-

corruption national law has been drafted by the executive organ (2000) and adopted with the approval of the Parliament (Milli Majlis). The first step was the Presidential Decree “On Stepping up the Combat Against Corruption in Azerbaijani Republic” (June, 2000) which was a gateway for preparing the related laws and regulations, and the special anti-corruption program. This was followed by further decrees (2001) to increase salaries of executive and judiciary organ officials (interview with Bagirov and Safaralieva, 2003, Transparency International). Nonetheless, according to Bagirov, there has been a limited link with the minimization of government bureaucracy in order to cut cost and the complicated vertical system. Thus, he considers all these reforms “necessary, but certainly not sufficient”, since “measures are not systematic and comprehensive enough” (2002: p.2).

On the institutional design level, starting with the presidency of Aliyev junior, fighting corruption in the public sector management of Azerbaijan became a hot topic from 2003 onwards. In addition to the business sector influence, the pressure from intergovernmental actors for more transparency and efficiency required the introduction and modification of rules and regulations to respond for these demands. Herein, the leadership role of the Council of Europe was to harmonize national laws with the international principles, with the leverage of upcoming membership. Chronologically, the Organization’s ‘Criminal and Civil Law Convention against Corruption’ was adopted and Azerbaijan became a member at the Group of States against Corruption (GRECO) from the mid of 2004. This was followed by the UN’s global ‘Convention Against Corruption’ (UNCAC) that was signed in 2004 and ratified by the Legislative organ of Azerbaijan a year later (Council of Europe, AZPAC, 2007). These conventions aimed to strengthen the institutional structure, consolidate rule of law and democratization; thus, offered chance to introduce the State Program on Combating Corruption (2004).

## **2.2.2 Glance to Institutional Design**

The 2004 State Program on Combating Corruption has been introduced with the aim of enhancing jurisdictional basis for curing corruption in the public sector, through coordinating and supervising the activity, and evaluating efficiency of the structure (Commission on Combating Corruption web-page).

### **➤ The Commission:**

The Commission on Combating Corruption is the highest level state body to tackle the anti-corruption issue over the public sector of Azerbaijan. In order to understand and judge its performance, it is crucial to analyze the institutional basis - its mandate, staff, coercive powers and the attached Ad-Hoc Group (The Commission, Legislation Basis).

### **• Mandate:**

In order to achieve the target of the State Program, the Commission cooperates and communicates with the three branches of the government (the legislative, executive and judiciary). Its primary role is to initiate, lead and analyze the efficiency of projects related to anti-corruption issues. On a general framework, this body constantly receives the required information from the state organs' work, especially law enforcement bodies. This gives the chance to analyze the status-quo, to give related instructions and to supervise the implementation of policies based on the recommendations in order to overcome difficulties. Additionally, the Commission deals with learning the public opinion and preparing work on the enlightenment of people over the ongoing anti-corruption matters. Lastly, annual reports describing activities are set up and sent to the President, the Parliament and the Constitutional Court.

Also, while needed, the Commission can establish its work based on the governance principles, through gathering other stakeholders in order to execute relevant accountabilities.

These actors can be the media, non-governmental organizations, international experts and business people. Even more, in order to enhance managerial capability and effectiveness, the Commission can conduct its work based on the international cooperation.

- **Members and Appointment:**

The Commission is composed of 15 members: appointees by the President, among the Parliamentary members, and higher level Judiciary organ representatives – five members from each category. On the basis of a simple majority, the members select a chairperson who is in charge of organizing and leading the activities of the Commission.

The members meet at least once in a quarter of a year with participation of 2/3 of the members. Even though all members have equal voting powers, the chairperson's voting weight is stronger in comparison with other respectable members. This power can be implemented on various matters, from strategic view to tactical decision-making.

Not to mention, formally, all members are considered to be independent on their work and decision-making procedure.

- **Powers:**

The Commission can bring a case against subjects of offences who are representatives of public offices or the administration holders; either appointed by the government or elected by the universal suffrage. In addition, in case of violation of the law, people who are officially registered as a candidate for any State organ can be brought under the jurisdiction of anti-corruption. It should be also underlined that the law in Azerbaijan is applied to everyone and outside the territorial boundaries it is limited to the citizens and persons with legal persons on the basis of international treaties which are applied to Azerbaijan.

