Anticorruption Agencies in Democracies

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Abstract

Anticorruption Agencies in Democracies

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This dissertation explains how governments can take meaningful (and less meaningful) steps to fight corruption when they face intense domestic pressure to clean up their act. Lawmakers create anticorruption agencies - specialized bodies of a permanent nature with comprehensive national jurisdiction and tasked with combating and/or preventing corruption. These agencies typically combine prevention, public outreach and awareness raising, policy coordination, investigation and prosecution efforts. In some cases, rulers hope to fool constituents and engage in window-dressing by setting up the newly created body for failure; they equip it with weak powers, effectively hindering its ability to actually combat corruption. However, faced with pressure from international non-governmental organizations or international bodies that exercise political and economic leverage, governments can be urged or coerced to give formal punitive powers to

anticorruption bodies, and allow them to fully operate and fulfill their stated mandate. The proliferation and empowerment of anticorruption agencies around the world in the last decades thus constitute a testament to complex pressures from domestic and international factors; this dissertation considers both levels seriously to focus on three analytic dimensions of anticorruption agencies around the world: the timing of their establishment, their institutional power and their empowerment.

TABLE OF CONTENTS

List of Figures iii

List of Tables iv

Chapter 1. Introduction 1

Chapter 2. Anticorruption Agencies in Democracies: A Demand-side Theory 7

2.1 Introduction 7

2.2 Anticorruption Agencies 9

2.3 A Demand-Side Theory 12

2.4 Case Study: Australia and the Establishment of the Integrity Commission 22

2.5 Data and Model 25

2.6 Results 31

2.7 Conclusion 34

Chapter 3. Transnational Advocacy and the Diffusion of Good Governance Norms 37

3.1 Introduction 37

3.2 Institutional Power of Agencies 39

3.3 Theory 45

3.4 Illustrative Case: Transparency International 52

3.5 Data and Model 55

3.6 Results 62

3.7 Conclusion 65

Chapter 4. External Pressure and Anticorruption Agency Empowerment 67

4.1 Introduction 67

4.2 Delegation, Independence and Power 69

4.3 Data and Methodology 73

4.4 External Pressure and the Empowerment of the DNA 75

4.4.1 Pre-Accession Period: the NAPO and the DNA (2002-2006) 76

4.4.2 Post-Accession (2007-2015) 84

4.4.3 Discussion 90

4.5 Conclusion 93

Chapter 5. Conclusion 96

Bibliography 103

LIST OF FIGURES

Figure 1. New anticorruption agencies established by year (1987-2016)..... 11
Figure 2. Number of ministers and former ministers indicted (2002-2017)..... 74
Figure 3. Number of ministers indicted and convicted per year (2006-2017)..... 88

LIST OF TABLES

Table 1. Results of Event-History Model of Anticorruption Agencies Establishment 34
Table 2. Summary of agencies with investigative and prosecutorial powers 56
Table 3. Results of OLS regression (lagged one year) 64

DEDICATION

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Chapter 1. INTRODUCTION

Corruption, the use of public office for private gain (Nye 1967), is a scourge for any society. It undermines the effectiveness of governmental policy, the faith in the rule of law, and broadly signals that the government remains a bandit, stationary or not. Despite this, lawmakers can turn a blind eye on corruption, that is, until they find that the political costs of doing so are overwhelming. Corruption, when brought to the attention of the population, can stir public discontent and even lead to large-scale public protests, which often spell trouble for the political elite. After all, the Arab Spring was sparked when in Sidi Bouzid, Tunisia, a 26-year-old fruit vendor, Mohamed Bouazizi, immolated himself in front of a governmental building in a protest after being continually burdened by police harassment and corruption. Subsequent riots, insurgencies and uprisings led to the toppling of a number of regimes in the region and has provided a cautionary tale for lawmakers that ignore demands of the public to commit to good governance.

This dissertation explains how governments can take meaningful (and less meaningful) steps to fight corruption when they face intense domestic pressure to clean up their act. Lawmakers create anticorruption agencies - specialized bodies of a permanent nature with comprehensive national jurisdiction, established domestically, and tasked with combating and/or preventing corruption. These agencies typically combine prevention, public outreach and awareness raising, policy coordination, investigation and prosecution efforts. In some cases, rulers hope to fool constituents and engage in window-dressing by setting up the newly created body for failure; they equip it with weak powers, effectively hindering its ability to actually combat corruption. However, faced with pressure from international non-governmental organizations (INGOs) or

international bodies that exercise political and economic leverage, despite a general reluctance, governments can be urged or coerced to give formal punitive powers to anticorruption bodies, and allow them to fully operate and fulfill their stated mandate. The proliferation and empowerment of anticorruption agencies around the world in the last decades thus constitute a testament to complex pressures from domestic and international factors; this dissertation considers both levels seriously to focus on three analytic dimensions of anticorruption agencies around the world: the timing of their establishment, their institutional power and their empowerment.

Undergirding the popularity and the belief that anticorruption agencies make for an effective solution to endemic corruption is the rise of the good governance norm, which came into vogue in the 1990s. It became the mantra of intergovernmental and international organizations such as the World Bank, the International Monetary Fund (IMF), the Organisation for Economic Co-operation and Development (OECD) and the European Union (EU) that were involved in international development and aid (Grindle 2004), to link assistance with far-reaching reforms to improve governance (Doig 1995) as they were suddenly concerned with issues such as political accountability and stability, rule of law, public transparency, corruption, and human rights (Weiss 2000). In parallel, a large transnational advocacy community took root to further the cause of good governance across countries. Further, while matters of fraud, embezzlement and kickbacks perpetrated by public officials used to be a concern of the domestic domain, economic interdependence caused corruption to cross national boundaries, moving it way up on the global agenda. The good governance paradigm, with the anticorruption movement in tow, has since become a crucial component of the international agenda (Grindle 2007).

The spread of anticorruption agencies around the world, despite being dictated by domestic pressures, reflect an instance of implementation of the international good governance norm at the ground level. Anticorruption bodies, in their capacity as guardians of good governance, matter as they translate and implement the international norm of good governance to drive changes at the domestic level. In best-case scenarios, they can be meaningful and effective advocates for greater political accountability and transparency, raising awareness on how power should be exercised, and punishing wrongdoers. As an intrinsic part of the good governance norm, they have become a common fixture in the institutional makeup of the administrative state in established democracies as well as in transitioning democracies: for this and other theoretical reasons, they deserve our attention.

Thesis roadmap

To the best of my knowledge, this dissertation is the first comprehensive and cross-national research project on anticorruption agencies in democracies. By drawing on multiple theoretical perspectives, examining factors in the domestic and international environment, and using quantitative and qualitative analysis and original data collection, this dissertation is a study of three dimensions of anticorruption agencies: the timing of their creation, their institutional power, and their empowerment.

In the first paper, I explore the determinants that explain the timing of the establishment of an anticorruption agency at the national level. Sixty new anticorruption were established in democracies in the span of three decades. What explains this wide variation across cases? Using an event-history approach, I model the timing of the establishment of an anticorruption agency across democracies (n=91) in the period from 1987 to 2016. I develop a demand-side argument to account for the establishment of anticorruption agencies in democracies. I suggest that because

corruption allegations – whether unfounded or not – can threaten their political survival, lawmakers set up an agency when the perceived level of corruption is high, as they are pressured by constituents and stakeholders to signal their commitment to combat corruption. The presence of a local press that is enabled to investigate, uncover and broadcast government malfeasance in addition to educating the public on good governance, also encourages the emergence of such specialized bodies. In sum, by creating an anticorruption agency, incumbents seek to demonstrate their resolve to address the issue by signaling their commitment to ensuring political accountability to constituents.

In the second paper, the story is further complexified as I move on to explain the institutional power of an anticorruption agency. A quick survey of the universe of anticorruption agencies reveals a surprising high variance in their institutional power. Why do policymakers sometimes engage in substantive politics and establish anticorruption agencies with wide law enforcement powers, while others engage in symbolic politics and establish toothless agencies? I find that the likelihood that politicians will put forth agencies with formal powers to investigate and prosecute corruption will depend on the vibrancy of the transnational advocacy community at the domestic level. This paper thus engages a large scholarship on the transformative impact of transnational advocacy on domestic politics. Building on this scholarship, I propose another issue area in which INGOs can have a significant impact on domestic politics, and more specifically, on domestic policy design. I find that a high number of INGOs at the domestic level can lead to a greater integration of good governance norms on the ground. This in turn increases the likelihood for lawmakers to commit to substantive politics and equip a national anticorruption agency with punitive law enforcement powers. The diffusion of the good governance norm from the international to the domestic realm occurs through information exchanges from the international

to the domestic realms, and the building of coalitions across key actors. The success of this transfer is manifested by policymakers committing to substantive politics to create institutionally strong anticorruption agencies endowed with law enforcement powers, as opposed to having them merely engaging in symbolic politics.

In the third paper, I explain the circumstances that are conducive to the empowerment of an anticorruption agency, allowing it to effectively fight and punish corrupt officials in a transitioning democracy context. I present an in-depth longitudinal case study of Romania, a transitional economy. In the absence of political will to actually prevent corruption and punish wrongdoers, international pressures can once again have a positive effect on good governance. I argue that sustained external pressure from stakeholders such as the EU lead Romanian domestic lawmakers to commit to a reinforced anticorruption framework and allow an anticorruption agency to fulfill its mandate despite reluctance. This process, however, is characterized by ebbs and flows. Using a diachronic comparative analysis of Romania's anticorruption agency pre-EU accession and post-accession from 2002 to 2015, I first explain that formal powers are a necessary but non-sufficient condition to explain agency empowerment. Tracking the formal recommendations of the EU and how Romanian officials are following up on then, I then demonstrate that continued pressure from EU officials allowed for the empowerment of the National Anticorruption Directorate (Direcţia Naţională Anticorupţie (DNA). Through close monitoring, EU official coerced Romanian lawmakers into committing to judicial reforms and the implementation of anticorruption control in exchange for EU membership. Although the nomination of certain individuals in key positions helped consolidate the power of the agency, one can wonder if these nominations would have occurred without the good governance reforms dictated by the EU; there is reason to believe that an internally strong but isolated DNA would

not have succeeded without the judicial structures reforms that occurred under the guidance of the EU.

In sum, this dissertation engages with both comparative politics and international relations scholarship. It asks fundamental questions about the emergence, design and effectiveness of a domestic institutional body that can constrain domestic elites from exploiting public resources for private gain. In the spirit of second image reversed, it shows that domestic politics is quite susceptible to international influences, at least when it comes to designing institutions. Yet, external influences do not tell the full story: domestic politics continues to be influenced by domestic political factors such as press freedom. This dissertation also points to the important role international and regional bodies can play in diffusing good governance norms. In recent years, international bodies have come under a lot of criticism for their democratic deficits. While this is true, one reason why such bodies are so powerful is that they can compel governments to adopt policies, sometimes even against their will. Hence, this dissertation makes a case that international bodies should be evaluated on both their functional and normative contributions, not necessarily in terms of whether they are able to bend to the popular will.

Finally, this dissertation will hopefully encourage a stronger dialogue between rational choice and constructivist scholars because it shows that both norms and instrumental political concerns shape the behavior of political actors. It also suggests that both these mechanisms function in complex ways even in the context of a given issue area. Thus, this is a bridge building dissertation: it seeks to build the bridge between international relations and comparative politics, as well as between rational choice and constructivism.

Chapter 2. ANTICORRUPTION AGENCIES IN DEMOCRACIES: A DEMAND-SIDE THEORY

2.1 INTRODUCTION

Although corruption–broadly defined as the abuse of public office for private gain (Nye 1967)–is hardly a new phenomenon, the movement for a globalized fight against it emerged at the turn of the 1990s. States all over the globe underwent, to varying degrees, a makeover of their legal and governance apparatus to improve the integrity of their public administration. Most notably, we witnessed the emergence of a new public integrity watchdog: the anticorruption agency. The global spread of this innovative governance structure punctuated the last past few decades in both developing and developed countries, and at the national and subnational levels: notable examples include the French Anticorruption Agency (formerly known as the Central Service for the Prevention of Corruption), the DNA in Romania, the Directorate of Special Operations in South Africa, and sub-national units such as the Permanent Anticorruption Unit in Québec, Canada and the Independent Commission Against Corruption in New South Wales, Australia.

Why do elected officials establish an anti-corruption agency, that is, a specialized body of a permanent and independent nature, with a specific mission to fight corruption through an amalgam of prevention, public outreach and awareness raising, policy coordination, investigation and or prosecution efforts? Why would they create a permanent quasi-judicial organization that can potentially bring more scrutiny to their affairs? In the last three decades, no less than sixty agencies were created in democratic countries. While the spread of good governance values can account for the popularity of anticorruption agencies, such explanation is underspecified given the important variation in terms of the timing of agency establishment at the domestic level.

International norms may have put these specialized agencies on the policy agenda, filling a gap in the institutional arsenal of the fight against corruption. However, the mechanism that leads to the constitutional moment of anticorruption agencies unmistakably occurs at the domestic level.

This paper develops a demand-side argument to account for the establishment of anticorruption agencies in democracies. Lawmakers set up an agency when they perceive pressure from constituents and stakeholders to signal their commitment to the fight against corruption domestically. In democracies, lawmakers have incentives to put forth policies that reflect the preferences of their constituents. Perceptions of corruption implies skepticism towards political leaders and lower trust in democratic institutions dwindles. Consequently, incumbents worry that they'll lose the voters' support they need to remain in power. When public perceives corruption levels to be low, it allows political leaders to devote resources to other issues on their agenda. When corruption is perceived to be high, the public typically demands incumbents to demonstrate their resolve to fight corruption. In response, lawmakers choose to set up an anticorruption agency to signal to constituents that they are willing to clean up their act. They choose to establish a brand-new agency because it makes for a stronger signal to their commitment to the fight against corruption to their constituents, as proposing solutions that are associated with existing institutions can seem unsatisfactory to the general population. The novelty of the agency bestows the endeavor a sense of legitimacy that existing law enforcement and judicial structures and institutions are unable to provide. Moreover, the creation of an anticorruption agency is more likely in the presence of a vibrant press to insure greater information flows by investigating, uncovering and broadcasting government malfeasance.

This paper makes the following contribution. This is the first comprehensive study on the political origins of anticorruption agencies in democracies. With more than a hundred units

worldwide and a plethora of unique configurations, the literature on this type of governmental watchdogs has been fragmented and driven by case studies and small-n comparisons. While knowledge on individual specialized bodies has significantly grown, there still lacks a unified and parsimonious theory that highlights the conditions under which politicians are willing to adopt this specific type of potentially self-restraining policy. This study seeks to fill this gap by approaching the problem empirically and systematically; instead of focusing on their differences and idiosyncrasies, it focuses on what they have in common – which is arguably a lot – and the conditions that lead to their inception by emphasizing the role of domestic politics. Further, as more of these agencies are created and evolve to become a permanent fixture in the institutional landscape of the modern state at the national and subnational levels, more attention must be devoted to their origins in order to understand whether and how they effectively have the ability to constrain politicians to walk the line.

The chapter is organized as follows. Section 2 reviews the context that enabled the rise of anticorruption agencies in democracies. Section 3 develops a demand-side theory to account for the emergence and timing of the establishment of agencies at the domestic level, followed by a case study of Australia in the fourth section. Next, I detail data collection process and methodology. Using an event-history approach, I model the timing of the establishment of an anticorruption agency across democracies (n=91) in the period from 1987 to 2016 using a new dataset, controlling for both international and domestic variables. The chapter concludes with a discussion of the results.

2.2 Anticorruption Agencies

The earliest anti-corruption bodies were put into place after World War II in newly independent democracies (de Sousa 2010) where existing judicial and law enforcement institutions were

deemed too weak or themselves too untrustworthy to tackle the integrity problems that plagued public governance. Singapore's Corrupt Practices Investigation Bureau (CPIB) and Hong Kong's Independent Commission Against Corruption (ICAC) – respectively created in 1952 and 1974 – were established in transitioning regimes with weak rule of law. Both considered successful by the population and experts alike, they provided the paradigm for years to come. Thanks to wide investigative and prosecutorial powers, both agencies were able to tackle the widespread corruption that plagued their respective city-state. In recent decades, this institutional innovation has become a common fixture of domestic in mature democracies as well: out of the 34 OECD countries, at least 20 have established one.

Anticorruption agencies come in many shapes and forms. Unlike other governmental agencies that make up the modern state such as environmental protection or public health agencies, anticorruption agencies constitute hybrids that are difficult to classify. Some of them are purely administrative units, while others are investigative or prosecutorial. However, due to their subject matter – the prevention, enforcement, and punishment of what is legally considered a crime, they are arguably all quasi-judicial. For the purpose of this study, I define an anticorruption agency broadly as a 1) specialized body of a 2) permanent nature with 3) comprehensive national jurisdiction, 4) established domestically, and tasked with combating and/or preventing corruption, through an amalgam of prevention, public outreach and awareness raising, policy coordination, investigation and prosecution efforts.

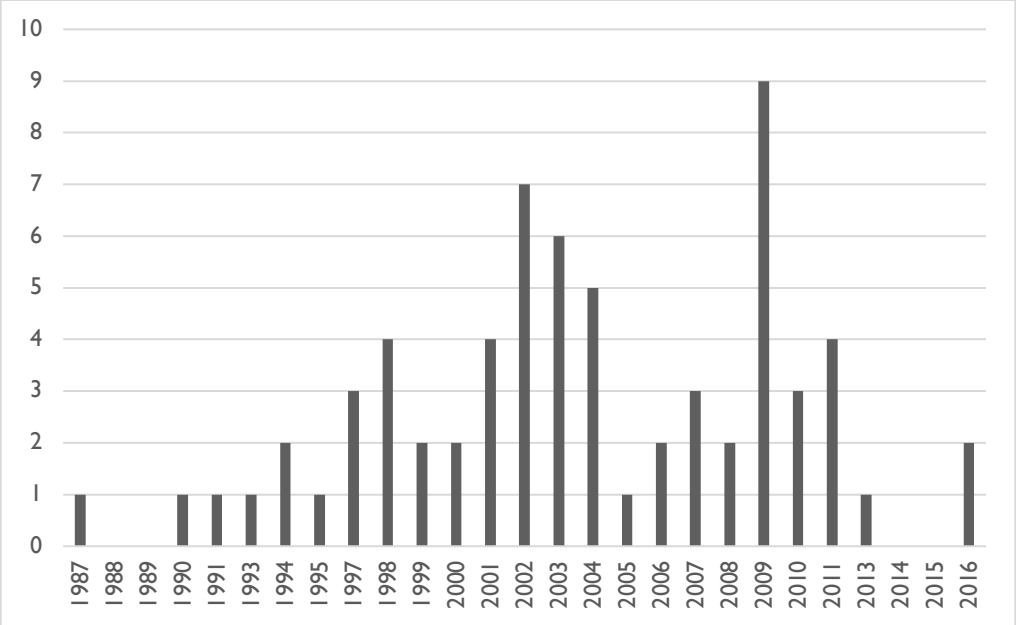

Figure 1. New anticorruption agencies established by year (1987-2016)[1]

The popularity of anticorruption agencies can be partly attributed to the global rise of the anticorruption movement at the turn of the 1990s (McCoy 2001, Charron 2011), which underlies two ideas among others; the redefinition of the issue of corruption, which is no longer understood as being is unavoidable nor desirable as it stunts economic growth and damages democratic institutions (Johnston 2005), and the belief that institutional and legal reforms can effectively address such instances of governance failure (Abbott and Snidal 2002, Bacio-Terracino 2012). Constructivists view the global spread of anticorruption agencies as a reflection of a tacit endorsement of this norm (McCoy 2001, Sandholtz and Gray 2003, Smilov 2010, Rose 2015) as advocated by key international stakeholders such as the OECD, the World Bank, the United Nations, the EU, the Organization of American States, the Council of Europe and the IMF. These international institutions, enthused over the successes of Hong Kong's Independent

[1] Sixty new anticorruption were established in democracies (n=91) during this period. This includes the first anticorruption established by each country only.

