

Université de Montréal

**AN INTERDISCIPLINARY INVENTORY OF ANTI-CORRUPTION SOLUTIONS:
TOWARDS A BETTER ANTI-CORRUPTION STRATEGY
ADAPTED TO EGYPT'S CONTEXT**

Par
Marian Kaldas

Faculté de droit

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CONTEXT**

Présenté par
Marian Kaldas

A été évaluée par un jury composé des personnes suivantes

Ejan Mackaay
Président-rapporteur

Violaine Lemay
Directeur de recherche

Prénom Nom
Membre du jury

Patrick O'Malley
Examineur externe

Résumé

La présente thèse a examiné et discuté des mesures prises par le gouvernement égyptien pour lutter contre la corruption en fournissant une étude constructive et interdisciplinaire post-mortem critique du premier projet de stratégie nationale de lutte contre la corruption élaboré par l'Égypte en 2014 et devant s'appliquer de 2014 à 2018. Il visait à examiner dans quelle mesure les politiques mises en œuvre étaient susceptibles d'atteindre leurs objectifs, compte tenu du taux élevé de corruption administrative et des problèmes de gouvernance ayant fortement affecté l'application des réformes proposées dans ladite stratégie. L'objectif principal de cette thèse est de formuler des recommandations de réformes sur mesure afin de combler le fossé entre les réformes de gouvernance envisagées et la réalité sur le terrain. Comment la gouvernance législative de l'Égypte pourrait-elle tirer parti d'une panoplie de mesures correctives contre la corruption? Telle est la question de recherche que cette thèse a cherché à aborder. En vue d'atteindre cet objectif, la méthodologie s'est appuyée sur des données secondaires combinant une analyse documentaire, une analyse documentaire de solutions efficaces et l'expérience réussie des pays en développement dans la lutte contre la corruption, des formations aux institutions de lutte contre la corruption et de gestion, un examen des rapports, observations et connaissance du contexte particulier de ce pays. L'étude visait à créer un dialogue entre diverses disciplines dans le but d'identifier et de décrire les mesures efficaces susceptibles de garantir le succès des futures stratégies de lutte contre la corruption.

L'examen du contexte historique des efforts consentis par l'Égypte dans sa lutte contre la corruption, de 1952 à 2014, a montré que les dirigeants politiques égyptiens avaient affronté tous les problèmes de corruption en promulguant des lois sans accorder une attention soutenue au degré de leur mise en œuvre. La présente thèse vise à combler une lacune importante dans la recherche en proposant une étude interdisciplinaire du problème de la corruption administrative en Égypte, qui ne soit pas uniquement centrée sur la modification des lois. Toutefois, il convient de noter que l'approche interdisciplinaire ne compromet nullement le rôle de la loi dans la lutte contre la corruption, mais fournit à la loi un soutien et des ressources supplémentaires pour

l'aider à atteindre l'objectif ciblé. Cette thèse a tenté de proposer des moyens efficaces de servir l'esprit de la loi et l'intention du législateur.

La recherche a conclu qu'il était recommandé que les décideurs politiques cherchent à adopter une approche à la fois plus disséminée, plus participative, plus protectrice et plus stimulante, lors de la mise en œuvre de stratégies futures de contrôle de la corruption et d'application des lois anticorruption. Outre le caractère exhaustif de l'approche proposée, la volonté politique de soutenir les mesures de lutte contre la corruption revêt, dans tous les cas, une importance primordiale.

Mots-clés : [corruption, anti-corruption, stratégie, Égypte, interdisciplinaire, réformes, gouvernance, stratégie nationale de lutte contre la corruption]

Abstract

This thesis examined and discussed the measures undertaken by the Egyptian government to fight corruption by providing a critical post-mortem interdisciplinary constructive study of Egypt's first drafted National Anti-Corruption Strategy that was developed in 2014, and scheduled to run from 2014-2018. It sought to examine the extent to which the implemented policies were likely to achieve their goals, given the high rate of administrative corruption and the governance problems that strongly affected the enforcement of the reforms proposed in the strategy. The main aim of this thesis is to formulate custom-made recommendations for reforms in an effort to bridge the gap between the intended governance reforms and the reality on the ground. How can Egypt's legislative governance benefit from an inventory of anti-corruption remedies? That is the research question that this thesis sought to address. In order to serve this purpose, the methodology relied on secondary data that combined desk review, a literature review of effective solutions and successful in-progress countries' experiences in tackling corruption, trainings in anti-corruption and management institutions, review of international organizations' reports, observations and knowledge of the countries' particular context. The study aspired to create a dialogue among a range of disciplines in an attempt to identify and describe the effective measures that would guarantee the success of the future anti-corruption strategies.