➤ **Ad-Hoc Group:**

Ah-Hoc Group was founded in 2005 and considered part of the Commission. The aim of the Group is to initiate and change existing formal institutions on the basis of international procedure and legal framework. The work is conducted through writing proposals to the Commission. Meetings of the Agency on law creation are held open and people outside of the government are invited to participate. This can include international experts, embassy representatives, local civil societies, academia etc. Current composition also reveals clear domination of government officials over the non-state organs, with a range of 24:3-4. All have the right to make interpretations, to give suggestions and propose notes on a draft law during the meetings of the Group.

With the analysis of the institutional framework of the current Anti-Corruption Commission of Azerbaijan, it would be relevant to discuss the obstacles for decreasing pervasive corruption in the public sector management.

### ***2.3 Obstacles and a way forward***

Currently, the structure based on pervasive administrative corruption originates with the lack of appropriate attention by the government to come up with benchmarks and criteria to overcome the issue. Various surveys and public opinion, international observation and expert opinion reveal the current ineffective mechanism.

A glance at international reports shows the lack of spillover effect from international agreements to practice. Even though with the leadership of political forces the Commission aims to eliminate corruption, the lack of enforcement (of the mentioned global and regional level principles) and abuse of discretionary power of the executive organ over other state



branches diminish their value and scope. In response to the signed various intergovernmental commitments, the only document that has been put into practice is the recent State Program, which faces various and serious obstacles.

**Status:** The first limitation of the body to cope with anti-corruption issues would be its status: being a political, rather than an independent or expert organ. The composition reinforces the claim to be a political organ, where all fifteen members hold higher level ruling party positions. This gives legitimacy to the current system, rather than reforming it. Furthermore, the effectiveness of the body decreases the chance to reveal mismanagement of the public sector. Under these considerations, it is claimed that corrupt government officials would not complain against the corrupt structure. On the basis of the current political climate, the lack of leadership and tolerance for plurality just brings stagnation and leads to an inefficient outcome.

The opposite scenario would be the establishment of an independent body to overcome corrupt actions and scandals in the public sector. International experiences show that countries with independent bodies are more successful than the political and governmental agencies to overcome corruption (see Figure 1). This can be elaborated by taking into consideration the cases of Hong-Kong, Singapore and Botswana which bring a positive reflection on the initiation of alternative ACA for the case study of Azerbaijan.

**Governance:** Even though the law stipulates a room for the governance principles, in practice the current composition does not reveal it. This can be obvious with a monopoly of government officials which keep aside other stakeholders. Since anti-corruption is a value driven issue, various stakeholders should be involved to the decision-making process. This starts with agenda making to implementation and monitoring of the procedure. On the basis

of the status-quo, the role of third parties is limited to awareness building through various grass-roots campaigns and elections period. Even though agenda making is the primary part of the policy making cycle, the role of non-state organs should be appreciated and taken into consideration by the government for a balanced contribution. In this matter, the lack of private-public collaboration and non-transparent policy making dynamics in delivery of important public services bring only an obstacle. As a result, it destroys the chance to monitor and evaluate, which leads to pervasive corruption and loss of legitimacy of the public sector in the eyes of people.

**Accountability:** There is an absence of accountability issue on the State Program in the fight against corruption. Despite the law claims for neutrality of members who hold higher level positions in the government and simultaneously in the Commission, this neutrality is naturally jeopardized. The reason for this goes back to our claim that corrupt officials would not argue against the corrupt structure, since they are selfishly benefited by the abuse of power. Not to mention, the Anti-Corruption Commission with the attached bodies is funded from the State Budget, which shows complete dependence to the Executive organ. As the Head of the Anti-Corruption Commission of Azerbaijan indicates:

“to fight against corruption is the thermometer of each country’s public life. At the same time, this thermometer is the indicator for progress. It reveals degree of implementation of laws in practice and abuse of power. To fight against corruption is impossible without the participation of civil-societies. To put it differently, anti-corruption should be under control of any society.”