Commission Against Corruption and Singapore's Corrupt Practices Investigation Bureau, contributed to the universalization of anticorruption agencies as a model institutional response to the problem of corruption (De Sousa 2010). One by one, states, eager to signal their endorsement and commitment to this set of values of good governance, created these specialized bodies.

There is some evidence that anticorruption agencies were partially forced upon African states and post-socialist states (Sampson 2010), and that instead of being a manifestation of an earnest desire to fight corruption but were merely strategies to attract foreign and domestic funding to generate income, get cheaper loans and better credit ratings (Sampson 2010). For Eastern European states in particular, the creation of anticorruption agencies can be understood as a direct result of the EU accession process (Börzel et al. 2010, Moroff and Schmidt-Pfister 2010, Batory 2013). They also have the favor of influential nongovernmental organizations (NGOs). TI, perhaps the leading NGO leading the fight against corruption, still pushes for these units as a solution to stronger oversight and more efficient enforcement mechanisms for misbehaving officials and bureaucrats. In 2015, the organization launched the Anti-Corruption Agencies Strengthening Initiative, which aims to strengthen the effectiveness of these governmental bodies, suggesting that they are "indispensable partners in the fight against corruption" that play "a pivotal role in enforcement, prevention and investigation of corruption"[2].

2.3 A Demand-Side Theory

These varying explanations only get us so far in understanding when and under what conditions these agencies are adopted. Instead, I present a demand-side theory: democracies set up an anticorruption agency when a demand for it is created; the call for a specialized body arises and

[2] https://www.transparency.org/whatwedo/activity/anti_corruption_agency_strengthening_initiative

is added to the political agenda when corruption is perceived by constituents to be high. Incumbents, eager to assuage the population and signal a commitment to combat governance failure, see the ideal solution in the novelty of anticorruption agencies. Further, in a context where there is a vibrant press to broadcast and spread the scandals, as well as educate the public, the establishment of an anticorruption agency is even more likely.

In well-functioning democracies, the relationship between the electorate and the elected implies rights and duties on either side. In exchange for the support of voters, incumbents are supposed to carry out policies that reflect the preferences of their constituents. Constituents, who expect accountability and transparency from their elected representatives, require them to act in the public's interests and shy away from immoral conduct. Voters would rather they not undertake illegal activities: officials are not to pursue illegitimate private gain by engaging in corrupt dealings, embezzle money, participate in bid rigging in public procurement, or trade in influence, among other things.

Although throughout history there have been occurrences of corrupt individuals maintaining popular support and a host of rational explanations as to why such situations arise and persist (Kurer 2002, Manzetti and Wilson 2007, among others), voters prefer an honest government over one that is corrupt, *ceteris paribus*. In recent memory, citizens have repeatedly and forcefully taken a stance against public corruption in large-scale demonstrations. In 2011, a series of protests were organized across India as a response to numerous allegations of political corruption such as the Adarsh Housing Society and the 2G spectrum scandals. In 2016 and 2017, hundreds of thousands of South Koreans descended in the streets after it was revealed that President Park Geun-Hye had used her influence to extort billions of dollars from chaebols. A few months earlier, a similar situation occurred in Brazil, where large-scale protests took place to denounce

the bribes that Dilma Rousseff allegedly accepted from energy company Petrobas. That said, while these protests captured our attention, such dramatic displays are not necessarily essential to incite lawmakers to act.

In democratic regimes as opposed to autocratic ones, there are pitfalls and sanctions at the ballot box and beyond that await politicians that engage in disreputable activities. There exists a large literature on how public sentiment on the ethical qualities of elected officials matters, as corruption corrodes public trust in government, which in turn has negative effects on political leaders' ability to push forward their agenda due to legitimacy deficits (Anderson and Tverdova 2003; Hetherington 1998; Chanley, Rudolph and Rahn 2000, among others). Corruption allegations, let alone indictments, can derail a political career – even in the case of exoneration – and lead to more intense scrutiny from law enforcement agencies and stakeholders such as civil society and the press, generally contributing to a political environment in which it is more difficult for incumbents to succeed. Regardless of the veracity of allegations, politicians have every incentive to prove and demonstrate their integrity, and forcefully take a stance against corruption. In more extreme cases, they can result in the toppling of a regime.

Faced with calls to enhance the monitoring and oversight of public institutions, the creation of an anticorruption body provides a beneficial avenue for politicians who seek to signal (Spence 1973, Connelly et al. 2010) their commitment to clean up governance structures. With a mounting demand to crack down on corruption, lawmakers can center their anticorruption efforts using existing institutions to solve the problem or create a brand-new body; the point being that resorting to existing institutions exclusively is often not sufficient. As part of an escalation, or a larger anticorruption framework, actors opt to establish a brand-new agency to because it makes for a strong, and convincing signal to their commitment to fighting corruption to their

constituents.

The issue with existing structures such as law enforcement institutions is that they often lack the legitimacy and credibility to convincingly address public concerns about corruption and restore faith in incumbents and democratic institutions' integrity for several reasons. First, they could be part of the problem; corruption allegations can expose the inherent weaknesses of existing structures that facilitated malfeasance. In extreme cases like Romania, the judiciary was known to be co-opted by political power as it routinely accepted bribes to turn a blind eye on political misconduct (Anderson et al. 2001). Any solution to crack down on corruption that focuses on an already tarnished institution will be discounted or seen as insufficient by the population. Second, existing institutions can be perceived to be part of the problem by a simple matter of association, even if they are found not to be at fault in reality. High levels of perceived corruption suggest that the existing system is not working. After all, if the existing institutional arrangement is sufficient, why is it not successful in preventing, detecting, and punishing corrupt acts in the first place? Third, proposing new, more stringent regulations that utilizes existing institutions might work realistically to curb corruption, but by themselves they can seem futile in the public's eye as they will be enforced by not only the same individuals, but also the same structures. Fourth, constituents might have a hard time grappling with the intricacies of new legislations and policies that are far-removed from their reality. For instance, the average person might not fully grasp the value of a proposed legislation that would provide or enhance legal protections or immunity to whistleblowers, or tighter controls for the public procurement bidding process, and how such measures can help take down corrupt politicians. They all lack the symbolic ability to signal a break from the past. In sum, proposing solutions that are associated with existing institutions can result in an ineffective signal to the general population.

For these reasons, governments face incentives to set up a new body that will allow them to demonstrate their resolve to fight corruption and repair the broken system to regain the public's trust. Lawmakers create a new independent and permanent agency as it sends a stronger signal of their intention to fight corruption. High levels of perceived corruption threaten the integrity of democratic institutions and heightens cynicism in the general public towards politicians in general, magnifying the incentives to resort to a grand gesture to qualm unrest. For lawmakers, the issue is not so much to come up with an anticorruption initiative that will reform the system and eradicate corruption, but to find a palatable solution that will stimulate support and restore their tarnished reputation. In establishing a new agency, lawmakers signal their resolve to fight corruption in a clear manner. A new anticorruption agency, inaugurated with great pump, indicate a break from the past. Ultimately, it is a matter of form over substance; let us not underestimate the benefits of a ribbon-cutting ceremony.

Moreover, a newly minted anticorruption agency may give the impression of starting with a clean slate, and signal to constituents that existing biases and problems will not plague the new institution. In Europe, scandals involving food and environmental safety led to the creation of independent agencies as trust in existing institutions and governments suffered. The British government, which was under fire after a number of outbreaks and deaths directly linked to foodborne illnesses were highly publicized, created the Food Standards Agency in 2001 to assure to the public that they were committed to dealing with the issue (Thatcher 2002). Of course, anticorruption agencies are only new to the extent that they constitute an instance of institutional creation; in reality, they do not operate in a vacuum. Although they might give the illusion of providing a clean slate to anticorruption efforts, in reality their operations require the collaboration of, and coordination between existing governmental agencies and state structures.

They are often an integral part in a web of interdependent relationships with existing governing and law enforcement bodies.

Parallels can be drawn between this proposed theory, and Jupille's, Snidal's, and Mattli's proposed framework for the study of international institutional outcomes (2013); although the framework was developed with international cooperation problems in mind, it can be transposed to the domestic level to better understand the context that favors the creation of governmental agencies such as anticorruption agencies. The authors highlight the boundedly rational and satisficing nature of actors, and the general reluctance of actors to proceed to institutional creation. According to Jupille et al., in dealing with cooperation problems such as commerce dispute resolution, actors go down a decision tree: they can either use, select, change, or create institutions. Their first option, and the modal institutional choice, is to *use* existing institutions that were initially designed to deal with the problem at hand. If the outcome is below expectations, or if there is no existing arrangement that is mandated to deal with the issue, they choose the next best thing and *select* an alternative institution that can potentially solve the problem. If the outcome is still unsatisfactory, actors will then *change* and reform the institution, so it can be better suited to address the situation. Institutional creation, the last possible outcome, only occurs under the most demanding circumstances. Only very reluctantly will actors choose to create a new institution.

The proposed theory in this chapter instead suggests that lawmakers are not necessarily reluctant to proceed to institutional creation under certain circumstances. The path to institutional creation, furthermore, is perhaps not as linear as the authors suggest. The transposition of the authors' theoretical framework from the international to the domestic arena require a reassessment of one of its central assumptions: that institutional creation is an ambitious and

costly endeavor that yield uncertain outcomes. Although this is true at the international level where states have to address significant cooperation problems, it is not necessarily the case at the domestic level. Also crucial is the issue of intent. As opposed to states who were actively seeking to find a venue to solve commercial disputes or facilitate global trade (Jupille et al. 2013), the true intention of governments that set up a new anticorruption agency is somewhat unclear. Are governments hoping to arrive to the best possible institutional arrangement to effectively fight corruption, or are they simply choosing the strategy that best communicates to their constituents that they are willing to fight it, without necessarily having the intention to actually follow through? Given the rather high probability of organizational death for agencies that succeed in their mandate, and the multiple tactics used by ruling elites to interfere in the work of these bodies, the latter scenario is perhaps more plausible.

The case of Peru, for example, illustrate this line of argument. Towards the end of the 2000, the country was in turmoil. President Alberto Fujimori's reign ended in disgrace, mired by corruption and human rights violations scandals. One of the first initiatives of the Toledo government was to appoint an anti-corruption czar (Alvarez 2018). This failed to satisfy public demand for greater political accountability and contributed to a major drop in the approval ratings, going from 59% to a meager 32% in the span of a few months (Tanaka 2005, Alvarez 2018). The National Anti-Corruption Commission (CNA) was subsequently created later that year by supreme decree. The initiative proved to be an effective signal to the commitment to corruption control. Surveys conducted a few months later showed that 46.1% of surveyed sample knew about the CNA, with almost half of them believing that it would accomplish its mission (Alvarez 2018). Further, a survey conducted prior to the creation of the CNA suggested that

corruption was the second most pressing problem in Peru (Anderson et al. 2001, Alvarez 2018). A little after the creation of the CNA, corruption dropped to the third place.

To be sure, not all anticorruption agencies actually set out to fulfil their stated mandate. Historically, a number of agencies have acted as window-dressing and have done little to curb corruption (Pope and Vogl 2000, Meagher 2005, De Sousa 2010). That said, it remains that the simple fact of creating the agency – despite what occurs in the future – constitutes a strong signal to constituents.

In sum, in democracies, in order to remain in power, incumbents must cultivate public trust in themselves as well as in governing institutions. When corruption is perceived to be high, this suggests that the existing institutions is not working. Incumbents are thus pressured to signal and demonstrate their resolve to fight corruption to constituents by creating a brand-new anticorruption agency. I thus derive the following hypothesis:

Hypothesis 1: Anticorruption agencies are more likely to emerge in democracies where the level of perceived corruption is high.

In addition, the likelihood of the creation of an anticorruption agency should increase in a context where press freedom is high: an active investigative journalism to uncover public officials' malfeasance, and a generally vibrant press to widely broadcast corruption information to the public exacerbates the pressure on incumbents to act on the problem of corruption. Further, the press can play an important role in educating constituents about anticorruption agencies as a viable option to encourage the integrity of public governance.

Previous studies have highlighted the role of press freedom in curbing corruption. In their cross-national analysis of 125 countries, Brunetti and Weder find that press freedom can act as

an effective control on two different types of corruption – extortive and collusive – through two different mechanisms (2003). According to those authors, for taxpayers who are victim of extortion in the hands of bureaucrats, the independent press provides an additional path for them to channel their grievances at a low cost, as opposed to bringing their complaint to a higher official or to the judiciary. The press can also act to limit collusive corruption – illicit arrangements that benefit the public official as well as the private agent, as investigative journalists have incentives to uncover this type of wrongdoing to advance their own careers. Similarly, Chowdury finds that both democracy and press freedom can both curb corruption (2003).

Others have underscored the role of information in punishing politicians or in reducing corruption. In their case study of Brazil, Winters and Weitz-Shapiro test the validity of the information and the tradeoff hypotheses in explaining voters' continued support for politicians that are known to be corrupt (2003). The former argues that voters' vote for corrupt politicians because they lack the necessary information about said politicians' involvement in illicit dealings. The latter argues that voters elect corrupt politicians because they deliver certain public goods that supersede their lack of moral and ethical backbone. They find support for the former. In another case study in the United States, Klašnja arrives to similar conclusions (2017). In their study on the effects of information disclosure about corruption on electoral accountability, Ferraz and Finan find that the public dissemination of audit outcomes that were part of an anticorruption program in Brazil had a significant impact on incumbents' electoral performance, and that these effects were more pronounced in municipalities where local radio was present to divulge the information (2008). Along the same line, Dutta and Roy find that press freedom has a beneficial impact on repressing corruption, and that effect is magnified has media reach increases (2016).

I thus emphasize the role of the free press in increasing the demand for an anticorruption agency. Following Brunetti and Weder and circling back to my first hypothesis, an independent press that is free to probe wrongdoings by politicians is likely to uncover more corruption; the press has every incentive to focus on this type of scandals because they sell, and journalists are eager to make their mark. In a context where press freedom is enshrined, the cost to pursuing this kind of story is lowered as journalists have the resources to engage in investigative journalism and the institutional support to fend themselves against harassment and censorship attempts.

Further, the press plays the important role of ensuring information flows to the public in two different ways; reports of officials siphoning public funds or accepting bribes from donors – stemming from the press's own investigations or from whistleblowers who seek to be heard – will be widely broadcasted and made available to the public, thereby stoking discontent and amplifying the pressure for politicians to commit to the fight against corruption. Second, the press also educates the public about the very existence of anticorruption agencies as a possible solution for increased government oversight. Understandably, common people, even the highly educated, are not necessarily in tune with the spectrum of viable institutional configurations to curb political corruption. By sharing knowledge and opening the discussion about anticorruption agencies to its readership, the press provides a much-needed link between anticorruption policy experts and the public. I thus derive a second hypothesis:

Hypothesis 2: In democracies where press freedom is high, anticorruption agencies are more likely to emerge.

2.4 Case Study: Australia and the Establishment of the Integrity Commission

The case of Australia illustrates this line of argument. In recent years, despite being globally known as one of the least corrupt country in the world, levels of perceived corruption significantly increased, leading to a steep decline in trust in politicians and democratic institutions in Australia. This effectively opened the door to talks about a comprehensive overhaul of the anticorruption institutional framework and the creation of what Australians call a national integrity commission.

Before 2017, the majority of Australian lawmakers resisted the idea of setting up an independent governmental watchdog. Going as far back as 2005, the National Integrity Systems Assessment Final Report by TI and Griffith University strongly recommended a comprehensive independent anticorruption agency with broad powers, which would operate across the Commonwealth. More than ten years later, when the Greens included the proposition on their platform back in 2014, the idea gained little traction (Monaghan 2014). In their interim report of May 2016, the Select Committee on the establishment of a National Integrity Commission, which was established by the Senate, did not unequivocally support or oppose the creation of a commission, instead suggesting that it was "premature to make recommendations". Malcolm Turnbull's successor, Scott Morrison, called the idea a "fringe issue." (Remeikis and Knaus 2018)

Talks however intensified when political leaders realized that voters believed that the majority of politicians were corrupt and that they overwhelmingly supported the idea of creating an anticorruption agency. In the 2017 census of the Australian Public Service Commission, 5 percent of respondents reported that they had witnessed another colleague engaging in corrupt

behavior (Australian Public Service Commission 2017). In a survey conducted by ReachTel on January 12 of 2017, 30.1 percent of respondents thought there was a little corruption in federal politics, and 55.2 percent thought there was a lot. More importantly, 82.3 percent supported the idea of setting up a national independent corruption watchdog. In another poll published more than a year later in August 2018 by Griffith University and TI, it was found that 85 percent believed that most or all members of the Australian parliament were corrupt, with two-thirds supporting the idea of setting up an anticorruption body (Knaus 2018a). Describing the need for Australia to set up an agency, Fiona McLeod, the chair of the Australian chapter of TI, mentioned that "clearly this is what the public want and it is likely to be an election issue." (Knaus 2018b)

In Australia, the press not only gave corruption scandals a lot of coverage, thereby increasing the pressure on politicians; the majority of the biggest newspapers also discussed the viability of the idea of setting up a federal integrity commission as they welcomed the idea. In a series of editorials, the journalists of the *Sydney Morning Herald* called a national agency an "historic chance" and a "fundamental issue" (Editorial Board 2018c). Journalist David Harper from the *Sydney Morning Herald* suggested that "the lack of a federal anti-corruption agency remains a reason why we have never come close to being corruption-free. […] The case for a carefully designed National Integrity Commission is irrefutable." (2018) In an op-ed in *The Age*, the idea of a federal agency "was welcome" (Editorial Board 2018a). *The Australian Financial Review* called the decision not to oppose the establishment of an agency "the correct one" (Smith 2018). Out of all the major newspapers, only *The Australian* was against the idea of a federal independent anticorruption agency (Editorial Board 2018b).

A federal integrity commission provided an easily marketable and popular idea to Australian

policymakers who had put forward a number of anticorruption initiatives that had failed to convince the population of their will to punish dirty politicians. In 2013, the Public Disclosure Scheme Act was passed in an effort to promote the integrity and accountability of the public sector by facilitating investigations of wrongdoing and maladministration and protecting whistleblowers, but to little fanfare. In 2015, as part as the Open Government Partnership (OPG), the Australian government started a public consultation that resulted in a first action plan in 2016 to strengthen its anti-corruption framework. The following year, the Independent Parliamentary Expenses Authority (IPEA) was set up to overseen parliamentarians' expenses. None of these initiatives proved to alleviate the mistrust that had seeped democratic institutions. The action plans resulting from the OPG were not particularly constraining as they did not engage the government in serious anticorruption measures. Moreover, the scope of the IPEA was too narrow to shake up the structures that enabled officials to gain up on the system.