The review of the historical background of Egypt's efforts to fight corruption from 1952-2014 has shown that political leaders in Egypt have faced every corruption problem by promulgating laws without giving much attention to the degree of their implementation. This thesis fills an important gap in research by providing an interdisciplinary study of the problem of administrative corruption in Egypt that is not solely centered on changing the laws. However, it is important to note that the interdisciplinary approach does not undermine the role of the law in fighting corruption, rather it provides the law with additional support and resources to help it in achieving its intended goal. This thesis attempted to propose effective ways to serve the spirit of the law and the intention of the legislator.

The research concluded that it is recommended that policy makers may seek to adopt an approach that is at the same time more disseminative, more participative, more protective, and more stimulating when implementing future strategies to control corruption and enforce anti-corruption laws. In addition to the comprehensiveness of this proposed approach, the political will to support anti-corruption measures is, in all cases, of paramount importance.

Keywords: [corruption, anti-corruption, strategy, Egypt, interdisciplinary, reforms, governance, National anti-corruption strategy]

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Table 2: Ibrahim Index of African Governance

Table 3: Corruption Perception Index (CPI)

Liste des sigles

FBI : Federal Bureau of Investigation

GDP : Gross Domestic Product

IMF : International Monetary Fund

IACA : International Anti-Corruption Academy

ICAC : Independent Commission Against Corruption

ICE : Immigration and Customs Enforcement

MoU : Memorandum of Understanding

NGO : Non Governmental Organization

OECD : Organization for Economic Co-operation and Development

UNCAC : United Nations Convention against Corruption

UNDP : United Nations Development Program

UNODC : United Nations Office on Drugs and Crime

SME : Small Medium Enterprises

TI: Transparency International

WB : World Bank

Liste des abréviations

ACA : Administrative Control Authority
ANND : Arab NGO network for Development
APA : Administrative Prosecution Authority
CAO : Central Auditing Organization
CAOA : Central Agency for Organization and Administration
CCAGG : Concerned Citizens of Abra for Good Governance
CPA : Citizen Participatory Audit
CPI : Corruption Perception Index
CRC : Corruption Report Card System
CRM : Citizen Relations Management
CSC : Civil Service Council
DCO : District Coordination Officer
EDB: Ease Of Doing Business
ERADA : Egyptian Regulatory Reform &Development Activity
ETA : Egyptian tax authority
IIAG : Ibrahim Index of African Governance
MKSS : Mazdoor Kisan Shakti Sangathan
MOF : Ministry Of Finance
MOPMAR : Ministry of Planning Monitoring and Administrative Reforms
MSAD : Egyptian Ministry of State for Administrative Development
NACA : National Anti-corruption Academy
NCCCC : National Coordination Committee for Combating Corruption
NCHR : The National Council for Human Rights
NCW : The National Council for Women
RTI : Right to Information Act
Strategy : National strategy to fight against corruption.
STAR : Stolen Asset Recovery Initiative
WJP : World Justice Project

To my beloved country Egypt

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Introduction

“Corruption is the most talked-about global problem, according to a new BBC poll, surveying more than 13,000 people across 26 countries.”¹ According to Clean GovBiz affiliated to the OECD “Estimates show that the cost of corruption equals more than 5% of the global GDP (US\$2.6 trillion, World Economic Forum) with over US\$ 1 trillion paid in bribes each year (World Bank).”² Although widespread all over the world, the levels of intensity and forms of manifestation differ from one country to another. Emerging countries seem to be the most affected by corruption like Egypt which is ranked 117/180 countries according to the Corruption Perception Index of Transparency International latest report in 2018.³