In this manner, in order to implement the above statement and see the changes on the reports of international organizations, the variables of status, governance and accountability should be changed accordingly.

**Ad-Hoc Group:** The only part of the Commission that has become more diverse in representation and open to the public is the attached Ad-Hoc Group. It has a responsibility

for institutional development, but it does not possess any real power to punish the violators. Despite the meetings are held open, voting rights are limited to the selected non-state organs (24 from the government and 3-4 from non-state bodies). It brings bias on to the selection of members and no attention to media; thus it is against the balanced contribution in terms of sector representation. The emerging players must be brought as full members to the decision making tables and enjoy equal powers as the government officials.

According to the interviewed anonymous higher level executive official involved to the anti-corruption procedure in Azerbaijan, the reason for excluding other stakeholders, including the media, and for the unbalanced representation in a decision making procedure is that “the composition is more expert oriented, rather than open to various affected people.” In his point of view, the role of media is limited to convey information from the decision making level to the society at large and “since the government is the only accountable actor in front of the people, this representation should not be considered unjust” (May, 2009).

It has been a target of criticism in a sense that in liberal democratic countries the role of media and other non-state actors are considered to be an integral element starting from the agenda making level. The absence of actors on the equality based creates a shortcoming to have a spillover from politically motivated National Program to practice. Hence, agenda-making becomes dominated by the needs of the government, rather than for the best of value oriented work and the entire society.

One of the higher level officials at the Ad-Hoc Group relates origins of corruption with the “individual factor”. According to him, “organizations .... are run by individuals”. In this country, there is very low trust to judicial organs and shortage of intellectual human resources in the government sector. “Corruption currently benefits for both sides and it does

not serve for anyone to deal with that seriously”. With regard to obstacles and limitation to the anti-corruption policies, he enumerated a number of features: “there is no public desire to overcome it, citizens are willing to violate principles and no strong response by the public against government” on the anti-corruption issue (May, 2009). Herein, it is possible to indicate that a government run agency not only brings obstacles for the anti-corruption work, but also reluctance to cope with.

To conclude, the monopoly of the government on the policy making level and reluctance of the conservative political figures to cure corruption in the public sector weakens the effectiveness of the ACA. And this opens an opportunity to look for a decentralized system, on the basis of initiating and assigning relevant powers and responsibilities to independent organs to tackle the issue. It is expected that non-political or expert organs would be more effective than the political bodies.

## Chapter 3 – Alternative Policy and Implementation

There are wide range of case studies and ways to decrease corruption. If willingness of politicians and the institutional strengths are the primary motives, there would be other affecting variables as well. These can be the structure of the anti-corruption body to socio-economic processes in a given country. This part of the thesis will be limited to the alternative anti-corruption policy for the case study of Azerbaijan in order to eliminate corrupt behavior in the public sector management.

The first section deals with the structure and bodies of the alternative ACA. It argues that independent anti-corruption body is more effective than political or government run organs for eliminating the burden on the public sector. This should underline independence over the budget, staff composition and obviously relationship with related government organs. Furthermore, the Council, the Executive, and the Public Affairs are considered to be the primary bodies (or departments) of the Agency with special separated rights and responsibilities that are indicated in detail.

When it comes to implementation of this policy, the thesis argues that leadership of Azerbaijani government should take into consideration numerous recommendation points: the government should have more political willingness, increase the role of the Parliament, initiate related ethical standards, and simplify and decentralize the public sector in general. These will enhance the chance for the establishment of the argued alternative anti-corruption policy.

### **3.1 Alternative Anti-Corruption Framework**

#### **3.1.1 Structure**

Analysis of internal situation and the level of corruption in various countries, including Hong-Kong, Singapore and Botswana give a room to frame an alternative anti-corruption agency for the case study of Azerbaijan. Even though substantial part of the alternative policy is a combination of related components from the above mentioned cases, there will be various original elements.