In September 2018, a group of 32 former judges and anticorruption commissioners addressed an open letter (Knaus 2018c) to the Australian prime minister suggesting that a national integrity commission was needed as confidence and trust in government, politicians and public institutions was at an all-time low. This letter was widely distributed in the media and received widespread support from the public. Following this coalition's detailed blueprint for a federal anticorruption agency, a bill was finally introduced. On December 13, 2018, the federal government announced that they were going to set up a federal Integrity Commission, with the mission to detect and investigate corrupt behavior perpetrated by Commonwealth employees.

This case highlights how an increased in the level of perceived corruption by the Australia population forced a government to signal their commitment to cleaning up governance structures by establishing an anticorruption agency.

2.5 Data and Model

I model the timing of the establishment of an anticorruption agency across democracies (n=91) in the period from 1987 to 2016, using a dataset that I constructed. My sample covers all electoral democracies in the world, as defined by Freedom House's *Freedom in the World* 2018 report. The "electoral democracy" designation refers to countries that have met certain minimum standards for electoral process, political rights and civil liberties. These countries scored 7 or better in the Electoral Process subcategory, 20 or better for overall political rights, and 30 or better for civil liberties for year 2018 (Freedom House 2018). The dataset excludes the following microstates: Andorra, Antigua and Barbuda, Bahamas, Belize, Dominica, Grenada, Kiribati, Liechtenstein, Malta, Marshall Islands, Monaco, Nauru, Palau, Samoa, San Marino, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and Grenadine, Tonga, Tuvalu. Are also excluded outlier countries Belgium and Portugal, which have respectively set up their anti-corruption agency prior to the rise of the anticorruption norm, in 1962 and 1983, and Montenegro, which established theirs before their independence in 2006. The end of the 1980s provides a good starting as this is when the shift on the conceptualization of corruption occurred, as aforementioned.

I use an event-history approach that is similar to a Cox proportional hazards model and follow Beck, Katz, and Tucker's (1998) and Berliner's (2014) approach and use a logistic-regression model that includes duration-dependent dummy variables for every possible number of years a country can be ''at risk'' of passage in order to capture the changing baseline hazard.

Dependent variable

The dependent variable is a dichotomous indicator for the year of establishment of a country's anti-corruption agency. During this period, 60 countries established an agency for the first time.

The years following the creation of the agency are omitted; once a country establishes an agency, it leaves the dataset[3]. I collected and systematically triangulated this data from several sources: the OECD's Working Group on Bribery in International Business Transactions country monitoring reports; "Tools and Resources for Anti-Corruption Knowledge" (TRACK)'s legal library, a platform developed by the United Nations Office on Drugs and Crime (UNODC) as part of their Convention against Corruption; the European Commission's anti-corruption country reports; the Council of Europe's Group of States against Corruption (GRECO) evaluation and compliance reports; the Follow-Up Mechanism for the Implementation of the Inter-American Convention against Corruption (MESICIC) country reports; and the U4 Anti-Corruption Resource Centre country reports.

I define an anticorruption agency using four key features: a 1) specialized body of a 2) permanent nature with 3) comprehensive national jurisdiction, 4) established domestically, and tasked with combating and/or preventing corruption. Thus, an agency such as Canada's Competition Bureau, which ensures a competitive and innovative marketplace, receives fraud complaints and works with police forces and other law enforcement authorities to fight bid-rigging in public procurement (Government of Canada 2016) – a common source of corruption – is not considered in the scope of this study as it lacks an exclusive focus[4]. Special ethics boards and public inquiries and other temporary initiatives such as Ecuador's Comisión de Control Cívico de la Corrupción (Commission for the Civic Control of Corruption), a civil organization that started in 1998 but ended in 2008, are not included in my sample, and neither is the

[3] A number of countries have set up multiple specialized anticorruption agencies. This is the case of Taiwan and Ukraine, for instance. However, I only consider the first agency created, as the mechanisms explaining the establishment of following agencies might be different.

[4] However, agencies that are specialized in combatting corruption, in addition to dealing with closely related domains such as transparency, economic crime and organized crime are included.

Australian Commission for Law Enforcement, which only targets law enforcement-related agencies and lacks comprehensive nationwide jurisdiction. The UN-backed International Commission against Impunity in Guatemala, an anti-corruption initiative that did not stem from domestic forces, is also excluded.

Independent variables

Because corruption by its nature is hidden and does not leave a paper trail, it is difficult to accurately measure the extent of the phenomenon. This study circumvents these problems but focusing on *Perceived corruption* as the main explanatory variable and makes use of new data from the Varieties of Democracy (Coppedge et al. 2018) dataset. The measure is originally constructed by averaging four different variables: 1) public sector corruption index; 2) executive corruption index; 3) the indicator for legislative corruption; and 4) the indicator for judicial corruption. These individual variables are part factual, part coded by country experts, "typically a scholar or professional with deep knowledge of a country and of a particular political institution" (Coppedge et al. 2018). The continuous variable runs from 0 to 1, 0 being less corrupt and 1 being the most corrupt.

The second independent variable, *Press Freedom*, is also continuous. It ranges from 0 to 1 and comes from the same source (Coppedge et al. 2018) as *Perceived Corruption* and is also logged to make for a more intuitive interpretation. The index is formed by taking the point estimates from a Bayesian factor analysis model of 8 variables that are closely related to press freedom: 1) media censorship effort; 2) harassment of journalists; 3) media bias; 4) media self-censorship; 5) critical tone of print and broadcast media; 6) range of print and broadcast's perspectives; 7) freedom of discussion; and 8) freedom of academic and cultural expression. This aggregated variable conveys the extent to which a government respects press and media freedom,

but also the freedom of ordinary people to engage in political discussion privately and publicly, and freedom of academic and cultural expression. Although this variable casts a wider net than intended, I do not consider this a critical issue it principally focuses on press freedom and encompasses what I consider to be its most critical aspects.

Control variables

To address the possibility that more established democracies are less likely to set up an agency because they already have the appropriate state apparatus to ensure the integrity of public governance, I control for the level of *Democracy*. Following Gerring, Bond, Barndt and Moreno (2005), instead of solely focusing on the causal effect of a country's level of democracy at a given point in time, I consider the longevity of a democracy by using a stock variable, that is, by measuring a country's cumulative stock of democracy over the years. This allows me to better capture the accumulated effect of democracy, rather than focusing on a single moment in time. Data for this variable comes from the VDEM dataset and expresses the extent to which the ideal of an electoral democracy is achieved. Like the *corruption* indicator, the *Democracy* variable is continuous and runs from 0 to 1. A country that gets the highest score reflects a regime in which; rulers are responsive to citizens; suffrage is extensive; political and civil society organize and operate freely; and elections are fair and not tainted by widespread fraud. (Coppedge et al. 2018)

I also account for a number of international factors. First is the role of transnational civil society in the emergence of anticorruption agencies in the world. Following policy diffusion scholars (Hafner-Burton and Tsutsui 2005, Neumayer 2005), I control for country participation in international organizations, and more specifically, the logged number of *International NGOs* in a given country for every year in my dataset. Data was retrieved from the Yearbook of International Organizations. Transparency International especially plays a key role in advancing

the global anticorruption agenda; it produces the very influential Corruption Perceptions Index, which scores every country on how corrupt their public sector is perceived to be once a year, in addition to exposing dishonest political leaders and directly working with governments to strengthen the anticorruption institutional framework. That said, I do not specifically account for Transparency International's presence in a given country as they are arguably not the only anticorruption NGO that does meaningful work. Instead, I follow Berliner's approach and count all types of NGOs, since having a dense network of international NGOs present in a country creates an environment in which they are more likely to succeed in fulfilling their mandate.

Second, I also look *Intergovernmental Organizations* (IGOs) *Membership*. This variable indicates the logged number of IGOs a country belongs to. As for *International NGOs*, data also comes from the Yearbook of International Organizations. Other things equal, a country which belongs to an important number of IGOs should be more likely to set up an agency. IGOs are and were an important force in advancing the anticorruption movement, which arose from a common desire to improve governance and economic performance and creating a level-playing field. This variable controls for the world society school hypothesis which contends that the many features of the contemporary nation-state share, instead of stemming from domestic forces, derive from worldwide models that are "constructed and propagated through global cultural and associational processes" (Meyer et al. 1997). In other words, anticorruption agencies could be the symptom of institutional isomorphism. Thus, countries that are embedded in this community should be more likely to signal their commitment to anticorruption to their peers, thereby setting up a specialized body.

Third, I control for the logged value of *Trade* levels using the World Bank's World Development Indicators, as countries who are eager to better their reputation to economic

partners in order to attract business and investments; democracies with high trade levels should be more likely to set up an agency. Exporting nations can use anticorruption agencies as "a tool to help their companies compete abroad, or as a way to internationalize their legal standards for business conduct and accounting rules" (Moroff and Schmidt-Pfister 2010). In 2016, the French Ministry for the Economy and Finance passed the Sapin Law 2 to strengthen the existing French Anticorruption Agency, in the hopes to raise "French legislation to the highest European and international standards in the fight against corruption, and thus contribute to a positive of France internationally" (Government of France 2017). In addition, in discussing the adequacy of the Australian Government's anticorruption framework and the need to create an anticorruption agency, in their submission to the Select Committee on the Establishment of a National Integrity Commission, the Accountability Round Table suggested that "Australia's failures in honoring its obligations […] must severely damage our reputation as a safe and secure investment and trading partner. It also sends a very poor message to the whole financial world and must create real risks of higher interest rates and lower credit ratings from the International ratings agencies." (Accountability Round Table 2016)

To assess whether the establishment of an anticorruption agency could also be driven by the conditionality of EU membership, I use a dichotomous variable as a control. The majority of European anticorruption agencies are located in the EU member-states of the 2004 and 2007 enlargements (Charron 2008, Börzel et al. 2010, Batory 2010 and 2012), as countries used them as a sort of pledge to corruption control to the European Commission. To be clear, corruption control was not covered explicitly in the Copenhagen criteria. Still, the Commission deemed it important for future member-states to get corruption in check as it could undermine the implementation of the acquis communautaire, the functioning of the single market, and the

integrity of democratic institutions (Batory 2013), and most importantly, infect the rest of the Union. An agency is thus more likely to be set up in EU member-states.

Finally, I also control for use a dichotomous measure indicating use of IMF credit for any given year. The IMF promotes both good governance and more specifically corruption control via its lending program (IMF 2018) as it considers the latter a "macro-critical issue" and "a corrosive force that eviscerates the vitality of business and stunts a country's economic potential" in many countries (Lagarde 2017). The IMF annually reviews countries' economic performance and policies and has been known to suspend lending for countries that grapple with widespread corruption concerns. This was the case for Ukraine in 2016: Christine Lagarde, managing director of the IMF explained that "without a substantial new effort to invigorate governance reforms and fight corruption, it is hard to see how the IMF-supported program can continue and be successful. Ukraine risks a return to the pattern of failed economic policies that has plagued its recent history." (IMF 2016). Therefore, countries that make use of IMF financing could be more likely to set up an agency in order to signal that they are willing to put a stop to fraudulent transactions in order to secure loans.

2.6 Results

I find support for both hypothesis 1 and hypothesis 2. Table 1 presents the results of the event-history model. The effect of *Perceived Corruption* on the likelihood of anticorruption agency establishment is positive and highly statistically significant; the more politically corrupt a country is perceived to be, the more likely its leaders will create a specialized anticorruption body. These results give credence to the suggested demand-side theory; in democratic contexts where corruption is perceived to be high, controlling for other variables, existing structures (e.g. the legal system, law enforcement institutions, the anticorruption framework) are seen as

deficient. After all, if they were working, the perceived level of corruption would not be high. Under those circumstances, political leaders are pressured to demonstrate their resolve to combating corruption using a strong institutional signal, namely, through the creation of a new anticorruption agency.

In addition, as expected, although its effect is not as significant as for *Perceived Corruption*, *Press Freedom* also has a positive impact on the studied outcome. In a context where the press sees its freedoms protected, it can make deep dives into stories like political finance irregularities and is enabled to trace complex webs of bribes and kickbacks. It will widely share incriminating information to the public because it is in its interest to do so, while at the same time imparting knowledge to its readership about anticorruption agencies. Taken together, this adds to the pressure for politicians to act and signal their commitment to fighting corruption by setting up an agency.

Empirically, these results make sense. Countries that have low levels of perceived corruption through time tend to not have an anticorruption agency. With the exception of the city-state of Singapore, none of the top 10 countries in Corruption Perceptions Index 2018 ranking by Transparency International (i.e. Denmark, New Zealand, Finland, Sweden, Switzerland, Singapore, Norway, Netherlands and Canada) have established a specialized anticorruption body, as there is arguably no demand for it. To be sure, it does not mean that these countries do not have corruption issues.

The wide time period under study limits options for robustness checks. As aforementioned, this analysis uses VDEM's measure for *Perceived Corruption*. The Corruption Perception Index, developed by Transparency International and a commonly used measure of corruption, was not employed as it would have significantly reduced the temporal scope of the study; Transparency

International started the index back in 1995, but it changed methodologies over time resulting in limiting the bulk of comparable and consistent data to the 2012-2017 time period. That said, because both variables are strongly correlated for the years they overlap – the Pearson's correlation coefficient for the two measures is 0.8549 – one can expect similar results. The same can be said about the second main independent variable, *Press Freedom*. VDEM's index was preferred over Freedom House's measure. The latter has been widely used for years, but as for my first main independent variable, using the more common option would have significantly truncated the data, effectively censoring all data prior to 2002. That said, once again both measures are very strongly correlated over the years they overlap at a coefficient of 0.8723, which leads me to believe that results would not have differed dramatically.

None of the control variables were statistically significant. The longevity and strength of a democracy does not have a significant effect on the probability of agency creation. A context in which democratic core values are upheld and where fair elections and extensive suffrage ensure a limited time horizon for politicians does not lead to added incentives for them to signal their commitment to corruption control, all else equal. As for the control variables that stem from international forces, there is no evidence to suggest that they play a significant role in the observed outcome. The number of international NGOs to which a country is a member of does affect the likelihood of agency establishment. This is not surprising given outsized role organizations like Transparency International have played in proselytizing anticorruption agencies in a number of countries. Further, the world society school hypothesis is also rejected as the effect of *IGOs Membership* on the probability the creation of an agency is non-significant. International control variables that get to the economic and financial advantages that potentially procure the addition of a new governmental watchdog to the state apparatus, namely *Trade* and

IMF Credit, similarly do not play an important role. Finally, results suggest that a democracy that is a member of the EU is not more likely establish an anticorruption specialized body.

Table 1. Results of Event-History Model of Anticorruption Agencies Establishment

	Model
Perceived Corruption	2.418 ***
	(0.005)
Press freedom	2.506 *
	(0.070)
Democracy (stock)	-0.079
	(0.302)
International NGOs (logged)	0.440
	(0.132)
IGOs Membership (logged)	-0.587
	(0.292)
Trade (logged)	-0.009
	(0.977)
IMF Credit	-0.365
	(0.419)
EU membership	-0.324
	(0.546)
AIC	495,69

2.7 CONCLUSION

The forces that led to the rise of the anticorruption norm globally were international. Intergovernmental organizations enthusiastically espoused standards of good governance and anticorruption not necessarily because of their moral and ethical implications, but more realistically because they were and are concerned about the macro-relevance of the border-crossing phenomenon; the negative effects of corruption on economic growth and financial stability at the domestic level can ricochet in the international realm and jeopardize the global

economy. Consequently, international initiatives to combat corruption are multitudinous. The World Bank has launched an impressive 600 programs to curb corruption in nearly 100 countries. The OECD created the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, to which 47 countries are signatory. The IMF routinely warn countries about the danger of corruption for the collective good. The pressure for countries to clean up their act are intense and incessant.

And yet, results suggest that the determining factors that explain the timing of the creation of an anticorruption agency are situated at the domestic level. What drives politicians to commit to corruption control by setting up a permanent and specialized body as a result is the pressure from constituents who are eager to see a solution that they deem acceptable. Democracies set up an anticorruption agency when a domestic demand for it is created; this demand is heightened when corruption is perceived by constituents to be high. Incumbents, in an attempt to mollify popular discontent will consider the novelty of anticorruption agencies to be the ideal solution. A vibrant press to broadcast and spread the scandals makes the establishment of an anticorruption agency even more likely. Ultimately, constituents can oust dishonest politicians, not international stakeholders. For this reason, incumbents are particularly sensitive to calls for increased oversight by the population.

To be sure, this does not mean that lawmakers are equally receptive to each and every popular demand by citizens. In this particular situation, politicians consider the costly maneuver because they are well aware of the benefits that it entails. Not only can they claim responsibility for what could be a trailblazing agency in the fight against corruption, thereby burnishing their reputation as integrity warriors, but in doing so they can also ensure their political survival.

The creation of an anticorruption agency however, does not necessarily reveal the true intent of actors. In the next chapter, I explore how politicians control the anticorruption agenda. Politicians have a number of pathways to limit the discretion of an agency, starting with its formal powers.

Chapter 3. TRANSNATIONAL ADVOCACY AND THE DIFFUSION OF GOOD GOVERNANCE NORMS

3.1 INTRODUCTION

Established in 1993, the French Anticorruption Agency was designed as a toothless administrative organ with limited budget and staff: it had neither investigative powers nor the ability to impose disciplinary sanctions on public officials. While the agency could collect information on individuals, they were not required by law to provide it. On the other hand, Indonesia's Corruption Eradication Commission, established in 2002, was endowed with wide investigative and prosecutorial powers, and was able to close in on more than a hundred top officials that engaged in bribery and graft. A close examination of the universe of anticorruption agencies reveals stark discrepancies in their institutional power: how can we explain this variation in institutional design across cases? Why do policymakers sometimes engage in substantive politics and establish anticorruption agencies with wide law enforcement powers, while others engage in symbolic politics and establish agencies without substantial investigative and/or prosecutorial powers?

While international and transnational forces might not have an obvious impact on the timing of institutional creation domestically, their influence still manifests itself in other critical ways, namely, in the institutional design of anticorruption agencies. Engaging an already large scholarship on the transformative impact of transnational advocacy on domestic politics, I suggest that INGOs can have a significant impact on domestic institutional design; vibrant transnational advocacy at the domestic level can lead to a greater integration of good governance

norms on the ground. This in turn increases the likelihood for lawmakers to commit to substantive politics and have a strong anticorruption agency with law enforcement powers.

More specifically, through information exchanges from the international to the domestic realms, and the building of coalitions across key actors, INGOs play an integral part in the diffusion and reinforcement of the good governance and anticorruption norms at the domestic level, namely through the adoption of legal and institutional instruments to curb the theft of public assets. These exchanges are facilitated and reinforced by the use of information tactics (Keck and Sikkink 1998, Finnemore and Sikkink 1998) such as naming and shaming (Hafner-Burton 2008, Meernik et al. 2012, DeMeritt 2012, among others) and buttressed by the legitimacy that stems from their non-partisan and international status. The success of this diffusion process is manifested by policymakers committing to substantive politics to create institutionally strong anticorruption agencies endowed with law enforcement powers, as opposed to having them merely engaging in symbolic politics (i.e., creating an illusion of fighting for integrity and public accountability through institutional means).