Egypt is home to one of the oldest civilizations in the world, a large land situated in the north of Africa, engulfed by the Red Sea, the Mediterranean Sea, and crossed by the Nile River; the second largest river in the world that spreads and drains into the deep white sand sea. The land of Pharaohs carries a very rich culture and distinct values dating back to the Ancient times. As a matter of fact, integrity and justice were two of the most crucial pillars that shaped the Egyptian society, dating back to Ancient Egypt. Egyptians were perceived as the first exporters of integrity to the world. The supremacy of the law was personified by the Egyptian goddess Ma’at embodying truth, justice, righteousness, the correct order and balance of the universe. The goddess represented a sense of moral responsibility.⁴ Moreover, “judges were often represented on temples without hands, with their chief or president at their head having his eyes turned downwards meaning that justice was not accessible to bribes, nor guided by favour and affection”.⁵ However, as the Egyptian society shifted from an ancient value-based culture to a modernized corrupt culture, the value of integrity has gradually started to lose its importance,

¹ BBC NEWS, “Extreme World: Corruption”, (9 December 2010).

² OECD Clean GovBiz, *The Rationale for fighting corruption* (OECD, 2014).

³ Transparency International, *Corruption Perceptions Index 2017* (Germany: Transparency International, 2018).

⁴ J Manning, “The representation of Justice in Ancient Egypt” (2013) 24:1 Yale J Law Humanit.

⁵ John Gardner Wilkinson, *Manners and Customs of the Ancient Egyptians* (Cambridge University Press, 2013) at 28.

and corruption started to prevail and spread according to international indicators such as the CPI and WGI. Increasing levels of corruption led researchers to start tackling the issue in order to find solutions to this ongoing threat. In this regard, this thesis is not the first of its kind to address the issue of corruption in an attempt to initiate effective reforms that may control and hopefully put an end to this destructive phenomenon. “Although the volume of research has increased exponentially over the last 20 years, many of the approaches to combating corruption have yielded few documented results and we are yet to find ‘THE recipe for fighting corruption’”.⁶ However, as Susan Rose-Ackerman and Tina Serøide previously stated

We recognize, of course, that some public entities are so pervaded with corruption that there are no reformers able to initiate change. Nevertheless, both history and contemporary experience suggest that such reforms do exist over time and space and that some end up in positions with power to effectuate change.⁷

This perspective as well as my position of influence with regard to the law, have instilled in me a sense of responsibility towards the conditions in which public administrators operate. While many research studies have been published on the subject of corruption, few have been able to witness its effects firsthand. As an administrative prosecutor, I did have this dubious privilege of experiencing these effects, especially in the months following the events of the Arab Spring of 2011. Moreover, having completed a LL.M thesis entitled “Corruption in Developing Countries and its Effects on Trade and Investments” has provided me with insight into the considerable impact of government corruption on economic development. Being fully immersed in the field of anti-corruption, I firmly believe in my duty and responsibility to contribute to bringing about the required reforms that would decrease the level of corruption in my country and hopefully control it and put an end to it. This feeling has been nurtured by the fact that Egypt’s political leaders have taken serious steps towards addressing the issue of corruption,

⁶ Sophie Schütte, “The status of corruption research and its significance for those working in development cooperation”, online: *CMI - Chr Michelsen Inst* <<https://www.cmi.no/news/1799-the-status-of-corruption-research-and-its>>.

⁷ Tina Soreide & Susan Rose-Ackerman, *Corruption in State Administration*, SSRN Scholarly Paper ID 2639141 (Rochester, NY: Social Science Research Network, 2015).

evident in many acts as well as in drafting the first national anti-corruption strategy in Egypt's history. The aforementioned strategy's duration is from 2014-2018.