As a primary policy, in order to eliminate corruption Azerbaijani government has increased salary for public servants – especially security and judiciary officers. However, there is still less willingness to work value oriented, become promoted and get specific rewards. Unjust and unequal punishment for wrong actions leads to a wider opportunity for the emergence of corruption in the public sector. Under these considerations and other case studies, it is possible to state that the structure of the Agency should be independent. Because, there is a low level of trust to government organs by the people and it requires a need to protect powers and responsibilities of the Agency from external pressure and intervention of higher level officials. The independence will be over the composition of staff, determination of fundraising and spending, and responsibility. This will give a confidence to the Agency to perform its mission and responsibilities in merit, since it will be a fresh start organ with no previous involvement to corruption. Not to mention, the policy should be comprehensive and planned, implemented fast, and based on support of political leadership.

**Staff:** individuals knowledgeable on the government policy-making and implementation mechanism should be the first priority of a selection group to recruit ad-hoc teams. This contract based staff should be highly trained and specialized, recruited on a merit based (not nepotism), compensated more than the government officials on the same rank, and have accountability and responsibility in front of the body, rather than any government organ. In

addition, promotion mostly should be based on the level of experience at the agency, rather than appointed by the Council. Yet, it should be underlined that for the first time it would be possible to have heads of departments on the Executive to be appointed by the Council on the basis of relevant expertise and skills. Hence, the recruitment procedure and human resources will give a room for guaranteeing honesty.

**Budget:** Budget of the Agency should originate from two sources mainly: the state budget and from fundraising. Flow of money from the State budget should be limited to a fixed percentage of the total state revenue on the basis of a fiscal year. This will protect independence and effectiveness of the ACA from the external (and illegal!) interventions. When it comes to fundraising, any actor (including governments) can contribute financially for the budget and it should be based on a non-taxable system. This will show support of the Azerbaijani government to deliver the policy through diversifying its financial sources; which means enhancing the chance of the independent agency to deal with issues in just and fair manners. In addition, with the expropriation of resources from the public officials, who acquired the money illegally, it should be shared between the state and anti-corruption agency budgets. Thus, diversification of sources will give a room for the Agency to perform its task effectively.

**Accountability:** As there is independence of the Agency, link among the bodies and with the government organs should be comprehensive enough. This is a required element so that the ruling party could not have any leverage to hamper the accountability principle. There are two types of accountabilities: external and internal. Internal accountability refers to a form relationship between the Executive and the Council that binds their responsibility; while the external accountability comes on the basis of working with related government bodies over the particular issues. Overall, in order to eliminate discretion on the anti-corruption agency,

the Director of the Council over the strategic issues and the performance should be responsible in front of the Parliament, rather than the President.

### **3.1.2 Body**

The independent anti-corruption body should have three bodies: The Council, the Executive and Public Affairs with separate powers and responsibilities. Overall, the mission should be formulated on the basis of triangle of powers: examination – prevention – education and revealing information. Generally, in comparison with other success case studies, powers should not be limited to financial control of public servants, but also deal with the relevant managerial and institutional design of the public sector.



#### **The Council:**

“Building coalitions” among various actors is an important element, in order to minimize or eliminate potential powerful groups’ power against the anti-corruption issue (Hindess, in Sousa, 2009: p.29). At the same time, it is required for lessening chances for the emergence of corrupt behavior, while increasing the cost that can end with a harsh punishment with no free-riding. This will emerge on the basis of changing checks and balance system, which is moving away from the vertical control to a more horizontal system, “in which [the] power is dispersed, where none has [a] monopoly, and where each has separate accountability”. This is a structure based on a grid system that can respond to and achieve for good governance principles (Hindess, in Sousa, 2009: p.22).

The aim of this organ is to give strategic and vision oriented framework to the Executive over their performance; while not intervening to tactical decisions. This organ should bring prominent policy makers of the society. As an essential feature for equality and justice,



people should be gathered from non-state organizations mainly, with years of experience and expertise on relevant matters. Members should be appointed by the Parliament for two years, with a possible extension for the second time. They should select a Director for the same time frame (two years), who will be responsible to lead strategic decisions of the Body and be accountable in front of the Parliament. When it comes to voting, all members should have an equal voice and decisions should be reached with the approval of 2/3 as part of a general consensus. Head of the Executive should also serve in the meetings of the Council in order to minimize information asymmetry, but should not have a voting right.