This study adds a specific issue area in which transnational activism can have an impact on domestic politics. I suggest that the successful diffusion of good governance and anticorruption norms from the international to the domestic level can have a tangible impact on domestic politics and policy-making, and more specifically, the institutional design of anticorruption agencies. This chapter also contributes to the growing literature on these specialized anticorruption bodies by developing a new indicator to measure their institutional power. In particular, for institutional power, I focus on law enforcement powers, which include

investigative and prosecutorial powers. To the best of my knowledge, this is the first systematic attempt of this kind[5] (Meagher 2005, Kuris 2015).

This chapter is structured as follows. I first provide an overview of the wide variation of institutional design and institutional power among anticorruption agencies while discussing the validity of previous attempts of agency typology. Second, I review the existing theory on the role of transnational advocacy in bringing domestic changes. In line with existing scholarship, I highlight the role of INGOs in diffusing and reinforcing good governance norms at the domestic level by drawing attention to accountability and corruption issues in a country, subsequently leading to tangible consequences in domestic policies and institutional design. Third, I present the illustrative case of Transparency International. The fourth section is devoted to an explanation of data and model. I close with a conclusion and a discussion of the next steps to increase the empirical robustness of the study.

3.2 Institutional Power of Agencies

Since the end of the 1980s, more than 150 countries have established an anticorruption agency (Transparency International 2014). In democratic countries (with Freedom House scores that higher than 7; those that have met certain minimum standards for electoral process, political rights and civil liberties) specifically, more than 60 agencies have been created. All these anticorruption agencies however were not created equal. Anticorruption agencies can serve a combination of preventive, repressive, investigative, educational, legislative, and judicial functions; sometimes all at once and overlapping, other times focusing on a single dimension or more. Perhaps as a result, attempts by scholars and experts to create a definitive typology for

[5] Charron's index of anticorruption agencies (2008) covers 18 countries, in comparison, the majority of them European. Instead of focusing on institutional power, the index covers design, scope, budget and autonomy.

anticorruption agencies have been somewhat inconclusive. In this paper, I pay special attention to the most punitive power of anticorruption agencies, and the one that can impose the most constraints on political officials: formal law enforcement powers, which I define as the power to investigate corrupt individuals and bring cases to courts to punish them accordingly.

In studying anticorruption agencies, one has to consider their hybrid nature and the multiple purposes that they serve accordingly. Unsurprisingly there is high variation in institutional power among these specialized bodies. There have been notable attempts to categorize anticorruption agencies based on their various powers and functions, some being more successful than others. As demonstrated by the most cited (De Sousa 2010, Recanatini 2011, Mitchell et al. 2014, Kuris 2015, among others) and perhaps most influential effort, the exercise of developing an operationalizable typology has been challenging: in their review of existing models, the OECD proposed a typology that classified anticorruption institutions[6] into three different categories (20013): 1) multi-purpose anticorruption agencies; 2) law enforcement type agencies; and 3) preventive institutions. The first type, multi-purpose anticorruption agencies, are multidimensional in nature and serve a variety of functions that often centralize corruption control efforts under one roof, with the exception of prosecution in most cases. These bodies are typically based on three pillars: investigation, prevention, and public outreach and education. Examples include Latvia's Corruption Prevention and Combating Bureau and Poland's Central Anti-corruption Bureau, which more or less followed the blueprint provided by the famous Hong Kong Independent Commission Against Corruption (ICAC) and Singapore's Corrupt Practices

[6] Please note that the OECD's review focuses on what they call "anti-corruption institutions", which overlaps with the definition developed in this dissertation - specialized body of a permanent nature with comprehensive national jurisdiction, established domestically, and tasked with combating and/or preventing corruption, through an amalgam of prevention, public outreach and awareness raising, policy coordination, investigation and prosecution efforts – but ultimately spills over to a larger subset of units as they include bodies that are not specialized in anticorruption, as well as non-permanent bodies, among others.

Investigation Bureau. The second type focuses on the detection, investigation and prosecution of corruption offenses, and are sometimes supplemented by research and interinstitutional coordination functions. Such specialized units include Romania's National Anticorruption Directorate (DNA) and Croatia's Office for the Suppression of Corruption and Organised Crime (USKOK). The third type, corruption prevention institutions, include non-permanent anticorruption coordinating councils, which help oversee the development and implementation of anticorruption legislation and general anticorruption framework. The OECD also includes in that category what they call "dedicated bodies for issues related to [the] prevention of corruption" (OECD 2013, 41), such as the Office of Government Ethics in the United States, which incidentally is not specialized in anticorruption per se. France's Central Service for the Prevention of Corruption prior to its restructuring in 2017 and Serbia's Anticorruption Agency also fall under the umbrella of corruption prevention institutions.

While providing a useful introduction to the universe of anticorruption institutions, this roadmap makes for a typology that is difficult to operationalize, as I explain below. The third type, corruption prevention institutions, is arguably a miscellaneous category. Most problematic however is the overlapping and fluid definition of each category, and the number of anticorruption bodies that defy categorization as a result. While collectively exhaustive, the aforementioned types are not mutually exclusive. For instance, the OECD categorized Hong Kong's ICAC as a multipurpose agency. Indeed, the ICAC uses a three-pronged approach to address the problem of corruption and is constituted of three departments accordingly: the operations department which focuses on law enforcement, the corruption prevention department, which advises governmental bodies and private organization on anticorruption best practices, and the community relations department, which is tasked with public education and awareness

raising (Hong Kong ICAC 2016). It is specialized in law enforcement and has historically made use of its wide investigative powers (Hong Kong ICAC 2018), but also does meaningful work in prevention and community education through its corruption prevention department (Quah 1995). In comparison, Croatia's sought to institutionally replicate Hong Kong's ICAC in creating USKOK (Kuris 2015): it is composed of an investigation and documentation department, an anticorruption and public relations department, a department of state attorneys acting as prosecutors, a department for investigating crime-relating proceeds, and a department for international cooperation and joint investigations. However, perhaps because it is endowed with prosecutorial powers in addition to all its other powers, the OECD categorized it under the second category of law enforcement type institutions, as opposed to multipurpose agencies.

A more recent typology by Kuris (2015) constitutes a more successful attempt at a systematic breakdown of anticorruption agencies, but maintains some ambiguities, specifically pertaining to what the author refers to as agencies' "investigative powers". Essentially, the author boils it down to two categories: watchdog and guard dog anticorruption agencies (2015). Guard dogs are agencies that have strong, *formal* law enforcement powers such as the aforementioned ICAC, USKOK and Latvia's Corruption Prevention and Combating Bureau. Their defining feature is their focus on criminal violations as opposed to ethical violations, and consequently, their authority to investigate, arrest, seize documents, and prosecute offenders. On the other hand, watchdog agencies are situated at the periphery of the legal system; they lack formal law enforcement powers but may resort to *informal* investigative powers that can inflict damage on corrupt policymakers through public outreach. For instance, they can research and uncover corruption schemes and networks, point to specific vulnerabilities of the public system, and issue critical public reports as a result. While they cannot arrest suspects or place wiretaps, they can

draw attention to crucial issues to the public. In addition, they may also be involved in other corruption prevention activities such as asset declaration collection and management, policy development and design, education and public outreach, interinstitutional coordination, and international liaising.

Institutionally weaker agencies with neither investigative nor prosecutorial powers, but that still managed to create some grief to corrupt politicians include the cases of Italy and Slovenia. Italy's Office of the High Commissioner against Corruption was created in 2003, with limited powers: its tasks include the "(1) regular review of legal instruments and administrative practices in the prevention and fight against corruption; (2) the identification of critical areas; [and] (3) the assessment of the degree of vulnerability of public administration to corruption and associated criminal behavior." (GRECO Secretariat, Roma 2015). In 2007, the Office published a damning report that was publicly circulated, in which it suggests that the Italian public administration as well as the private sector suffered from endemic corruption, where bribes and kickbacks were common practice (GRECO Secretariat 2009, Roma 2015). While the report itself did not lead to dismissals and resignations of politicians, it put a dent in the reputation of Italian officials who were still reeling from the *manipulite* scandals more than a decade ago. Consequently, they chose to disband the Office in order to prevent it from drawing more attention to bribery and other types of public malfeasance. Slovenia's Commission for the Prevention of Corruption, which at its inception was not equipped with investigative powers, published a report that led to the resignation of the Minister of the Interior (Hacek et al. 2013). That said, it remains that occurrences of institutionally weak agencies making a splash and inflicting significant damage to officials, especially high-ranking political elites, are far and between.

Although I do not deny institutionally weak agencies the ability to contribute to the fight against corruption, I choose to focus on policymakers' willingness to commit themselves to provide law enforcement powers to agencies – what Kuris calls guard dog agencies – and emphasize what is intuitively, conventionally, and theoretically understood as the most punitive powers of agencies, that is, the formal powers of investigation and prosecution. First, historically, the agencies with the most successful track record of have been those endowed with such powers: this includes Hong Kong's ICAC and Singapore's CPIB, but also the Directorate of Special Operations (DSO, also known as the Scorpions) who famously conducted raids into deputy president Jacob Zuma as part of their investigations into the Arms Deal in South Africa, and Romania's DNA, which put the prime minister who signed the emergency ordinance that created the office behind bars in 2012 for having used public funds to run his own campaign in 2004, among other examples. That is not to say that all of these agencies have been successful in punishing corrupt politicians, but simply that these agencies that have the formal power to legally and formally punish corrupt officials for their criminal offenses are more likely to. Second, this is incidentally also the costlier choice for corrupt policymakers who open the window to becoming the target of criminal investigations, which is ultimately what constituents request – for elected officials to not be above the law. Commitment to such agencies is evidence of the ruling elite choosing to engage in substantive politics, rather than symbolic politics. Last and most importantly, strong law enforcement agencies coincide with the anticorruption norm, further discussed below, which advocates for stronger legal and institutions to combat corruption.

Further, while theoretically one might consider public awareness raising to be an important function and power, in reality, the power to investigate corrupt officials are likely to be

publicized in one way or another, and therefore raise awareness about corruption. Agencies that are investigating high-profile cases, even those that are not mandated to raise awareness on the issue of corruption, can resort to a number of tactics to make their work known to the public. A number of agencies issue reports of the results of their investigations and can share stories with the media in a win-win situation: journalists enjoy increased exposure from high-profile cases as corruption sell, and anticorruption agencies likewise get a notoriety boost. Of course, the same cannot be said about agencies that are solely focused on public awareness raising; they almost definitely will not get to investigate corrupt officials.

To be sure, committing to powers on paper do not necessarily mean that said powers will be enforced. As I explain in the next chapter, there are multiple ways in which formal powers can be circumvented. But all in all, to establish a powerful anticorruption agency, even if it is on paper, demonstrates a greater commitment to anticorruption than creating a toothless one.

3.3 THEORY

In the first paper, I posited that international and transnational forces might not have an obvious impact on the timing of institutional creation domestically. However, their influence still manifests itself in other critical ways, namely, in the institutional design of anticorruption agencies. Transnational advocacy has been known to play a critical role in the spread, reinforcement, and translation of international norms into domestic law. Through vertical (i.e from the international to the domestic) and horizontal (i.e. across domestic actors) exchanges, INGOs play an integral part in the diffusion of the good governance and the anticorruption norms, which call for greater accountability of government officials. Using information tactics through their work and buttressed by the legitimacy that stems from their non-partisan status, a vibrant transnational advocacy community at the domestic level can lead to a greater integration

of good governance norms. This can persuade policymakers to commit to substantive politics and create institutionally strong anticorruption agencies endowed with law enforcement powers, as opposed to having them merely engaging in symbolic politics.

As previously mentioned in the first paper, the popularity of anticorruption agencies can be partly attributed to the rise of the anticorruption norm that gained traction at the turn of the 1990s (McCoy 2001, Charron 2011). The emergence and "stickiness" of the norm at the international level is unsurprising given the context of an increasingly globalized world and the cross-border nature of corruption. The anticorruption norm underlies two ideas, among others; the redefinition of the issue of corruption, which is no longer understood as being unavoidable or desirable for economic growth as it damages democratic institutions (Johnston 2002), and the push for institutional and legal instruments to control and criminally punish corruption, effectively curbing governance failure at the international and domestic levels (Abbott and Snidal 2002, Bacio-Terracino 2012, Rose 2015). Anticorruption agencies that are enabled to investigate allegations and punish wrongdoers accordingly are one of the most prominent institutional and legal tools that countries resort to in their efforts to control and eradicate corruption. Strong anticorruption agencies, especially those with investigative powers, are seen as particularly beneficial to preventing, uncovering and punishing wrongdoers. This principle is enshrined in a number of initiatives. The Jakarta Statement on Principles for Anticorruption Agencies, established in 2012 under the leadership of the Corruption Eradication Commission Indonesia, Transparency International, current and former heads of agencies over the world and other international stakeholders, recommends that anticorruption agencies must have clear mandates to tackle graft through investigation and prosecution, among others.

This anticorruption norm is closely related to the larger and more comprehensive good governance norm, which emerged in the 1980s and the 1990s. That particular global context was characterized by a number of high-profile autocratic regimes, the third wave of democratization in the developing world and post-communist countries, and the rise of non-state actors in the domestic and international level (Weiss 2000). This led to an increased awareness and heightened discussion of governance issues at the international level and shone a spotlight on the problems that plagued these regimes: endemic corruption, personalization of powers, unaccountability of the government, and violations of human rights (Weiss 2000). The good governance norm has since become a crucial component of the international agenda and has led to concerted international efforts to address some of the undesirable characteristics of bad governance through institutional changes and capacity-building initiatives (Grindle 2007).

Notably, the transnational advocacy community is crowded with IGOs that lobby for good governance and increased government accountability, two central ideas underlying corruption control. Transparency International, a global leader of anticorruption, counts more than a hundred chapters all over the world and raises awareness on corruption since its inception back in 1993. The UNCAC Coalition, a global network that comprises of over 350 civil society organizations in over 100 countries in the world, promotes the ratification and implementation of the United Nations Convention Against Corruption.That said, these organizations is not a lone wolf in the fight against corruption at the global level: the idea of holding governments and politicians publicly accountable is a key pillar of the agenda of some of the most influential INGOs in the world today. George Soros's Open Society Foundations financially supports local media and civil society groups such as the Organized Crime and Corruption Reporting Project, as part of its good governance programs (Mingiu-Pippidini 2013) fighting for freedom of

expression, accountable government, and societies that promote justice and equality. Greepeace seeks to hold governments and corporations accountable in their quest to preserve the integrity of the environment. The work of Article 19, an INGO based in the United Kingdom, supports defends freedom of expression by lobbying for the adoption of robust freedom of information legislation and greater protections for the media and public broadcasting. Human Rights Watch routinely shines a spotlight on rights violations targeting children, refugees and minorities, but also does meaningful work in advocating for freedom of press by closely monitoring censorship, again in the hopes of holding politicians and policymakers accountable. The International Consortium of Investigative Journalists, based in Washington D.C. the organization that published the Panama Papers, state that they "collaborate on ground-breaking investigations that expose the truth and hold the powerful accountable" (International Consortium of Investigative Journalists, n.d.).

The work of these organizations, and the transformative role of transnational activism and INGOs more broadly in domestic political processes has been well documented in literature in the international relations scholarship (Keck and Sikkink 1998, 1999). More specifically, there have been a number of examples of good governance norms and institutions transferring from the international to the domestic level, thereby blurring the boundaries between both realms. Human rights INGOs have been found to help generate and stoke mobilization for protests against domestic governments (Bell et al. 2014, Murdie and Bhasin 2011), advocacy groups through legal mobilization has played a critical role in the enforcement and the development of human rights norms, consequently transforming the domestic legal domain (Cichowski 2016). There is also evidence that INGOs can even shape domestic policy-making (Berliner 2015).

Transnational advocacy networks, in which international and domestic NGOs play a central role, resort to several tactics and mechanisms to bring about changes at the domestic level. Keck and Sikkink notably differentiate four different strategies: information politics refers to the ability to generate and diffuse quickly and credibly using an effective frame; symbolic politics, the ability to persuade an audience by instrumentalizing high-profile, decisive events; leverage politics, the ability to pressurize target players to commit to policy change using material or moral leverage; and accountability politics, the ability for activists to force politicians to close the gap between discourse and actual implementation of policies (1999).

In light of this, I argue that transnational advocacy networks play a crucial role in policy transfer by diffusing this anticorruption norm to the domestic level through informational exchanges. Following Keck and Sikkink, I also underscore the tactic of information politics as employed by transnational actors (1998). I emphasize the role of information exchange as a core component of the process of norm diffusion and implementation of anticorruption from the global level to the local levels, and across domestic players, which can ultimately result in having a strong anticorruption agency.

First, transnational activists create channels of information exchange that can lead to policy and norm transfer from the international level to the domestic level by popularizing and articulating good governance and anticorruption norms below. As an ally, or at least frequent interlocutor of other players in the international arena, global activists often have the chance to interact with powerful international bodies such as the UN, the World Bank but also the EU, who all have incentives to promote and spread good governance norm. Amongst themselves, and through reiterative interactions, these players contribute to the strengthening and unification of the good governance norm at the international level, which they subsequently diffuse at the

domestic level. In general, the work of international NGOs worldwide brings them to collaborate with a number of foreign governments, which allows them to gain first-hand knowledge of anticorruption and good governance institutional, legal and legislative good practices, and be up to date with "real" examples of what works and what does not work. This socialization that occurs in the international realm, between other international bodies and across foreign governments, contributes to increase their legitimacy as a norm diffuser, and as an expert of their issue area. Together, this grants them a sense of legitimacy that affords them a certain advantage and aura of expertise which they then use at the domestic level. All these processes at the international level color the work they do at the domestic level to advance and promote the cause of good governance. They thus proceed to a vertical exchange of information, from the international realm to the domestic realm, to a host of actors on the grounds: local civil society, the media, state actors, and the population, sharing good standards and practices corruption control elsewhere in the world, or success stories of foreign anticorruption agencies.