I used to believe that fighting administrative corruption could simply be attained through the implementation of legal reforms, that is, by drafting laws with strong enforcement mechanisms inspired from countries with low level of corruption. However, after reading Violaine Lemay's view on the importance of taking into consideration the limits of the law, I came to the realization that it takes more than just a change in the law to tackle corruption. Lemay asserts that "dans la psyché du chercheur juriste non aguerri, le législateur aurait le pouvoir, carrément magique, de « faire apparaître » le fait social voulu à l'instant même de l'adoption du projet d'action législative".⁸ This pairs perfectly with what Huntington stated about the multiplication of laws fighting corruption: "In a society where corruption is widespread the passage of strict laws against corruption serves only to multiply the opportunities of corruption."⁹

In fact, I learnt that it was crucial to take into consideration not only the law, but also the social context of the law, Ron Saunders & J McMunag stated that:

Any reasonable analysis of law must therefore start with an analysis of social processes of constructing and applying laws; and of the historically specific social structures and social contexts which limit (but do not determine) the outcomes in question. The law is part of a wider repertoire of social and class struggles. Like any of these struggles, it must be understood as the emergent product of the structures which contextualize its construction and for the agents who are responsible for the constructive work itself.¹⁰

I further realized that hybrid issues like corruption need to be addressed using an interdisciplinary approach. However, having recourse to interdisciplinarity for the first time was, needless to say, challenging and awakened within me contradicting thoughts: one of a

⁸ Violaine Lemay, *Projet de recherche présenté au Secrétariat de la condition féminine, Gouvernement du Québec* (2018).

⁹ Samuel P Huntington, *Political Order in Changing Societies* (Yale University Press, 1968).

¹⁰ Ron P Saunders & J McMunagle, *An Introduction to criminal law in context : cases, notes and materials*, 3rd ed.. ed, Carswell student editions (Scarborough, Ont: Carswell, 1996) at 56.

jurist's whose pre-set beliefs are threatened by having to learn about new disciplines and the way they can help the law achieve its intended goals vs. the desire to find the best possible solution to address the issue of corruption. This research made me come to the realization that every discipline is an indispensable piece to the mosaic of reform. Lemay perfectly explains the value of interdisciplinarity stating that « Chaque discipline a ses propres grandeurs, son propre rapport aux valeurs épistémologiques. L'interdisciplinarité supposera de mettre le pied tantôt dans l'une, tantôt dans l'autre, dans une sorte de ballet intellectuel dont la grâce effective dépendra de la capacité de jugement constructeur de liens nouveaux ». ¹¹ As Lemay perfectly described it, interdisciplinarity is like an intellectual ballet, it is the sum of dynamic interactions between disciplines. It allows the research to tackle an issue and bring answers to a question crossing the limitations of each discipline and having access to a wider pool of scientific theories and methodologies. Using the interdisciplinary approach will enable the research to answer its main question: How can Egypt's legislative governance benefit from the anti-corruption remedies?

The research is divided into two parts. **Part One** examines the literature review of the research topic and presents certain successful experiences in fighting corruption which took place in some countries. **Part Two** provides a critical interdisciplinary analysis of the first drafted anti-corruption strategy developed in Egypt in 2014 and scheduled to run from 2014-2018, which is to the best of the researcher's knowledge the first of its kind.

Part One is divided into three chapters. **Chapter One** outlines the research problem and the choice of the theoretical framework: constructivism as explained by Ernst Von Glasserfeld. The research employs an interdisciplinary approach on law due to the hybrid nature of the problem of corruption, which needs the collaboration of different disciplines to craft effective reform strategies. Furthermore, it introduces the conceptual framework which highlights and explains the meaning of the different terms used in the research. Finally, it presents the

¹¹ Violaine Lemay, in Frédéric Darbellay & Theres Paulsen, eds, *Au Miroir Discip Réflex Sur Prat Enseign Rech Inter- Transdiscipl* (Berne: Peter Lang, 2011) at 30.

methodology employed by the researcher to answer the research question. The methodology mainly relies on data from literature, observation, situational knowledge of the country, studying other countries' experiences in fighting corruption as well as the researcher's firsthand experience, having participated in specialized anti-corruption research centers.

Chapter Two diagnoses the problem of corruption, or rather provides a diagnostic reading of this problem. It discusses the causes and effects of corruption, and reviews some possible cures/remedies since understanding the causes and effects of corruption is a major step towards formulating effective solutions and reform policies. The chapter also deals with the different international indicators that measure the level of corruption in a given country, the validity of those measures and their importance in tracking progress in fighting corruption.