### **The Executive:**

On the basis of a legal framework of this organ, access to information and documents of the public sector should be provided. It is important in order to analyze the status-quo while there is violation of principles.

The Executive should have a Director for reporting to the Parliament on specific periods and upon request. These will ensure the accountability to the legislative organ. As mentioned above, the Director will be taking part at the meetings of the Council.

### **Powers:**

The success of this organ will be depended on the independence and collaboration with related government branches, especially judiciary, in order to punish the guilty. Independence over tactical decisions is an important feature for having an access for public documents and offices without informing beforehand. Thus, the powers and responsibilities should be precisely identified in order to have clearly divided functions with other organs.

- **Investigation and monitoring:** The Executive should be the only body to have the right over investigation. Firstly, this should include on the basis of criminal cases - related to violation of anti-corruption principles. In addition, practical loopholes and mechanism of the public sector should also be monitored by the Executive body, rather than giving this function to government organs. Required information can be gathered from the web-page or physically from the related offices. Herein, access to required documents is an important factor. Examining a procedure includes collection, analyzing and summarizing data and the mechanism. This is close to the research function that should indicate benchmarks and parameters over the areas of investigation. Even more, operations can be covert without an in advance notification as well.
- **Preventive and preemptive:** In order to be effective in the long-run, there should be analysis of origins and seeds of the corrupt actions that violates the law of the public sector management. This is part of the fact finding process that is aimed to overcome possible risks. In order to overcome mismanagement of the civil servants, the system of cost and benefit or reward and punishment mechanism should be implemented. Thus, it will create a counter attack.
- **Cases:** whatever issue that violates the anti-corruption principles, it should be given to the jurisdiction of the Agency. In case of a severe breach, the Agency should have the right to cooperate with the relevant judiciary organs in order to punish seriously, which can be imprisonment or large sum of financial penalty. This would increase the cost of taking the risk for being involved to corruption.
- **Seize passports:** The Executive should have the right to seize passport while the investigation will be going on. It is a crucial feature in order to make sure that before the trial the violator will be inside the jurisdiction of the government. This will increase power and responsibility of the independent ACA to deal with issues effectively.

- **Freeze assets:** In case of strong violation of the anti-corruption principles and relevant criminal law sections, with the decision of the Judiciary organ of the State, the ACA can freeze expropriated assets of the public official, which used to belong for the public office or citizens. This is usually applied where there is mismanagement of public fund or illegal privatization in the transitional countries.
- **Strengthen existing institutions:** should assist the government to improve existing institutional basis. It is required not only for fighting against corruption, but also preventing, which will emerge with an effective framework towards achieving good governance principles on the public sector.

### **Coordination:**

In order to achieve the target in merit, the Executive organ of the ACA should cooperate with the Ministry of Justice and other Judiciary organs. Serious violation of anti-corruption and criminal laws should even be resulted with imprisonment on the basis of a court decision. However, over the violation of benchmarks, the Agency should preserve the right to punish financially as well. Importantly enough, in order to create higher cost for corrupt actions, the fine must be couple of times more than the expropriated or mismanaged state asset in order to decrease, if not eliminate, the chances for corruption.

### **Public Affairs:**

Since communication is an important part of the policy-making, educating and revealing relevant information should be considered integral parts. This organ should be in charge of spreading information on performance to the public for the best of sustainable reform path and development.