Several mechanisms explain the efficacy and, consequently, the leverage that transnational activists have on the ground level, and over domestic politicians in particular. Good governance INGOs resort to a number of tactics to allow them to push their agenda and increase their efficacy as a norm diffuser, thereby highlighting their ability to apply pressure on policymakers to engage in substantive politics. First is their ability to generate and relay information efficiently about the importance of good governance. Authors have notably underscored the strategy of naming and shaming used by transnational activists and domestic civil society in promoting their agenda (Hafner-Burton 2008, Ron et al. 2005). When it comes to good governance and anticorruption in particular, INGOs can use their resources to play an important investigative role to uncover patterns and stories of bad governance, and strategically generate stories and frame

issues in a way that is highly effective and palatable to audiences. For instance, instead of investigating a large number of isolated occurrences of bribery in the public sector involving bureaucrats and low-level officials, they use their limited resources to go for the big fish, focusing on large-scale patterns of lack of governmental oversight, and allegations of corruption perpetrated by high-ranking officials. These stories have the effect of drawing greater attention to their cause of good governance and amplifying the need for states to change their behavior. This information is then disseminated through a network of domestic players such as the civil society and the local press, using coalitions they've created, consequently boosting the potency of their message and adding pressure on state actors. This information, of course, is colored by the global perspective and the expertise they gained at the international level allow them to become

There is also reason to believe that there is a boomerang effect or pattern (Keck and Sikkink 1998, Risse 2016) occurring in this process. In the diffusion of good governance norms, international NGOs play the crucial role of filling a gap in countries where conventional linkages and pressure points between domestic groups and the government are weak or completely severed. These countries are coincidentally where the need for good governance is heightened, and the need for robust prevention and law enforcement of corruption in the public sector is greater. INGOs can build coalitions between other domestic NGOs and other opposition groups, which leads to greater mobilization for the good governance cause and tightening the vise on domestic lawmakers.

These processes are further legitimized because of the special place they occupy in the political realm. Being politically non-partisan, and in their capacity as non-state actors that are independent from the government, INGOs benefit from increased legitimacy as a result. Their

strategic position as an international, transnational and domestic player affords them a tactical advantage.

In sum, good governance and anti-corruption norm and the global push for normative constraints on corruption, namely through the push for the institutionalization and the legalization of corruption control. For anticorruption agencies, this can translate into pressures pushing domestic players to include public integrity as an important norm in governance, and consequently establish a strong legal and institutional framework strong, law enforcement agencies. they have the potential to hold even the most powerful people in society to account. Likewise, I argue that they can play an instrumental role in promoting anticorruption norms by pressuring domestic politicians to commit to anticorruption efforts on paper. Information exchange to persuade and pressure policymakers in policy debates, often succeeding in commit to anticorruption.

Hypothesis: High levels of transnational activism at the domestic levels is associated with the creation of institutionally strong anticorruption agencies.

3.4 Illustrative Case: Transparency International

Since its inception in 1993, Transparency International has played an important role in the shaping the good governance and anticorruption norm, more precisely. Although it was originally created to curb corruption in international business transactions under the leadership of Peter Eigen, former World Bank official (Transparency International, n.d.), today the INGO is an omnipresent and influential actor in the fight against corruption at large around the world. While the organization's Secretariat is a key interlocutor at the international level, its national chapters play an active role in policy transfer through the diffusion and the reinforcement of the norm at

the domestic level using information tactics, briefly surveyed here. These tactics are further strengthened by the numerous local, national, regional, and global coalitions networks that the organization creates and maintains with state actors, the public sector, the private sector, and civil society.

Transparency International pushes for good governance and political accountability by advocating what it considers to be the best practices to curb politicians' public malfeasance at the domestic level. As part of its mandate, it calls for greater state capacities to combat illicit dealings, namely through a number of legal and institutional instruments (e.g. stricter party financing laws, asset declaration system for public officials, the signature and ratification of international anticorruption conventions, etc.) at the domestic level. The organization promotes a holistic and comprehensive framework to punish and prevent corruption, one of its most enduring focus is its support for independent, investigative anticorruption agencies as a good practice to fight corruption; "watchdog agencies" are a key pillar of Transparency International's approach to ensuring the integrity of state institutions that shield society from corruption (Kotalik et al. 2004). The support for these watchdog agencies culminated in the launch of the Anti-Corruption Agencies Strengthening Initiative (Transparency International 2018) in 2015, which at once celebrates the work of anticorruption agencies and calls for the strengthening of their effectiveness. For Transparency International, an effective agency is one that is independent of the government, and importantly, one that is "empowered to investigate allegations".

To further its agenda, Transparency International resorts to information tactics such as naming and shaming to push governments to do more. One of such tactics is the release of critical press statements to raise public awareness about corruption while at the same time pointing fingers at wrongdoers and shortcomings of anticorruption frameworks (De Sousa and

Larmour 2009). The current chair of the organization as of 2019, José Ugaz, routinely uses his platform. In 2015, as part of Transparency International's work in Indonesia, he suggested that "the role of independent anti-corruption commissions [was] critical to fighting corruption and holding those in power to account. This has been proven in many countries in South East Asia where principled investigations by independent anti-corruption commissions have pursued senior political figures irrespective of their political party affiliations" (Transparency International 2015). In 2012, the organization urged the government of Mario Monti to have a body responsible to oversee the investigation and the enforcement of anti-corruption laws in Italy[7]. Public statements of the sort are frequent, and more often than not, relayed by the local and national press at the domestic level. Transparency International's most potent weapon in its arsenal however, is the Corruption Perceptions Index (CPI). In order to encourage (or publicly embarrass) governments into cleaning their act and take meaningful action, their Secretariat produces the very influential Corruption Perceptions Index (CPI) since 1995. The organization scores every country on how corrupt their public sector is perceived to be annually based on assessments by businessmen, journalists, academics, investment analysts and risk assessors (Larmour 2005). As a proselytizing tool for the promotion of good governance, it is effective as it carries a clear and simple message, rewarding the countries that are perceived to have good governance practices, and shaming those who suffer from endemic corruption, or that recently faced scandals.

While the organization sometimes uses its expertise and knowledge to attack national governments, it also offers advice and guides to willing participants with its own monitoring

[7] See https://www.transparency.org/news/pressrelease/italy_needs_anti_corruption_watchdog, and https://www.reuters.com/article/us-italy-corruption/italy-needs-anti-corruption-authority-transparency-international-idUSBRE8941BB20121005.

device, the National Integrity System assessments. This further contributes to the spread and reinforcement of the anticorruption norm at the domestic level.

On the ground, in order to facilitate information exchanges and increase the potency of its agenda push, Transparency International builds coalitions with domestic players such as the civil society and the press, but also with state actors. In an effort to share information with journalists and experts on the ground, a partnership with the SIGMA (an EU and OECD initiative that aims to improve public governance) resulted a database of anticorruption programs in Eastern and Central Europe, which provides information on anti-corruption initiatives in the region. In Indonesia, it collaborates with Indonesia Corruption Watch, a local NGO that is credited to having pressured the government to give its independent anti-corruption commission the power of subpoena, to investigate past and present corruption practices, provide protection to witnesses, recommend prosecution and make its recommendations public came into realization.

Through these linkages and information exchanges, Transparency International, like many other international NGOs work to promote the importance of good governance, and the best practices associated with it.

3.5 Data and Model

In order to model the likelihood of elected officials setting up an anticorruption agency with strong formal powers, I use linear regression and an original cross-sectional dataset comprising of the universe of anticorruption agencies (n=60) established between 1987 and 2016. A summary of the agencies that are equipped with investigative and prosecutorial powers at the time of their creation is provided in Table 2.

Table 2. Summary of agencies with investigative and prosecutorial powers

Country	Agency[8]	Investigative	Investigative + Prosecutorial
Argentina	Anticorruption Office	X	
Austria	Federal Bureau of Anti-Corruption	X	
Bolivia	Ministry for Institutional Transparency and the Fight Against Corruption	X	
Botswana	Directorate on Corruption and Economic Crime	X	
Burkina Faso	Superior Authority State Control and Anti-Corruption	X	
Colombia	National Anti-Corruption Unit	X	
Comoros	National Commission for the Prevention and Fight Against Corruption	X	
Costa Rica	Public Ethics Office		X
Croatia	Office for the Prevention and Suppression of Corruption and Organised Crime		X
Czech Republic	Unit for Combating Corruption and Financial Crime (ÚOKFK)	X	
Dominican Republic	Department of Prevention of Administrative Corruption	X	
Ecuador	National Anti-corruption Secretariat		X
Fiji	Fiji Independent Commission Against Corruption		X
Greece	Public Prosecutor against Crimes of Corruption		X
Indonesia	Corruption Eradication Commission		X
Latvia	Corruption Prevention and Combating Bureau		X
Lesotho	Directorate on Corruption and Economic Offence		X
Liberia	Liberian Anti-Commission Commission		X
Lithuania	Special Investigation Service	X	
Malawi	Anti-Corruption Bureau		X
Mauritius	Independent Commission Against Corruption	X	
Mexico	Special Prosecutor's Office to Combat Corruption in the Federal Public Service		X
Moldova	Center for Combating Economic Crimes and Corruption		X
Namibia	Anti-Corruption Commission	X	
Nepal	Commission for the Investigation of Abuse of	X	

[8] The agencies' names are translated into English for increased legibility. All errors are mine.

	Authority			
New Zealand	Serious Fraud Office	X		
Paraguay	Economic Crimes and Anti-corruption Unit			X
Poland	Central Anti-Corruption Bureau	X		
Romania	National Anticorruption Office			X
Sierra Leone	Anti-Corruption Commission, Sierra Leone			X
Slovakia	Special Criminal Court			X
South Africa	Directorate of Special Operations			X
Spain	Anti-corruption Prosecution			X
Sri Lanka	Commission to Investigate Allegations of Bribery or Corruption	X		
Taiwan	Agency Against Corruption	X		
Tanzania	Prevention and Combating of Corruption Bureau			X
Timor Leste	Anti-Corruption Commission	X		
Trinidad and Tobago	Integrity Commission	X		
Tunisia	Commission of Inquiry on Corruption Cases	X		

Dependent Variable

I created my own measure of institutional power of anticorruption agencies. As aforementioned, the current literature on anticorruption agencies is dominated by cases studies. Despite some attempts at typologies, this is the first effort to systematically measure the institutional power of anticorruption agencies across a large number of countries. I collected the constitutive legislations (e.g. acts, emergency ordinances and other executive orders) pertaining to the establishment of each of the anticorruption agencies that were surveyed. These documents, among other things, specifically delineate the institutional power, as defined, of agencies. The measure I created as a result of this original data collection is an ordinal variable that accounts

for what is deemed the most punitive powers of anticorruption agencies: prosecution and investigation:

- An agency that is assigned a value of zero is an agency that has neither investigative nor prosecutorial powers.
- An agency that is assigned a value of 1 is an agency that has investigative powers, but that lacks prosecutorial powers.
- An agency that is assigned a value of 2 has formal investigative *and* prosecutorial powers.

In the observed sample and to the best of my knowledge, there are no agencies that are empowered to prosecute corruption cases but that lack investigative powers, as both go hand in hand. I use OLS regression as the dependent variable is relatively normally distributed, in addition to being intuitively easy to understand.

The measure emphasizes what is conventionally understood as the most punitive and coercive powers of agencies, that is, anticorruption bodies that are endowed with formal powers of investigation and prosecution. Investigative powers can have different connotations across cases, but I refer to the agencies' ability to conduct inquiries on the basis of filed complaints or information obtained from any source. In doing so, they can be enabled to request and collect data accordingly. Under Law No. 422/2011, Greece's Public Prosecutor against Crimes of Corruption has unrestricted access to privileged information and relevant files or documents of evidence such as bank records, tax records, stock exchange records, and public services records. It can also seize assets and issue orders for lifting of bank secrecy for a limited period of time. Nepal's Commission for the Investigation of Abuse of Authority has the power to conduct and direct searches, as well as the power to interrogate, record statements of, and issue questionnaires

to people who, according to the Commission, be in possession of relevant information that can move forward the investigative process. In addition, if there are reasonable grounds to believe that an individual that is suspected of having initiated of participated in corruption is likely to flee, the Commission can decide to keep them in detention[9]. By prosecutorial powers, I refer to an agency's ability to instigate legal proceedings against an individual accused of having committed corruption offences after having reviewed the results of an inquiry and following up by building a case against the indicted individual and bringing it to court.

Independent Variables

In order to measure the effect of vibrancy of good governance transnational advocacy on the institutional design of an agency, I account for the logged number of International NGOs memberships in a country. This variable is lagged by one year, as the current values of the main dependent variable can be explained by the past values of the number of INGOs. I choose to focus on the robustness of global civil society in a country as a whole, rather than focus on INGOs that focus on the specific issue area of good governance and corruption control specifically. This is an appropriate strategy for two reasons. First, a high number of INGOs denotes a domestic context in which there is a vibrant transnational activism has increased legitimacy and leverage, which in turn can contribute to the success of INGOs and domestic NGOs in general. Second, as aforementioned, good governance and anticorruption are pervasive issues that that can have spillover effects onto any domain that touches on public funding. Corruption, at its core, occurs in a context when private interests overtakes public interests. Its significance reverberates through a number of issue areas. Fair competition can falter leading to an environment context that is not as conducive to trade and investments (Agbiboa 2012,

[9] Commission for the Investigation of Abuse of Authority Act, 1991, Nepal.

Johnson et al. 2011). The lack of accountability for the political elite that rules with impunity can also result in greater human rights violations (Gathii 2009). Sustainable development and the environment are also threatened (Morse 2006).

In addition, as many INGOs and NGOs rely heavily on government funding to properly function, this creates incentives for INGOs that are not necessarily and exclusively involved in advancing the cause of good governance to create mutually advantageous linkages between each other, thereby supporting the efforts of the latter.

Control Variables

In considering the institutional design and the power provided to an anticorruption agency by the ruling elite, I also consider the existing legal structures in place to detect, uncover, investigate, and punish corruption. I operationalize this measure using the strength of *Rule of Law* from the VDEM dataset (Coppedge et al. 2018), which indicates the extent to which "laws are transparently, independently, predictably, impartially, and equally enforced, and to what extent do the actions of government officials comply with the law". The need for a strong legal instrument, in the form of an anticorruption agency with wide investigative and prosecutorial powers, could be less heightened in a country where the rule of law is already robust. However, a country that is vested with strong rule of law might be more likely to have the institutional capacity to integrate a robust law enforcement partner that is specialized in anticorruption. This variable is also lagged by one year, as are all other control variables.

I also control for a country's *GDP per capita*. This variable is logged. Countries that have a low GDP per capita may have scarcer resources to create an agency with wide powers. Indeed, agencies with strong law enforcement powers, as opposed to agencies that publish a single annual report on the state of corruption in a country, require infrastructures.

Controlling for *Political Competition* and the political uncertainty addresses the insurance theory literature, which emphasize the importance of political competition in institutional and policy changes. This is measured by the share of the opposition vote as retrieved from the Database of Political Institutions dataset. Proponents of insurance theory emphasize the long-term gains that incumbents seek when they anticipate that they may soon leave office; they enact policies that will impose constraints on future officeholders from opposing parties (Landes and Posner 1975, Ramseyer 1994, Finkel 2004, Vanberg 2010, Berliner 2014). If the insurance theory is correct, high levels of political competition, and consequently, high levels of political uncertainty can lead to having a more robust anticorruption agency.

I also control for the level of *Perceived Corruption* using the corruption variable from the Varieties of Democracy (Coppedge et al. 2018) dataset. The continuous variable runs from 0 to 1, 0 being less corrupt and 1 being the most corrupt. Theoretically, this variable can have opposite effects on the likelihood of a strong agency. On one hand, politicians that operate in a context where corruption is perceived to be especially problematic might be more intent on keeping the status quo and not have to deal with an agency that brings further scrutiny to their affairs. On the other hand, the more plausible scenario is the following: as explained in the first chapter, such politicians do not have much leeway, as they are also likely to be on the receiving end of incredible pressure from constituents to address corruption adequately. Where corruption is perceived to be high, the likelihood of having an agency with wide powers on paper should be higher.

The control variable *democracy* is also continuous and ranges from 0 to 1 (Coppedge et al. 2018) as *Perceived Corruption*. Data for this variable comes from the VDEM dataset and reflects the extent to which the ideal of an electoral democracy is achieved. High values denote a regime

in which; rulers are responsive to citizens; suffrage is extensive; political and civil society organize and operate freely; and elections are fair and not tainted by widespread fraud (Coppedge et al. 2018). As discussed in the first chapter, corruption control is a public good that enjoys a status of quasi-universal popularity. In a democratic context, governments that are in tune with the demands of its constituents will thus be more likely to have a strong anticorruption agency, rather than have a window-dressing agency.

Finally, I also control for other international economic factors. To denote the use of *IMF credit* by a country, I use a dichotomous measure. The relationship between a country and a major international stakeholder as the IMF can play a role in the institutional design and the power of an anticorruption agency. The IMF is an important promoter of both the good governance and anticorruption norm via its lending program (IMF 2016). A country that receives IMF credits is more likely to commit to a stronger specialized anticorruption body, to ensure that it will keep receiving said credits. I also control for the logged value of *Trade* levels using the World Bank's World Development Indicators. Democracies with high trade levels could be more likely to have a strong agency, highlighting the cross-border nature of corruption, and the desire of lawmakers to demonstrate to international trade partners that corruption is under control.

3.6 RESULTS

The coefficients summarized in Table 3 support the hypothesis of the positive impact of the key independent variable of transnational advocacy and the positive effect of INGOs on the likelihood of having a punitive anticorruption agency. This is not surprising, as the finding falls in line with previous literature and empirical evidence. Countries with weaker economies also tend to opt for agencies with law enforcement powers.

Interpreting the coefficients of a linear regression analysis is straightforward; a one unit change in the independent variable results in the coefficient change in the expected value of the outcome variable, with all other variables held constant. However, log-transformed independent variables are usually interpreted in terms of percent change (Wooldridge 2012)[10]. An increase of 10% in the number of INGOs results in an increase in the dependent variable institutional power by 0.0654. That said, the nature of institutional power, and the way it is coded, makes it challenging to interpret the magnitude of the effect of the main independent variable, as it will depend on the underlying distribution of power in the observed sample. As mentioned the dependent variable of institutional power takes the discreet values of 0, 1 and 2. Theoretically, an agency that has investigative and prosecutorial powers is not necessarily twice as powerful as an agency with investigative powers only. What remains, however, is that INGOs are positively associated with institutional power, as the coefficient of 0.654 is positive and highly significant. As the number of INGOs increases, the likelihood of having a powerful anticorruption increases.

Rule of law, likewise, has a positive and significant impact on the likelihood of having a specialized anticorruption body with enforced formal powers. It would seem as though holding all other variables constant, a country in which strong rule of law is enshrined in existing state structures might be more likely to have a robust law enforcement partner that is specialized in anticorruption. This suggests that anticorruption agencies are perhaps not meant as compensating appendages to a weakened judicial system. Countries with low levels of GDP per capita are more likely to adopt agencies with strong law enforcement powers. This finding is unsurprising as corruption can be one of the root causes for a noncompetitive economic environment. Politicians

[10] For further discussion and derivation, refer to *Introduction to Econometrics: A Modern Approach* (5th Edition), 2012.

can create an oversight agency to address this issue.

Table 3. Results of OLS regression (lagged one year)

	Model 1
International NGOs (logged)	0.654***
	(0.001)
Rule of Law	2.921*
	(0.045)
GDP per capita (logged)	-0.309**
	(0.004)
Political Competition	0.007
	(0.331)
Corruption	1.530
	(0.154)
Democracy	-1.837
	(0.079)
IMF Credit	0.264
	(0.363)
Trade	0.230
	(0.178)[11]

The other control variables, namely *Political competition*, *Corruption*, *Democracy*, *IMF credit* and *Trade* do not have a significant impact on the likelihood of having a strong agency. A political context that is characterized by competitive elections and a turnover of parties in power does not have an effect on the strength of an agency. The level of *Corruption*, despite being a good indicator to explain the timing of the creation of agency, does not have any incidence on the institutional design of an integrity watchdog. This result suggests that we can rule out a needs-based theory, where the strength of an anticorruption agency depends on the magnitude of the problem of corruption in the first place. *Democracy* seems to have a negative impact on the institutional power, but the effect is not statistically significant. Likewise, neither *IMF credit* nor

[11] *significant at p < .10; **p < .05; ***p < .01.