Chapter Three provides a practical evidence which proves that fighting corruption is not a legend; but rather possible and achievable. This is based on some countries' success experiences. Presenting these success stories is the best way to fight cynicism and pessimism in regard to fighting corruption. The chapter presents three types of experiences in battling with corruption: the success stories of Hong Kong and Singapore, the in-progress experiences of countries like Colombia, Georgia and Indonesia and finally some successful international experiences in fighting corruption in specific fields. Although some countries' experiences are not to be copied - because every country has its own particular context and conditions- however, studying their experiences help in inspiring other countries' policymakers and leaders in their fight against corruption.

Therefore, Part One sets the theoretical and practical framework that helps the researcher in her attempt to answer the core question of the thesis, that is, to find out how can Egypt's legislative governance benefit from anti-corruption remedies.

Part Two of the research is also divided into four chapters and provides a critical reading of the first drafted national anti-corruption strategy in Egypt's history. **Chapter One** starts with historical framework of Egypt's efforts to fight corruption from 1952-2014. **Chapter Two** further discusses the strategy's key components: its main goal, the parties involved in the implementation of the policies, the methodology, the foundation and the mechanisms for

drawing up the strategy. The study of these elements - in light of the scientific literature reviewed and the experience of other countries that succeeded in decreasing or eliminating corruption - is meant to discuss and highlight the steps to be taken in Egypt's battle against corruption. **Chapter Three** discusses the strategy's ten short and medium term goals based on what was actually achieved and what was not. **Chapter Four** presents an overview of Egypt's performance in fighting corruption according to the international indicators, and suggests some recommendations in an attempt to reach better results in future national anti-corruption strategies. The thesis ends with a **Conclusion** that sums up the research findings.

PART ONE:

Different perspectives of Corruption: Theory and practice

Part One: Introduction

Part one of the research is divided into three chapters. Chapter one outlines the research problem and the choice of the theoretical framework: the constructivism as explained by Ernst Von Glasserfeld. The research uses an interdisciplinary approach on law due to the hybrid nature of the problem of corruption, which needs the collaboration of different disciplines to formulate effective reform strategies. Moreover, it presents the conceptual framework which and explains the meaning of the different terms used in the research. Finally, it presents the methodology employed to answer the research problem. Chapter two provides a diagnostic reading of the problem of corruption by studying its causes, effects and different reform remedies to tackle the problem while highlighting the importance of using indicators to measure corruption and to track the progress of the anti-corruption strategies. Chapter three provides practical evidence that corruption is curable by presenting three types of experiences in fighting corruption: the success stories of Hong Kong and Singapore, the in-progress experiences of countries like Colombia, Georgia and Indonesia and finally it presents some international partial anti-corruption reforms successes in distinct fields. Therefore, part one of the research sets the theoretical and practical foundation that helps the researcher to answer her core question: how can Egypt's legislative governance benefit from anti-corruption remedies?

Chapter one : Theoretical and Methodological Choices

The main objective of the first part of this thesis is to present (A) the theoretical nature of knowledge production as used in this research, its general epistemological standpoint and the meaning of each word in the thesis's central question: "How can Egypt's legislative governance benefit from an interdisciplinary inventory of anti-corruption remedies?" In addition, this part presents (B) the methodological tools used to answer this question

A-Theoretical and Conceptual Framework

This theoretical framework presents three main characteristics of knowledge in relation to corruption and on which this thesis is based. The framework is based on (1) “constructivist” epistemology, viewing knowledge as a contextualized construct; (2) on the interdisciplinary of knowledge because of the hybrid nature of the problems of the research question; (3) and on knowledge as a key and a means to solve the problem of corruption in Egypt.