**Powers:**

- **Flow of information:** It should be allowed in order to make sure that people can follow performance of the anti-corruption body in the country. It calls for transparency for popular support. To have quarterly and yearly publication would be a positive side of the work done.
- **Education:** Public Affairs should mobilize people to have an understanding on the negative sides of corruption. This grassroots campaign of education and enlightenment policy should start from schools and universities, by developing textbooks, rallying lecturers against corruption, implementing visual public advertisements, making public speeches and conducting constant talk shows on TV channels. Enhanced knowledge will bring credibility and legitimacy by the people to the Agency, unlike the government run Commission.
- **Hot-lines to hear and respond for complains:** while there is discrimination of law against any actor by the public sector, Public Affairs should have the right to hear complains through the hot-lines and respond accordingly (with the assistance of the Executive body) within 24 hours. This will be useful to examine the process of a related public organ effectively. Also, it will create cross-organ collaboration in order to meet the target in merit.
- **Consulting to non-governmental organs:** on the basis of a required information and mechanism, the organ upon request should reserve the right and responsibility for responding and consulting for concerns of non-state actors, ranging from individuals to business groups. This will help to decrease potential corrupt actions and build predictable public sector. Deadline for the response should be within 48 hours.

**Cooperation:**

- **Media:** it is necessary to make sure that relatively independent media will be interested to become a partner to the ACA work. This is required in order to widely spread

performance on the anti-corruption policy and involve the media for the grass-roots campaigning on the appropriate platforms. This starts with the institutional development, so that the rights of the media specifically on this issue would be protected by the judiciary organs. In addition, the government should understand the anti-corruption issue as a value driven policy to achieve the good governance principles in the public sector by protecting the rights of media to cooperate with the Agency.

### **3.2 Implementation**

This part will give recommendation for the higher level executive organ of Azerbaijan in order to establish appropriate ACA for the best of mitigating the level of corruption in the public sector.

- **Political Willingness:** it is an integral part of the policy making cycle in order to have sustainability and successful reform path. The ruling party should have a strong understanding on this issue and pass related acts from the Legislative organ for building formal institutions that would support independence of the Agency. This understanding will only be materialized when higher level civil servants would not be positively discriminated, so that the illness from inside could not be found. In addition, it can be achieved while the government will understand benefits of anti-corruption over the cost. This would bring a positive spillover to increase trust and reputation in front of people. Otherwise, with the absence of political willingness and power, the agency will lead to clash of interests among various strong groups and become incapable to meet its mission.
- **The role of the Parliament:** It does not only mean creation of checks and balance or removal of domination of the executive organ over both decision-making and implementation, but rather widening the area of involvement of the Parliament – including the anti-corruption issue as well. There should be establishment of Parliamentary ad-hoc

group to watch this issue carefully and brief to deputies, since it is the only organ that represents various local groups and individuals with diverse voice. In this manner, diversification of the voice in the centralized presidential system would only bring a positive impact to accelerate elimination of corruption in the public sector.

- **Simplify and decentralize:** The best public sector and government is understood to be the limited one. This limitation refers to performing limited actions which is enforcement of contracts signed with private agents for providing the public services. As a target point it will enhance the role of a government in a society for more effectiveness and efficiency. Decentralization and privatization are also part of the simplification of the public sector. Thus, achieving good governance goes hand-in-hand with the appropriate and effective anti-corruption policy.
- **Ethics matter:** the government should bear in mind establishing a whistle-blowing mechanism in the public sector in order to drive the Agency value oriented, protect the rights of civil servants and integrity of the work. The ethical standards should be for harmonized team work spirit on the basis of consolidated formal institutions, rather than looking for personal interests or engaging to abuse of power.

It is expected that combination of the above mentioned recommendations will give further impetus for the establishment of the alternative ACA in Azerbaijan. The current Commission's role should be limited to formulation of national strategy and drafting laws on anti-corruption issue in order to detect potential corrupt behavior of public servants. Under these considerations there would be no clash of interest between the independent and the government agencies, but rather institutional support from the latter for the previous.

## Conclusion

Corruption has been indicated to be the disastrous element for the public sector management. In post-Soviet transitional countries, with an emphasis to the case study of Azerbaijan, it goes against the principles of good governance and brings a challenge to have sustainable reforms. Control of corruption is one of the important issues for both international actors and the national governments in order to halt the evil and initiate predictable future.