Trade levels have a statistically significant impact on the dependent variable. Neither high levels of trade nor the use of IMF credit lead to greater corruption control in the form of a robust anticorruption agency to ensure fair competition and encouraging investment.

3.7 CONCLUSION

This study provides another issue area in which transnational advocacy can have an impact on domestic politics. The findings suggest that the presence and the work of INGOs at the domestic level, can be conducive to a greater integration of good governance and anticorruption norms, and the adoption of institutionally strong anticorruption agencies.

In a next iteration of this paper, I intend to attend to the possible methodological shortcomings of the study, and more specifically, address the possibility that my key relationship of interest might be confounded by the underlying likelihood of having an anticorruption agency in the first place. The sample selection (or self-selection) bias that can arise from the large number of dropped zeroes (i.e. countries that did not establish an anticorruption agency) can be addressed using the Heckman's two-stage selection model, which mitigates the sample selectivity bias that arises from the censoring of the dependent variable. Examining countries that have an anticorruption agency and censoring the countries that do not have one at zero raises the possibility that the sample used for estimation is non-random, which in turn creates a bias through the correlation of the error term with the explanatory variables (Vance and Ritter 2014).

In advancing this research agenda, there is also more to be done on the topic of institutional power through time, as it is not stable from an agency to another. A quick survey across cases in democracies reveals two common arcs: toothless agencies that gain broader powers or jurisdiction through time (e.g. France, Portugal, Romania), and the complete opposite, where

strong agencies lose powers after politicians fail to control an anticorruption agency gone rogue (e.g. South Africa, Portugal). What can explain the timing of power gains and losses?

Chapter 4. EXTERNAL PRESSURE AND ANTICORRUPTION AGENCY EMPOWERMENT

4.1 INTRODUCTION

Institutional design is a necessary but non-sufficient condition to explain anticorruption agencies empowerment: agencies can have the resources and capacities – be endowed with a considerable budget and staff, political insulation along with wide powers to investigate and prosecute corrupt officials – and yet still fail to significantly contribute to the fight against corruption. Institutional design alone cannot explain the level of empowerment and therefore how well an agency will fare in fulfilling its mandate in the future.

If lawmakers exhibit political will to crack down on corruption during the constitutional moments of an agency, it is perhaps because they are well aware of the fact that they can resort to multiple strategies to impede on the operations of their newly created agency *ex post*: static legislations leave room for ambiguity, provisions can be circumvented or simply left unenforced, budgets can be cut, key nominations can be controlled, criminal codes can be amended, and if all fails, agencies can be disbanded. Lawmakers can steer the operations of anticorruption agencies closely (or at a distance), thus protecting their interests and shielding themselves from further scrutiny. If that is so, under what circumstances can anticorruption agencies be empowered to fight corruption, free of political interference to undermine its operations?

This chapter highlights the conditions under which an anticorruption agency can be empowered to fight and punish corrupt officials in a transitioning democracy context. I argue that sustained external pressure from international stakeholders such as the EU can lead domestic lawmakers to reluctantly commit to a reinforced anticorruption framework and judicial reforms

to allow an anticorruption agency to flourish, giving it proper resources, staffing it with non-political, pro-justice staff and actually enforce anticorruption legislation. Through a diachronic comparative analysis of Romania's anticorruption agency pre-EU accession and post-accession from 2002 to 2015, I demonstrate that it was continued pressure from EU officials that allowed for the creation and the subsequent empowerment of the DNA: through close monitoring, the EU was able to coerce Romanian lawmakers into committing to judicial reforms and the implementation of anticorruption control in exchange for EU membership. Without the hand of the EU, there is little reason to believe that the DNA would have been able to function with freedom (albeit limited) from political interference and fulfill its mandate of punishing corrupt officials.

This chapter makes the following contributions. First, it joins an already large scholarship that focuses on authority delegation and the conditions under which politicians are willing to provide a governmental agency with the discretion to operate with limited interference. Second, it underscores not only the reluctance of politicians to fully commit to corruption control, but also the complex web of interdependencies in which an anticorruption agency operates. An internally strong agency by itself cannot succeed in its mandate to fight corruption as it is dependent on other law enforcement institutions. This serves to show the significant challenges that await a transitioning country in the fight against corruption and the limits of pushing anticorruption agencies as a one-size-fits-all strategy. The failure of an anticorruption agency, even one that is institutionally and internally strong, is all but guaranteed in the absence of supporting political and judicial structures.

This chapter is structured as follows. Using the principal-agent theoretical framework as a starting point, the second section provides a discussion on governmental agency empowerment

and the limits of institutional design in explaining agency effectiveness. The third section goes over methodology and data sources. In the fourth section, I detail how the EU was able to exercise continued pressure over the Romanian political elites and coerce them into committing to judicial reforms and corruption control; first in the pre-accession period, and second in the post-accession period. Finally, in light of the recent demonstrated backsliding and the dismissal in July 2018 of the DNA's much celebrated head Laura Codruța Kövesi – now facing trial for malfeasance, bribery and perjury – I close the chapter with a short discussion on the extent to which the improvements orchestrated by the EU can have long-lasting effects, and whether sustained pressure over EU conditionality has an expiry date.

4.2 Delegation, Independence and Power

Under what circumstances are agencies able to operate without undue regard to the views of other government actors? More specifically, how can anticorruption agencies be empowered to fight corruption? When are politicians willing to provide the resources and the political space for an anticorruption agency to fulfill its mandate?

Authors have chronicled an increase in the number of deliberate acts of delegation that shift power to independent regulatory agencies in a number of core policy domains such as welfare, climate governance or monetary policies, notably in Europe in recent decades (Thatcher and Stone Sweet 2002, Batory 2012). In typical principal-agent fashion, the act of creating a governmental agency constitutes a delegation of power that is deemed beneficial to the principal (McCubbins 1999, Kiewiet and McCubbins 1991). Using this framework, the principal shares with the agent some discretionary authority to take actions on their behalf. This delegation of powers occurs when the benefits outweigh the costs: delegation resolves commitment problems by enhancing the credibility of principals' promises to their constituencies; it overcomes

information asymmetries in technical areas of governance as agents are expected to develop expertise that will be used to produce or help principals produce policy; it enhances rulemaking efficiency as agents are expected to deal with the nitty-gritty of problems that arise while principals provide policies' broad brush strokes; and principals can shirk blame for unpopular measures, deflecting responsibility to agents who are expected to maximize policy goals (Laffont and Martimort 2009, Thatcher and Stone Sweet 2002).

There are limits to the usefulness of the classic principal-agent model, and whether it applies to anticorruption bodies the way it does to the majority of governmental agencies is questionable. First, as stated in the first chapter, anticorruption agencies are created to signal to domestic constituencies lawmakers' commitment to fighting corruption. The principal-agent model however arguably underestimates the importance of the multiple constituencies an agency potentially answers to. Do anticorruption agencies answer to lawmakers, or do they answer to the public, or other international stakeholders? Second, corruption control is a public good that is almost universally endorsed by the public, and one that puts the brunt of the burden – increased scrutiny over campaign financing and the use of public funds, transparency laws, integrity compliance audits, etc. – on politicians and government officials, thereby negating the need for the latter to shirk blame and deflect responsibility. Third, while the formal mandate of anticorruption agencies is to prevent, combat and punish corruption, the extent to which politicians actually consider it as its true mandate is up to debate. Whether corrupt or non-corrupt, politicians do not desire greater scrutiny or impediments to the exercise of power, among other things, and the true purpose of an agency is merely to provide the impression that they are invested in fighting corruption. Thus, they do not care to push for policy innovation, increase technical expertise or make anticorruption laws and policies more effective. This is

evidenced by the rather high probability of organizational death a number of anticorruption agencies have faced across democracies, as opposed to other types of governmental agencies.

That being said, one of the central preoccupations of the principal-agent model is the degree to which the principal, here assumed to be political executives, will seek to control its agent, and alternatively, the conditions under which the principal will face agency loss and "lose control" of its agency, thereby having to face a situation where the agent develops and pursues its own interests and generates outcomes that are different from the policies preferred by the principal (Carpenter 2001, Stone Sweet and Brunell 2012). This is a point that is especially salient when it comes to anticorruption agencies. It is a given that lawmakers are incentivized to control and steer the activities of their own governmental agencies to ensure that they will serve their interests. But unlike for other agencies like the postal service or the food and drug administration agencies, this creates a theoretical tension for anticorruption agencies. The issue of agency independence is crucial when it comes to matters of corruption: if an anticorruption unit is meant – on paper – to provide a meaningful check on political corruption, it cannot do so if it is controlled by the very individuals that it is supposed to monitor and punish. Thus, in order to succeed and curb political corruption, an anticorruption agency needs to have the ability and willingness to operate without undue regard to the views of other government actors: for instance, key nominations must be driven by qualifications and the status of prosecutors should be protected (Melton and Ginsburg 2014). If it has investigative and prosecutorial powers, it needs to be able to use them without taking into consideration the identity and the political affiliation of the alleged perpetrator.

Of course, as mentioned in chapter two, in establishing an integrity watchdog, the goal for lawmakers is to signal to constituents that they are invested in the fight against corruption.

Perhaps for this reason, independence is often formally enshrined in the establishing act of an agency, or even in the very name of the agency[12]. Out of the sixty-seven anticorruption agencies that were first established in democracies from 1987 to 2016, thirty-five mention the agency's supposed independence from outside influences. In Article 4 of Seychelle's Anti-Corruption Law of 2016, it is formally stated that the "Commission shall be a self-governing, neutral and independent body and shall not be subject to the direction or control of any person or authority". Similarly, Madagascar's Law No. 2004-030 on the Fight Against Corruption states that "the independence of the Bureau is guaranteed by the security of the function of its leaders, the availability of sufficient resources and autonomy in operations. In the exercise of his function, the Director General is protected from any form of pressure or intimidation from political, economic or other entities." When it comes to names, the most famous example is of course the Hong Kong Independent Commission Against Corruption, but then there are also the Fiji Independent Commission Against Corruption, Madagascar's Independent Anticorruption Bureau (*Bureau Indépendant Anti-Corruption*), and Mongolia's Independent Authority Against Corruption, among others.

Be that as it may, these explicit declarations of independence seem to serve a symbolic purpose rather than a binding one. Such provisions tend to be rather general and underspecified and display a level of ambiguity that goes beyond the limits of language. Simply calling something "independent" does not make it so, as they are easily circumventable by self-interested politicians.

[12] Other international actors such as the EU, the UN, the World Bank, and the OECD seem to agree as they also stress the importance of agency independence as a key ingredient to ensuring the ability to combat corruption (Painter 2014). This principle is notably enshrined in the United Nations Convention against Corruption in article 6, paragraph 2: "Each State Party shall grant the body or bodies […] the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence."

When are politicians willing to delegate authority? If lawmakers exhibit political will to crack down on corruption during the constitutional moments of an agency, it is perhaps because they can resort to mechanisms to control them ex post: static legislations leave room for ambiguity, provisions can be circumvented or simply left unenforced, budgets can be cut, key nominations can be controlled, and if all fails, agencies can be disbanded.

4.3 Data and Methodology

I use the case of Romania to highlight the conditions under which an anticorruption agency can be empowered to fight and punish corrupt officials in a transitioning democracy context. First, Romania provides a convenient comparative case as it experienced two formally similar anticorruption agencies, the NAPO and its second iteration, the DNA, both equipped with similar formal powers and the same mandate to manage, supervise and control the criminal investigations for corruption offenses and prosecute them. Where they differ is in their widely different performance and output: while the NAPO was ineffective throughout its existence and unable to indict a single high-ranking official, the DNA went on to become one of the most, if not the most, celebrated anticorruption agency in the world.

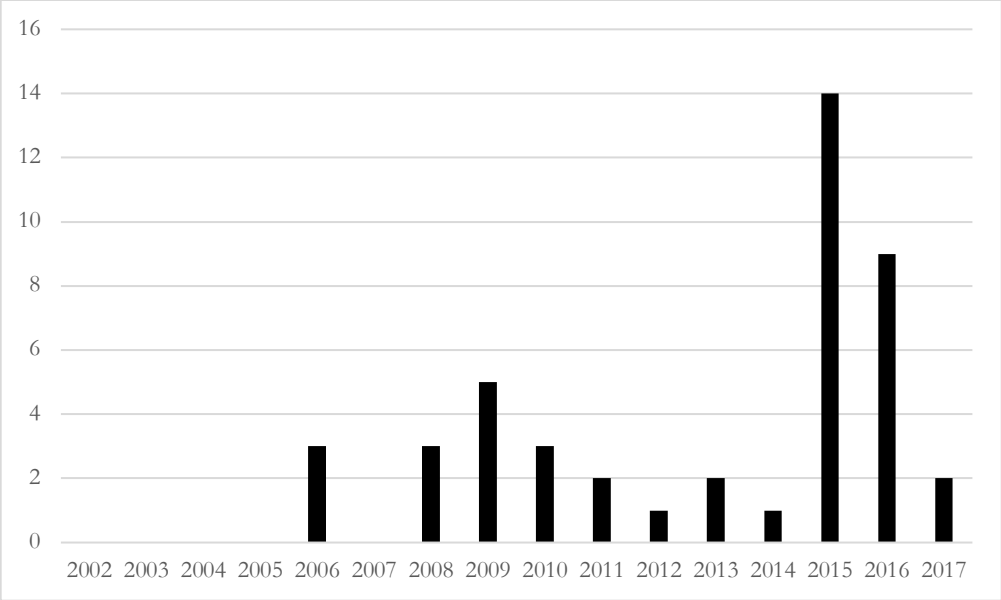

Figure 2. Number of ministers and former ministers indicted (2002-2017)
Source: The Eastern European Corruption Prosecution Database (Popova forthcoming)

Second, while the track record of the DNA may be exceptional, the conditions that led to its empowerment are not. Romania's experience with anticorruption may be informative and helpful in letting us understand how other post-communist European states can address corruption, but also other transitioning democracies who are dependent on international stakeholders. As many transitioning democracies, Romania grapples with issues of corruption and a political elite that is reluctant to break from perpetuating clientelist relationships that facilitate corruption schemes. The activity of anticorruption agencies is perhaps most relevant in transitioning democracies that moved away from authoritarian rule and where judicial and law enforcement institutions are still young. For these reasons, understanding the circumstances under which these political elites are willing to allow for an anticorruption office to operate is important.

In order to assess the conditions that led Romanian leaders to commit to a reinforced anticorruption framework and allow the DNA to meet its formal mandate, I track the formal exchanges between the EU and Romanian lawmakers and the timing of resulting reforms using

regular reports on Romania's progress towards accession from 1998 to 2004, comprehensive monitoring reports from 2005 to 2006, CVM reports from 2007 to 2015, other EU official documents and other secondary sources.

4.4 External Pressure and the Empowerment of the DNA

At the beginning of accession negotiations, post-communist Romania was grappling with problems of corruption, judicial quality and state capacity (Spendzharova and Vachudova 2011, Vachudova 2009). Enticed by the various political and economic benefits that would derive from EU membership, its leaders agreed to undergo a process of deep democratic and institutional transformation. EU conditionality and the exercise of its leverage through its regular monitoring reports led to reliable exchanges between the two sides. Despite some setbacks and initial reluctance from the political elite to seriously commit to the strengthening of its anticorruption framework, Romania acted on a majority of the EU's recommendations.

Throughout the aughts and the following decade, the EU exercised sustained pressure on the Romanian government to commit to democratic reforms, and most importantly, get its corruption problem in check as it came to be perceived as the main barrier against Romania's future integration (Wagner 2016). Although the issue of corruption control is not explicitly mentioned in the Copenhagen criteria, it falls under the Political Criteria; candidate countries who are hoping to join the EU are required to have "achieved stability of institutions guaranteeing democracy [and] the rule of law", among other things (De Ridder 2009, Kochenov 2004, Sandholtz and Gray 2003)[13]. Very early on in the pre-accession stage, the EU made it clear to the

[13] Under the heading of political criteria in the Agenda 2000 report published in 2000, the EU wrote comments on the need to address corruption issues in candidate countries. Further, the annual reports of the Commission, which monitors the implementation of the accession process, reviews the progress on anticorruption measures under the subsection of "Democracy and the rule of law", again under the Political Criteria section.

Romanian government that it would have to undergo meaningful reforms on this issue. In its regular monitoring reports on Romania's progress towards accession, the European Commission repeated time and again that "much still remains to be done in rooting out corruption [and] improving the working of the courts"[14]. Optimistic about the observed progress, but still unsatisfied overall, close monitoring did not cease after the signature of its Act of Accession in 2005 and Romania's formal entry into the EU in 2007. Post-accession, the Commission continued to exert their leverage by establishing the CVM, a judicial and technical safeguard measure for new members who fail to implement commitments undertaken in the context of the accession negotiations in the fields of the area of freedom, security and justice or internal market policy.

During the pre-accession period, under the EU's guidance, the NAPO was created, and then underwent a major revamping to become the DNA. It progressed incrementally – with a boost in 2005-2006 as a result of hurried reforms prior to accession – going from an ineffective and weak anticorruption agency to an effective one. In the post-accession period, again as a result of EU pressure, Romania underwent a number of judicial reforms that allowed the DNA to finally punish corrupt senior officials nationally. Throughout the studied period however, attempts by the political elite to undermine the operations of the DNA and the anticorruption framework as a whole were relentless and numerous.

4.4.1 *Pre-Accession Period: the NAPO and the DNA (2002-2006)*

The pre-accession period was marked by the creation of its first anticorruption agency, the NAPO. Under the govern of the Partidul Social Democrat (PSD) and prime minister Adrian

[14] This claim is repeated in the 1997-2002 monitoring reports.

Năstase, the Romanian political elite initially demonstrated limited political will to fight corruption and opted for window-dressing in the form of the largely ineffective NAPO, an understaffed anticorruption office mired in political interference. Repeated critiques from the EU in the few years following its establishment ultimately led to superficial, limited reforms that failed to satisfy EU officials. However, with accession in line and sanctions in the coming horizon, a new leadership of lawmakers, headed by prime minister Călin Popescu-Tăriceanu, President Traian Băsescu, and Minister of Justice Monica Macovei, made a last-ditch effort that culminated in the second, reinforced iteration of the NAPO: the new and improved DNA.

As part of the many reforms that Romania underwent in the early aughts, the first iteration of the National Anticorruption Directorate (DNA), then known as the National Anticorruption Prosecutors' Office (NAPO), was hurriedly put together in 2002 by prime minister Năstase to gain integrity capital, assuage both the Romanian public and the EU (Ristei 2010), and prove once and for all that Romanian politicians were set on changing their ways and punish corruption. On paper, the office had significantly more punitive powers than its counterparts in the world and was mandated to manage, supervise and control the criminal investigations for corruption-related offenses and carry out prosecutions. Emergency ordinance No. 43 of 2002 also provided the office with another impressive feature; the agency would be supported by a considerable staff: 75 prosecutors, 150 judicial police officers, 35 specialists, 50 auxiliary specialists, and 10 economic and administrative employees. Further, its operations were "independent in relation to the courts and prosecutor's offices and the other public authorities[15]", which ambiguously hints at a level of independence from other state structures. Another important characteristic was its focus on high-level corruption; the office would make offences

[15] Unofficial translation of Article 2 of Emergency Ordinance 43 of 2002 of Romania. Any errors are mine.

that caused material damage greater or equivalent to EUR 100,000 the central point of their operations. This would theoretically put the emphasis on high-ranking corrupt officials.

The creation of the NAPO constituted a symbolical gesture to signal a commitment to the rule of law, but it did little to appease the EU. The Commission, despite calling it a "major institutional development" (European Commission 2002), flagged a number of concerns, notably taking issue with the lack of independence of the office from political interference. Indeed, the new office reported to the Parliament, and the power to order an investigation into the finances of national politicians or other high-level officials was exclusive to the Minister of Justice and the Prosecutor General, effectively giving them veto power. Second, the office's nomination process was seen as especially problematic: the chief prosecutor of the NAPO was selected from a shortlist produced by the Minister of Justice, and prosecutors were appointed and dismissed by the Minister of Justice. Third, the Minister of Justice also had control over the budget of the office, as provided by emergency ordinance No. 43 of 2002. EU officials feared that the outsized role of the Ministry of Justice in the affairs of the NAPO would allow for political interference and compromise the effectiveness of investigations and prosecutions. A report from Freedom House further confirms the legitimacy of this fear, noting that a majority of the prosecutors were tied to political patrons, thereby shielding the latter from the work of the NAPO (Freedom House 2005). The promotion of Ilie Botoş in 2002 – the nephew of former Commander in Chief of the Army Ioniţă Botoş, a close ally of Gabriel Oprea and Năstase – from a relatively unimportant position to Prosecutor General of Romania (Gallagher 2009) further shattered the hopes for an independent and effective anticorruption agency. Prosecutors who were first appointed to the NAPO demonstrated a passive attitude and little resolve to fight corruption, declining cases

arbitrarily and failing to pursue thorough investigations even in the presence of strong suspicions of corruption (European Commission 2005).

In a report in 2003, the Commission reiterated its recommendation to strengthen the independence of the NAPO, encouraging political leaders to set up measures to protect the nomination process and the status of prosecutors, and increase the transparency of the investigation process by clarifying the criteria for deciding which cases needed to be investigated. The Commission concluded that "while a number of high-profile measures were launched over the reporting period […] the implementation of anti-corruption policy as a whole has been limited. The measures taken have yet to have an impact and substantially increased efforts are needed." (European Commission 2003)

The game plan for Romania's political elite under Năstase's leadership was to respond to the EU recommendations in the least constraining way possible; they hoped to give the impression that the administration was clearing the standards established by the EU, while at the same time do their best to further shield themselves from greater scrutiny. Năstase demonstrated little interest in the fight against corruption as he brushed away EU's concerns, redirecting criticisms to neighboring countries who were according to him more corrupt, and suggesting that corruption would subside in the normal course of things after privatization as private interests would lose the temptation to "bribe or whatever else causes them to be corrupt" (Adevarul 2003, Wagner 2016). Still, in direct response to the EU's criticisms about the NAPO's lack of independence, the administration passed Law No. 303/2004 to reform the nomination process for the Chief Prosecutor of the Directorate, whose appointment and re-appointment by the President at the proposal of the Minister of Justice were to be approved by the Superior Council of Magistracy (SCM), the judiciary's self-administration body whose mission is to safeguard the

independence of the judiciary as stipulated in the 2004 reform package (Wagner 2016). However, at that point, the SCM was a quasi-dormant institution, and nominations to the Council were politicized affairs (European Commission 2002). Further, the office's obligation to report to the Parliament was lifted in May 2004, providing a semblance of independence from the political power. Instead of welcoming the change however, the Commission warned that it went too far in the opposite direction as it undermined the transparency and the public accountability of the anticorruption office (European Commission 2004). The seemingly positive reforms to the NAPO that followed – modest improvements to human resources, equipment and training – were minor and similarly failed to satisfy the EU. In parallel, the competence of the NAPO was also redefined with the lowering of the financial threshold for cases that were to be investigated by the office, effectively moving the focus further away from high-ranking officials to include petty corruption (European Commission 2004). A Constitutional Court decision in 2005 even further weakened the office with a majority ruling that stipulated that only the Prosecutor General of Romania – not the NAPO – would be empowered to investigate Members of Parliament (European Commission 2005).

The overall track record of the NAPO during this period supports the idea of an ineffective and weak anticorruption office. During the first reporting period following the creation of the office, only 119 cases were sent to court out of the 2,285 cases of alleged corruption registered with the NAPO, a modest achievement especially considering that they all targeted low-level, petty corruption involving private business individuals (European Commission 2002). Although the NAPO's caseload grew every year, none of them targeted high-level corruption (European Commission 2003), thus limiting the dissuasive effect on corrupt lawmakers. In 2005, EU officials took notice of a "significant increase" in the output of the NAPO but signaled once

again that almost none of the cases touched high-ranking officials neither at the national nor at the local level, with the majority of cases targeting middle management positions (European Commission 2004). Perhaps the most telling statistic during this period is the fact that not a single minister (or former minister) was indicted over the 2002-2005 period. Even prior to the Constitutional Court's decision when the NAPO had the competence to investigate Members of Parliament, it did not, or was not able to avail itself of this right.

In December of 2004, while confirming the finalization of the Accession Treaty for April of 2005, the European Council voiced its overall dissatisfaction by brandishing the specter of sanctions: closed monitoring would continue and "safeguard clauses will provide for measures to address serious problems that may arise, as the case may be, before accession or in the three years after accession, in particular in the areas of Justice and Home Affairs", thus maintaining the pressure on Romania (European Council 2004).

The end of 2004 marked the end of the Năstase era and the beginning of the prime minister Călin Popescu-Tăriceanu's of the Partidul Național Liberal, and president Traian Băsescu of the Democratic Party to head of a coalition government. The new leadership, brought to power partly thanks to its anticorruption agenda (Hein 2015), was now in charge of overseeing Romania's accession to the EU. It was however faced with ever-shrinking leeway and forced to reckon with the possibility of sanctions and suspended accession into the EU, a painful realization given the public's overwhelming support for Romania's entry. Acknowledging the lackluster performance of the NAPO, Popescu-Tăriceanu made several changes to address the EU's recommendations to actually enforce and implement anticorruption legislation. He named the popular and independent Monica Macovei – a jurist, civil society activist, the former head of the Romanian chapter of the Helsinki Committee (European Parliament, n.d.), and a known

proponent for an independent judiciary (Ciobanu 2007) – at the head of the Ministry of Justice to supervise a major reinvigoration of the office.

The NAPO was renamed the National Anticorruption Directorate in September 2005 and underwent a major restructuring that led to a redefinition of its competences and an internally strong agency. Notably, from now on the DNA would no longer focus on petty corruption, moving its focus back to cases of medium- and high-level corruption as it regained jurisdiction over corruption offences where the bribe is over EUR 10,000, or the material damage exceeds EUR 200,000. It was also officially assigned all cases that pertained to offences perpetrated by high-level officials such as deputies, senators and cabinet members, and Members of Parliament (European Commission 2006). The nomination of Daniel Morar, an independent jurist as chief prosecutor of the DNA – dubbed Mr Too Clean by The Economist (2008) – also contributed to further empower the agency to fulfill its mandate and protect it from political interference. After taking office, Morar led a turnaround of the staff and by the end of 2005 was responsible for a purge of underperforming and problematic prosecutors and judicial police officers, culminating in 30 dismissals (European Commission 2006). Moreover, the DNA would see a significant increase to its budget, which would no longer be dependent on the Ministry of Justice'. This new and improved Directorate for the first time acquired the financial and human resources necessary to enforce its mandate (European Commission 2006). These changes were ratified by Law n. 54/06 and took effect in 2006.

The restructuring of the DNA at the end of 2005 and the beginning of 2006 had almost immediate effects on the office's output, despite the fact that as compared to the NAPO, it did not gain significant formal powers. Unsurprisingly, the caseload of the office, as well as the number of indictments and cases sent to court continued to increase. Most tellingly however, is

that for the first time in the history of the agency, high-ranking officials had been indicted, including one that was in office: Dan-Ioan Popescu (former member of PSD, but out of politics at the moment of indictment), former Industry and Resources Minister and Economy and Commerce Minister; Petru Șerban Mihăilescu (member of PSD at indictment), former Minister for the Coordination of the General Secretariat of the Government; and Gheorghe Copos (member of the Conservative Party), the sitting State Minister for the Coordination of Business Environment and Small and Medium Enterprises activities, were all indicted under corruption charges (Popova, forthcoming). While it would be unwise to draw broad conclusions from these three indictments, it remains that for the first time since its creation in 2002, the DNA was finally able to overcome political obstacles and successfully investigate and indict high-ranking politicians. That said, none of these indictments led to convictions, signaling further obstacles down the road for the agency.

Unfortunately for Romania, this last-ditch effort to overhaul the NAPO alongside other judicial reforms in the few months leading up to the monitoring report of 2006 were deemed too little too late by the EU. While satisfied with the internal progress of the DNA and suggesting that "the newly formed DNA has made more progress during the first seven months of its existence than had been made in the years before" (European Commission 2006), EU officials alluded to continued attempts of interference from the Parliament and the judiciary. The Commission criticized the Senate for submitting a proposal to change the nomination and revocation procedures for high-level prosecutors, a move that would have undermined the accountability of the system and decreased the operational capacity of the DNA (European Commission 2006). EU officials also raised doubts about the lack of judicial integrity, and the

limited specialization of judges and their capacity to hear complex corruption cases based on the investigations of the DNA.

All in all, despite last-minute improvements in the anticorruption front, due to slow implementation of reforms, Romania failed to meet the EU's standards. On December 13, 2006, an unprecedent monitoring mechanism, the CVM, was established in order to address specific benchmarks in the areas of judicial reform and the fight against corruption. Out of the four benchmarks that were defined, two concerned corruption control. Romania was instructed to: "continue to conduct professional, non-partisan investigations into allegations of high-level corruption," (benchmark 3) and "take further measures to prevent and fight against corruption, in particular within the local government" (benchmark 4). Failure to comply and implement commitments as detailed in accession negotiations would lead to sanctions and "appropriate measures", as defined by Articles 37 and 38 of the Act of Accession.

4.4.2 *Post-Accession (2007-2015)*

The post-accession stage was for the DNA a period of consolidation, maturation and growing status, but one that was also met with sustained and stiff resistance from political elites and a judiciary that is going through growing pains. Uplifted institutionally by the 2005-2006 reforms, the DNA built an increasing caseload every passing year and was rewarded by support from the public and glowing assessments of its track record by the EU. Despite this success, the efforts of the DNA were undermined by two major obstacles at the beginning of the post-accession period: at the trial stage, despite encouraging judicial reforms, the DNA faced a structurally deficient judiciary overrun by unyielding anti-reform judges (Hein 2015), and at the pre-trial stage, it had to deal with an uncooperative Parliament that repeatedly and arbitrarily wielded its power to block requests for investigations into high-ranking officials.

One of the issues flagged by the EU from their first CVM report in 2007 were the limits imposed by the Romanian judiciary on the DNA's operations, which they accused of "falling short in demonstrating that they [understood] their essential role in the efforts to curb corruption in Romania" (European Commission 2007). This was not entirely surprising as the lack of judicial integrity – both at the structural and the individual levels – was a known fact; in a report on the state of corruption in Romania by the World Bank in 2000, a survey revealed high levels of corruption as perceived by the public, with about two thirds of the population believing that "all" or "most" officials were corrupt, with the judiciary (courts and prosecution) ranked second as the most corrupt state agency in the country (Anderson et al. 2001).

Shifting away from a focus on petty corruption and gaining the ability to bring a significant number of high-level corruption cases to trial meant that the DNA had to face a judicial system with limited capacity and integrity with increasingly politically charged cases. At the trial stage, while Romanian magistrates resorted to varied tactics to undermine legal proceedings of corruption cases that the DNA would send their way, some structural and procedural inefficiencies provided opportunities for further delays, a problem that was particularly salient at the beginning of the post-accession period. Judges would deliberately slow down the adjudication process by disproportionately suspending proceedings of high-level corruption cases and referring them to the Constitutional Court (European Commission 2007, 2008). Although procedurally correct, raising exceptions of unconstitutionality had the effect of prolonging proceedings by adding a constitutionality verification procedure that can take a year (European Commission 2011), increasing the risk of prescription as a result and the likelihood of a corrupt official getting away without a conviction. In another legal yet questionable maneuver, when dealing with high-level corruption cases in general, complicit judges would also allow

defendants' and their attorney's attempts to delay proceedings by requesting trials to be transferred to a different court (European Commission 2009, 2010). These delays, taken in conjunction with a high number of vacancies for magistrates (European Commission 2009), exacerbated the sluggishness of legal proceedings. Further, the lack of technical knowledge, a critique that was formulated in reports during the pre-accession period, was still an issue, with judges demonstrating insufficient expertise to hear and adjudicate complex financial crimes. Finally, EU officials observed that sentences were inconsistent and disproportionately lenient with imprisonment set at an average of one or two years, thereby limiting the dissuasive effect of convictions on corrupt politicians.

A number of these critiques to improve judicial integrity had been addressed in the pre-accession period, but because the transition to judicial independence necessitated large-scale and protracted reforms, improvements were incremental and results, slow to materialize. As provided by Article 125 of the Romanian Constitution, the SCM governs the judicial system and is in charge of guaranteeing the independence of the judiciary through the management of appointments, promotions, transfers of, and sanctions against judges. As mentioned previously, during the pre-accession period it was largely ineffective due to partisan and anti-reform nominations, and roundly criticized by the EU as a result (European Commission 2002). This led to yet another paradoxical situation in which a watchdog institution supposed to block political influence was itself infiltrated by it. In direct response to the EU's recommendations, the Strategy and Action Plan of 2005-2007 put forward by Macovei contributed to reinforcing the administrative capacity, the objectivity and the transparency of the SCM (European Commission 2005), leading to a better, more systematic management of case allocation, among other things. In the 2007 CVM report, EU officials applauded the implementation of these changes and

commented that they "[defended] the professional reputation, independence and impartiality of magistrates".

The reinforced SCM, now a functioning entity, struggled with issues of transparency and accountability in the following years, but still managed to address a number of criticisms and recommendations by the EU to further judicial reforms in Romania. In its capacity as the governing institution of the judiciary, it began to play a more proactive role in judicial reform by reforming the recruitment process and strengthening disciplinary responsibility. Following a tumultuous and politicized elections in 2010, it started broadcasting its plenum meetings live, contributing to the transparency of the Council. In 2011, it went on to propose new regulation for the recruitment of judicial inspectors and adopt new procedures to manage requests for searches and arrests of corrupt judges (European Commission 2011). Importantly for the DNA, the Council also made substantial improvements to the selection and promotion process of judges to the High Court of Cassation and Justice (HCCJ) (European Commission 2012), Romania's court of last resort which also hears high-level corruption cases.

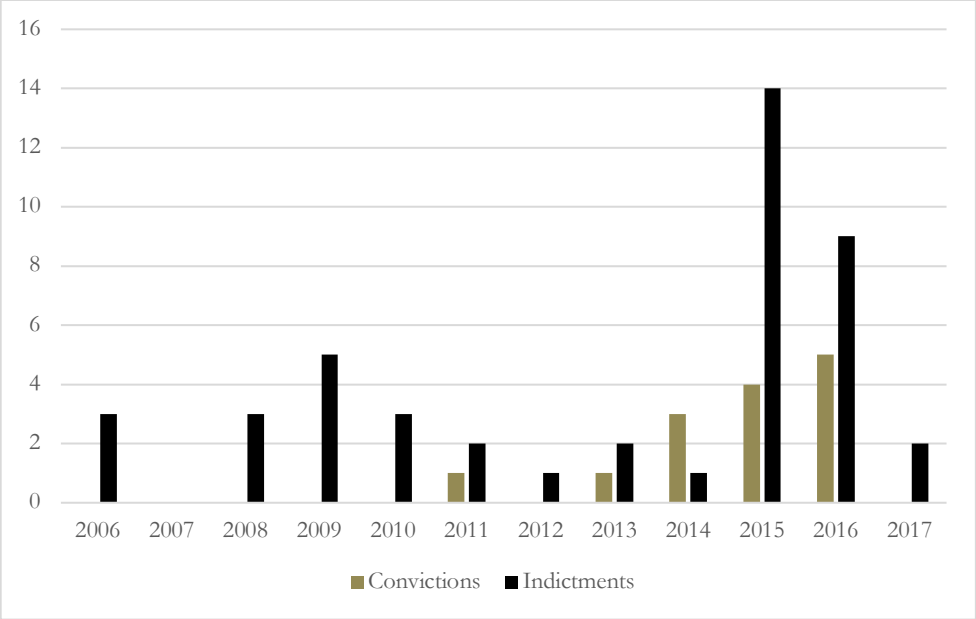

Figure 3. Number of ministers indicted and convicted per year (2006-2017)
Source: The Eastern European Corruption Prosecution Database (Popova forthcoming)

In 2010, after a failed attempt, the Parliament approved the Small Reform Law and made amendments to the Law on the Constitutional Court, which had the effect of accelerating trials "by removing the suspensive effects of exceptions of unconstitutionality and illegality raised by defendants" (European Commission 2012). In response to the leniency of convictions, the HCCJ, de facto guardian of jurisprudence, adopted sentencing guidelines for corruption offences in 2011 (European Commission 2012). This last measure was particularly applauded EU officials, which according to them "represent[ed] an important recognition that the courts have a responsibility to see that justice is served, and can lead, if they are sustained, to […] final decisions in cases involving senior politicians[16]. In addition, measures by the HCCJ to prioritize cases approaching statute-barred period had the effect of bringing verdicts in the following years

[16] That said, the transition to judicial independence in Romania is a complex and long process. The reforms mentioned above might represent the tip of the iceberg, but many authors attest to the idea that the EU played a pivotal role in transforming the Romanian judiciary. See Spendazharova and Vachudova 2011, Ristei 2010, Mendelski 2012 and Gigiu 2010 for more details.

to a number of high-level corruption cases that were pending (European Commission 2012). Technical seminars and training sessions were organized by the National Institute of Magistracy with the collaboration of the HCCJ and the DNA to address to further facilitate and improve the adjudication of complex corruption cases (European Commission 2012). Taken together, these improvements to the judiciary, jumpstarted by Macovei and further implemented by the recently improved SCM and the HCCJ, helped to explain the rise in the number of convictions of ministers and former ministers starting in 2013.