Theoretically, the thesis found out that culture does not play any role to shape the role and orientation of formal institutions. It has been considered that there are various challenges that originate from the structure of the public sector. Herein, the concern is that the current system is malfunctioning for delivery of public services in effective and efficient manners. On the basis of the design, existence of monopoly and abuse of discretion of civil servants with the absence of accountability just make emergence of corruption inevitable in Azerbaijan. Thus, the size of a government also matters.

With the inherited institutions, policies towards the market economy would only be functional with a shift towards the limited government understanding. It has been stated that government's limited performance would initiate appropriate outcome on the basis of enforcement of contracts. This is required in order to decrease the transaction cost and lessen corruption in the public sector management.

On the basis of the narrowed research question, "which anti-corruption policy and agency would be the best suit for the case study of Azerbaijan", the thesis claims that current anti-corruption policy is not effective and successful. The argument has been elaborated with the reports of the international organizations, including the WB and the Transparency International that equalize the consequence of the recent efforts with the

2004 when the National Anti-Corruption Commission was initiated. Over the anti-corruption policy and the agency, the literature claims that government run agencies are not as effective as the independent agencies to halt the burden. Because, independent agencies possess specific powers and responsibility that are separate from the government organs. This gives a chance to apply functions without external intervention of government officials, thus, perform the tasks in merit. The outcome, without a doubt, will increase legitimacy of the government. By indicating the internal dynamics, for the case study of Azerbaijan it is extremely important to have an independent ACA rather than the current government run organ.

Additional extensive comparison was made with Georgia. The reason for choosing Georgia was the existence of similar standards with Azerbaijan over the public sector management. However, willingness, desire and value-driven work of the current post-revolutionary government showed that the work become more successful in comparison with Azerbaijan. The time frame and the status-quo show that there should be willingness and understanding from the higher level organs to tackle the issue. Existence of Soviet-old veterans on the higher level bureaucracy of Azerbaijan do not bring any positive outcome and this should be changed with the new generation of people capable of running the office with the trend and requirements of the 21<sup>st</sup> century.

The importance of willingness for the Azerbaijani government has been elaborated from various angles. If oppositional political party members mention corrupt actions as a required element and a driving machine for a national policy making procedure, government officials indicate two-ways of violation of rules, since people are selfish and seek to maximize profit whatever the way is going to be. In addition, the current institutional framework has serious obstacles, including over its status, composition and



the decision making procedure. Under these considerations, it creates a malfunctioning system and puts into danger the entire public sector.

By analyzing the status-quo and the current anti-corruption work, the implication would bear in mind the ways for overcoming the burden on the public sector management. It has been indicated that while there is an absence of political support to eliminate corruption with the government run agency, to establish an independent agency is the only possible way. This independent organ, with underlined special powers and responsibilities, should be backed by the institutional basis, so that intervention by the government could be minimized or completely kept aside. They reveal the chance for examining the procedure, preventing the wrongdoings of the public servants and educating the public via disclosing information related to its performance. It can only be achieved if the staff for ad-hoc teams will be recruited in merit; budget diversified between the State budget and independent donation from various actors; relationship among the bodies and with the related government offices should be comprehensive enough, in order not to experience overlapping.

In addition, as with the triangle of performance (examine – prevent – educate), the policy indicated that there should be division of responsibilities among the bodies of the agency. The Agency can be divided into three bodies: The Council, responsible for strategic issues; the Executive, dealing with tactical matters; and the Public Affairs, in charge of awareness building and education. Herein, there will be reflection of performance over the organs of the Agency.

The author claims that it is not straightforward to have this policy. A number of recommendations should be a roadmap in order to initiate the policy. The need for

political willingness, increasing power of the Parliament, simplification and decentralization of the public sector and establishment of new ethical standards are among the important ones.

Taken as a whole, corruption does not bring any positive outcome (with an exception of top level corrupt bureaucrats), but rather goes against the modernization procedure. The fight against corruption should be in various levels; from individuals to the state organs, including the sector of the economy, even though the last stage to take and implement a decision is the government. This thesis should be a chance for the government to re-take into consideration the current anti-corruption policy and come up with alternative ways in order to bring just and effective public sector. Establishment of the independent anti-corruption agency is one of the appropriate ways that has been indicated.

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