While there was progress on the judicial integrity front, in the course of this period, the DNA was assailed repeatedly, albeit indirectly, by multiple attempts to derail its operations by the Parliament, who accused the DNA of pursuing political vendettas. Despite the passing of the Small Reform Law and the amendments brought to the Law on the Constitutional Court in 2010, the legislative track record of the Parliament was a highly mixed bag, where an improvement would be quickly followed by another attempted breach to the anticorruption framework. In 2007, it sought to hinder the DNA's operations and circumvent its newfound power by discussing the possibility of amending the Procedural Code, notably by limiting the maximum duration of penal investigations to six months and the running of wiretapping to 120 days (European Commission 2007). Law n. 69/2007, which was passed in March of 2007, effectively decriminalized certain types of bank fraud; its retroactive application led to the closing of ongoing investigations and the drop of cases that were in trial. In 2008, the Parliament initiated a change in the nomination process for senior prosecutors, although the attempt was thwarted by the Constitutional Court on procedural grounds (European Commission 2009). This led to a situation that resembled a whack-a-mole game: these attacks to the anticorruption framework were noted by EU officials, but because they were of various nature, and because they benefited

from a veneer of legitimacy as they were procedurally correct and democratic, the EU did not formulate a coherent recommendation that could prevent further attacks from occurring.

These points notwithstanding, perhaps the most recalcitrant obstacle that remained in the DNA's path was the Parliament's power to block investigative proceedings of high-ranking officials, yet another situation where legal matter was embroiled in the political. In Romania, the head of the government and cabinet members are granted legal immunity as provided by article 109, paragraph 2 of the Romania Constitution. This immunity can only be lifted by a vote: "Only the Chamber of Deputies, the Senate and the President of Romania have the right to demand legal proceedings to be taken against members of the Government for acts committed in the exercise of their office" (Hein 2015). The DNA saw requests for permission opening criminal investigations, search or arrest members of the Parliament denied under dubious circumstances. This power of the Parliament to recommend judicial proceedings for cases involving Ministers or former ministers, which had been an issue since the very creation of the NAPO back in 2002, continued to be a problem. This was and still is to this day a persistent problem undermining the fight against corrupt high-ranking officials, with the EU mentioning year after year that decisions by the Parliament "seemed arbitrary, lacking objective criteria" (European Commission 2007-2015).

4.4.3 *Discussion*

Tracking the progress of the NAPO/DNA and the anticorruption framework pre-accession and post-accession periods through the exchanges between the EU and Romania served to highlight multiple findings.

Two conclusions can be derived from the pre-accession period. First, the comparison of the NAPO's performance and the DNA's underscores the limits of institutional design in ensuring the empowerment of an anticorruption agency. Formal powers are a necessary but ultimately a non-sufficient condition to ensure the success of an anticorruption agency. The NAPO and the DNA were both given the mission to manage, supervise and control the criminal investigations for corruption offenses and prosecute them, and yet, only one of the two succeeded. The NAPO's work was compromised by political interference at every turn, as it was steered by the ruling elite through the Minister of Justice and partisan nominations. The victim of political sabotage, the NAPO was not able to fully make use of its powers to investigate high-ranking officials, let alone prosecute them. Its staff, considerable on paper, was undermined by vacancies and passive individuals. What allowed the DNA to ultimately succeed in comparison was that Romanian lawmakers reluctantly gave it the space to function without political interference as a result of EU pressure; key nominations of independent jurists at the head of the Ministry of Justice and the DNA, and the actual enforcement of anticorruption legislation enabled the Directorate to finally operate within its mandate.

Second, although the arrival of new political players facilitated a slew of improvements to the DNA, there is little reason to believe that the substance and the speed of institutional upgrades would have materialized without EU's specific recommendations to Romanian political elites. This pressure proved to be most effective closer to the formal accession of Romania, as the credibility of sanctions was enhanced. Although a number of individuals in the Romanian political leadership helped move things forward along the way, there is reason to believe that such a deep and rapid transformation would not have occurred without the impetus provided by international bodies.

The post-accession period serves to highlight another conclusion: the work of an agency fits into a larger judicial and law enforcement system and is dependent on their integrity and cooperation. An internally and institutionally strong agency alone, even steered at a distance by a trustworthy Minister of Justice, cannot succeed in its mandate to fight political corruption if it is embedded in a larger political and judicial landscape that is inefficient or/and captured by corrupt political elites. As demonstrated by the limits imposed on the DNA by the sluggish and inefficient judiciary, no anticorruption agency functions in a vacuum. Despite a confluence of positive variables – new political leadership, pivotal appointments and a newly institutionally reinforced organization, improved efficiency of the judiciary – the DNA still encountered obstacles in the following years of its restructuring as it faced obstacles at the pre-trial and the trial stages, making the investigation and prosecution of high-ranking individuals particularly challenging. That said, large-scale reforms to the judiciary, overseen by the EU, allowed the DNA to overcome a number of obstacles.

Although external pressure – exercised by the EU through close monitoring – can coerce domestic actors into committing to transformative and lengthy reforms to strengthen its judiciary and anticorruption framework, lawmakers will stubbornly hang on to protections to their immunity. The journey to a reinforced anticorruption framework and a strong DNA was non-linear and characterized by ebbs and flows, with political elites demonstrating limited commitment to reforms. Indeed, what both periods also help showcase is stubborn political reluctance to abandon the reins of anticorruption, further supporting the conclusion that the initial and formal delegation of anticorruption control to an agency serves primarily as a signaling mechanism to stakeholders. In all democratic contexts, but especially in a transitioning democracy context, lawmakers have an arsenal of strategies that allow them to circumvent and

block investigations and trials. As this chapter demonstrated, despite giving in on a number of important democratic reforms as a result of external pressure, Romanian lawmakers were not afraid to make full use of tactics to shield themselves from investigations and trials. Political interference can come from different sources and will be relentless, as it will always be in the interest of politicians to block further scrutiny into their affairs.

4.5 CONCLUSION

This chapter sought to highlight the conditions under which politicians delegate discretionary power to an anticorruption agency and allow it to operate with limited interference. The case of Romania in particular emphasizes how sustained external pressure can bring domestic politicians to enforce the provisions delineating the formal powers of an anticorruption agency, let it operate with limited interference, and commit to the judicial reforms that would allow cases to be adjudicated properly. Without the EU's external influence over domestic players and the political and economic benefits EU membership on the line, the DNA would not have been allowed to become the anticorruption force as it is known today. Along the way, the nomination of certain individuals helped propel things forward (e.g. Macovei, Morar, Kövesi), but there is little reason to believe that these nominations would have occurred without the pressures inferred by EU conditionality, and that an isolated DNA would have succeeded without the proper judicial structures, newly reformed under the guidance of the EU. Although the process was mired with stiff political resistance and punctuated by attempts to derail the DNA's operations, overall the DNA was able to stave off attacks towards the end of 2015.

The continued attacks to the integrity of the anticorruption framework despite overall improvements throughout the observed period raises the question as to whether the situation in 2015 – a governmental integrity guardian attacked from all sides procedurally and legislatively –

was stable and sustainable, and whether the reforms encouraged by the EU will stick. Judging by the intensity and the accelerating speed at which Romania has been undergoing backsliding in recent years, the answer tends to lean towards the negative. A consequence to the DNA's success was that attacks were now a public affair. Liviu Dragnea, former prime minister of Romania, leader of the PSD and later convicted for corruption offences in June 2018, publicly denounced the work of the DNA, suggesting that Romanian democracy was under attack by the deep state and an army of emissaries – prosecutors, journalists, non-governmental agencies – bankrolled by foreign interests (Burtea 2018). Although the brunt of those public condemnations was leveled at the DNA, the HCCJ and the judicial system as a whole also had a target on their back (European Commission 2016).

In January 2017, citing the need to address the overcrowding of prisons, the Romanian government introduced an emergency ordinance that would decriminalize low-level corruption offences, incidentally pardoning some known government supporters convicted for corruption (Gillet 2014). Citing "new socio-legal realities", amendments to the laws regulating the status of prosecutors and judges, judicial organization and the SCM were also introduced (Romanian Ministry of Justice 2017) in the span of a few months, making judicial recruitment more challenging and weakening the independence of the judiciary as a result. These new laws, roundly criticized by the EU (Gillet 2017), also launched large-scale protests in 2017 and 2018. While some of the measures were rescinded, the assault on anticorruption reached new heights with the dismissal of Kövesi as the head of the DNA by President Iohannis in July 2018. After the resignation of its interim acting chief Anca Jurma, as of February 2019, no replacement has been found yet. The extent to which the office will survive in the absence of a leader is of the utmost relevance in the context of recent attacks on democratic institutions in the world.

This also raises more theoretical questions: Are reforms that are coerced by external pressure more easily reversible, and does the pressure exercised through EU conditionality have an expiry date? In addition to the EU's rather effective carrot and stick approach, there are a few characteristics that define the pressure exercised through close monitoring: technocratic recommendations are not only rather precise, informed, and unitary, they also occur at a regular frequency. This, of course, is opposed to the kind of pressure exercised by domestic constituents. But while these recommendations provide a clear roadmap (and persistent reminders) for Romanian lawmakers to navigating the reform process, understandably they do not lead to a profound change in political attitudes towards corruption and lingering patron-client relationships. Instead, reforms are motivated by a seemingly artificially manufactured political will to fight corruption. Moreover, in response to recent backsliding, the 2018 CVM report was accordingly highly critical, stating that Romania had reversed course on a number of reforms and pressing leaders to stop the assault on the judiciary and anticorruption efforts. The CVM will end when all of the four benchmarks applying to Romania are satisfactorily met, but it would see as though the threat of sanctions will tend to dissipate the longer Romania will be a member of the EU.

Finally, in the case of Romania, the anticorruption norm was internalized into an independent agency with real powers simply because the EU had leverage over the domestic political elites. It is less clear whether international norms that face strong domestic opposition can be translated into effective (as opposed to symbolic) domestic institutional changes when the norm diffuser does not have leverage over domestic actors.

Chapter 5. CONCLUSION

Governments may not care about corruption but do get worried when it becomes a political issue; when scandals stoke public anger, their political survival can be threatened. This dissertation tells a story of how in response to public pressure, governments want to demonstrate their resolve to fight corruption. At the same time, governments can be devious: they may create new actors but not equip them with the necessary power to fulfill their stated mandate. However, faced with pressure from INGOs or international bodies that exercise political and economic leverage, governments are compelled to give teeth to anti-corruption bodies. This dissertation considers both domestic and international factors together explain the evolution, institutional design, and empowerment of anticorruption agencies across the world.

This dissertation consists of three papers, linked by a common substantive concern. In the first paper, using an event-history approach, I suggest that the *timing* of establishment of an anticorruption agency is driven by domestic demand; lawmakers set up a specialized anticorruption body when corruption is perceived to be high, and when the press is vibrant and free and is therefore able to raise awareness by publishing high-profile stories of public officials' wrongdoing. Under such circumstances, the ruling elite face increased pressure from constituents to signal their resolve to fight against corruption. Governments could do so either by using existing institutional channels or by creating new one. Working with existing channels may not sufficiently address public concerns about corruption: after all, if the existing institutional set up is sufficient, why has it not cracked down on corruption? Hence governments face incentives to set up a new body that will allow them to demonstrate their resolve to fight corruption.

Yet, governments may cheat by creating weak institutions that cannot do much in terms of fighting corruption. In the second paper, I suggest that the institutional power of the newly created agency is dependent on international processes, namely, on the strength of transnational advocacy that seek to integrate good governance norms on the ground. I find that a high number of INGOs is associated with an anticorruption agency that has formal law enforcement powers, which is in line with international good practice standards.

Finally, the third paper is a deep exploration of how international pressures can influence the design of anticorruption body over the objections of domestic political actors through a case study on Romania. It draws attention on the role of international pressure as an explanatory variable for domestic policies, this time in the form of EU officials pushing for Romanian political leaders to commit to good governance in exchange for the economic and political benefits that come with membership. Politicians, even corrupt ones, find it difficult to completely shut off domestic and international pressures to curb corruption. Because their political survival depends on it, or because they are getting something valuable in return, lawmakers are willing to create and empower anticorruption bodies.

In sum, what the findings reveal is that both domestic and international processes played a prominent role in the rapid progress and strength of the good governance norm at the domestic level. Thus, in my narrative, both domestic and international effects are carefully examined. Although the timing of creation of an agency is driven by a demand that is anchored at the domestic level, this design of such agencies is underpinned by two twin processes that occurred at the global level: the rise of quasi states like international bodies such as the EU (Caporaso 1996) and the power of INGOs. Both reflect a fundamental normative shift in the understanding of corruption, and the rise in popularity of these agencies as a standard solution for corruption.

The progression of legal and institutional instruments to fight corruption, and anticorruption agencies more specifically, is an example of a norm transfer and/or translation that occurred from the international to the domestic realm.

Despite the strength and the success of the anticorruption movement in creating new institutional actors to fight corruption, success as measured by the number of countries that have adopted the norm through different institutional measures, a number of problems arise at the horizon for anticorruption agencies. First is their inherent vulnerability because often their institutional power is attributed to of the process of internationalization. When norms are transplanted as a result of international pressures and not fully absorbed by the political elite that thrive in maintaining old clientelist structures, survival in the long run may not be guaranteed for anticorruption agencies as they will continually face political interference. Although institutions tend to stick and develop their own constituencies, anticorruption agencies are a different beast as they are not always even given the chance to fully operate in the first place due to the highly political nature of their operations, and limited political will to fight corruption in earnest.

As demonstrated in the Romanian case, anticorruption institutions are fragile and susceptible to political obstruction in a myriad of ways. Agencies can be restructured, understaffed, defunded, or completely disbanded. The head of the agency can be demoted, fired, and the victim of smear campaigns by political opponents. After the PSD issued successive executive orders that undid years of progress in the judicial front in the matter of a year, Laura Kövesi, former head of the DNA and one of the current frontrunners to the position of the first head of the European Public Prosecutor's Office (Mehreen 2019), was questioned over the use of public funds more than ten years ago as part of a recent corruption probe that singles out prosecutors and judges in Romania (Hopkins et al. 2019). In view of such forceful retreat on good

governance, one can be pessimistic about the survival rate of anticorruption agencies. Leaders who are not committed to improve public accountability or transparency, who engage in political obstruction, or attempt to capture agencies may have the last word.

The general backdrop of these processes – a return in force of anti-globalization, the rise of populism, and a growing disregard for transparency and public accountability as witnessed in transitioning democracies as much as in established democracies with the election of leaders like Orbán, Duda, and Trump among others – spell further trouble for anticorruption institutions and democratic structures. If the institutional power and the performance of anticorruption agencies, despite being domestic governmental bodies, are closely tied to international processes in cases where good governance norms failed to integrate, one can expect that the intensification of anti-globalization sentiment, the closing of borders and further escalation of Eurosceptic attitudes could signal a weakening of the potency of international pressures for the push and the maintenance of good governance norms at the national level. With the election of Eurosceptic leaders who vow to preserve state sovereignty and fight off international and foreign forces that seek to meddle into domestic affairs, the appeal of the EU is perhaps no longer what it once was, and its once effective carrot and stick approach loses its efficacy as a result.

In the current climate where liberal democracy is under attack, civil society can seem like the last beacon of hope to ensure the survival of good governance structures and anticorruption agencies. In order to successfully fight off powerful authoritarian political leaders however, the general population and civil society need to demonstrate opposition and discontent in a swift and intense manner; millions need to descend in streets in coordinated and organized political action in order to make politicians revert decisions that impede on good governance.

That being said, can protests save anticorruption agencies? This remains to be seen. History shows that civil society might be willing to engage in large-scale protests if an agency has proven to be effective. Agencies like the DNA, or Indonesia's Corruption Eradication Commission, are immensely popular and enjoy the support of the population; this might explain their relative longevity despite their sustained engagement in damaging probes into political corruption. But what if they have never had the chance to prove their worth in the first place? In sum, unless there exists strong domestic support and a constituency for good governance that is going to come out in the streets and fight for it, it is going to be an uphill battle for anticorruption institutions, which will always remain vulnerable.

Future Research Agenda

My future research agenda will be motivated by two objectives. The first goal is to improve the methodological robustness of the three previous chapters. The findings of the second chapter, in particular, can be further strengthened by exploring the effect of interacting the two main explanatory variables, perceived corruption and press freedom. Likewise, the third chapter can benefit from a robustness check by employing the Heckman model to account issues that can arise from sample selection bias. The findings of the last chapter, the case study of Romania, can be further tested by morphing it into a comparative study, perhaps comparing it with Bulgaria.

Building on the findings of this dissertation, the second objective is to move on to a new research project that moves the analytical and empirical focus from national anticorruption institutions to subnational units, which have not been addressed in the scope of this study. The majority of the corruption and anticorruption literature focuses on the national level. My next project seeks to compare and contrast Canada's two largest provinces – Québec and Ontario – and understand the political origins of their anticorruption framework.

In September 2010, a MacLean's cover story called Québec "the most corrupt province in Canada". According to the news magazine, la belle province stood in a league of its own, with a history rife with collusion, bribery, favoritism and graft. From the sponsorship scandal that siphoned off $100 million in public funds under Paul Martin's premiership, to the corruption schemes in the public procurement of construction under the Charest era, one would be hard-pressed to deny that Quebec has a corruption problem. But like its neighbor, Ontario is also mired in corruption scandals. In 2009, Auditor General Jim McCarter released a damning report that accused the Ontarian government of favoritism toward certain companies in the creation of eHealth, which resulted in the waste and mismanagement of $1 billion in taxpayers' money. In 2014, Ontario opposition parties called for deputy premier and former health minister Deb Matthews to resign for turning a blind eye to the mismanagement of Ornge, the publicly-funded air ambulance service that was used as a personal piggy bank by its CEO and executives. In 2016, auditor general Bonnie Lysyk revealed that the provincial government had funneled $80.5 million to various teachers' union organizations, allegedly to guarantee their political support. In September 2017, two aides of former premier Dalton McGuinty were on trial for allegedly wiping clean 20 hard drives for dubious reasons in 2013. And that is just the tip of the iceberg.

The difference between both provinces appears to lie not in the size of their corruption problem, but in their approach to tackling it. Québec's response to the stream of corruption allegations has been proactive. The government launched a public inquiry and created two permanent institutions as part of a multi-pronged strategy to curb corruption: the Commissioner for the Fight Against Corruption and the Permanent Anticorruption Unit. On the other hand, Ontario's reaction has been relatively muted and passive. At the time of writing, there are no plans either to upgrade existing anticorruption laws, or to create new anticorruption institutions.

Instead, Ontario's approach is to let allegations trickle down the traditional channels of adjudication and law enforcement. We have an empirical and a theoretical puzzle: Why have the Ontario and Quebec governments reacted differently to similar corruption scandals? Under what circumstances do political incumbents choose to tackle corruption by constraining their own discretionary powers and establishing specialized anticorruption institutions at the sub-national level? What was the role of international pressures in this story?

In addition to providing a new case of similar dynamics, the subnational units of analysis and finer-grained data of the Ontario-Québec comparison will allow for robust conclusions as well as a more nuanced understanding of the mechanisms that lead to institutional creation in the context of corruption. Empirically, the proposed research will further the study of corruption in developed areas by identifying ways in which this phenomenon can be controlled. With the filing of the Charbonneau Commission's final report in 2015 and the flurry of corruption allegations that have recently plagued the Wynne administration, the timing is appropriate for a comprehensive study on the two largest Canadian provinces' anticorruption institutions.

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