A.1- A Constructivist Standpoint and “Located” Knowledge

This thesis employs different theories which regard knowledge as a construct decided by the context in which it is built and located. It is generally agreed upon that knowledge is “built” or “constructed” in such a way so as to reach a given goal. In this sense, the researcher refers to the “constructivism movement” as described by the German philosopher and psychology professor Ernst Von Glasersfeld who explains that

Radical constructivism is uninhibitedly instrumentalist. It replaces the notion of ‘truth’ (as a true representation of an independent reality) with the notion of ‘viability’ within the subjects’ experiential world. Consequently it refuses all metaphysical commitments and claims to be no more than one possible model of thinking about the only world we can come to know, the world we construct as living subjects.¹²

According to Von Glasersfeld’s view, knowledge is not simply transferred from one mind to another; rather, it is constructed. Accordingly, one of the main targets of this research is to present a critical analysis of the first drafted National Anti- Corruption Strategy (2014-2018) in Egypt for the sake of making it more effective in the country’s war against corruption. To achieve this goal, this research employs different theories of various disciplines, whether in the field of law or other fields. For according to Lemay: although disciplines can have various theories but they can work together to solve a certain problem. She remarks : “ Le contrôle de l’action ou le souci

¹² Ernst Von Glasersfeld, *Radical Constructivism: A Way of Knowing and Learning* (Great Britain: The Falmer Press, 1995) at 22.

de le soutenir grâce aux secours de la connaissance oblige toujours de mélanger ce que la discipline oblige à séparer à des fins de mise en ordre théorique. »¹³

A.2- Corruption as a Hybrid Problem: An Interdisciplinary Approach to Corruption

This thesis does not regard or deal with law as the only tool of approaching corruption. For a long time, the researcher, like many people, had thought of law as the only solution to fight corruption, but then realized (based on personal experience and different readings) that other disciplines could also be beneficial and help the law in achieving its goal. Hence, this research aims at studying the suggested anti-corruption strategies through employing and making use of the various solutions and knowledge offered by the different disciplines, such as economics, culture and anthropology, behavioural science, a domain of psychology, and others. However, it is important to note that the interdisciplinary approach does not undermine the role of the law in fighting corruption, rather it helps it in achieving this intended goal. Interdisciplinarity is about collaboration and dialogue between different disciplines rather than having one field dominate the other. This approach is clearly stated in the following quote by Lemay et al “ L’idée n’est vraiment plus de chercher quelle discipline a raison et doit imposer sa solution aux autres, mais d’appeler en urgence chaque savoir à mettre l’épaule à la roue.”¹⁴

Lemay explains that:

La résolution des problèmes de l’action suppose au contraire la mise en commun solidaire des différents savoirs disponibles comme autant d’instruments potentiellement utiles. Naturellement, la présence de la liberté académique ajoute aux données du problème, car son affirmation accentue l’autonomie des choix de recherche face aux demandes sociales. Autrement dit, et en paraphrasant une maxime aujourd’hui sur toutes les bouches — « le

¹³ Violaine Lemay, “Critique de la raison disciplinaire : une révolution tranquille ?” (2017) 6:1 TrajEthos.

¹⁴ Violaine Lemay & Michelle Cumyn, “La recherche et l’enseignement en faculté de droit: le coeur juridique et la périphérie interdisciplinaire d’une discipline éprouvée La Chaire de rédaction juridique Louis-Philippe-Pigeon” in *Formes Savoir Rech En Fac Droit Cœur Jurid À Périphérie Interdiscip D’une Discip En Mouv*, yvon blais ed (Cowansville, 2016) at 90.

monde a des problèmes, mais l'université a des disciplines » —, par simple habitude de spécialisation.¹⁵

Every employed discipline has its own academic and practical ends. Combining those ends in a form of dialogue helps in attaining the legislator's main goal from the anti-corruption law. According to Mackaay, “[t]he social sciences can provide lawyers with insights in human action and interaction; in many instances this will buttress their legal intuition.”¹⁶ In this sense, sociological researches about the effectiveness of the anti-corruption laws can be help and even lend unexpected results. Research in the area of political science shows how institutions shape anti-corruption policy choices, and how political economy can be the main reason behind the failure of the anti-corruption law to attain its objectives. Research in economics shows that institutional structures, increased monopoly and discretion combined with reduced accountability can negatively affect the application of anti-corruption laws. Research in economics can also reveal the cost and benefits of different anti-corruption strategies. Therefore, a research that aims at designing a successful anti-corruption strategy should study the law in the context in which it operates. This explains why according to Van Hoecke “ Une approche contextuelle du droit implique inévitablement une étude interdisciplinaire.”¹⁷

In other words, interdisciplinarity acts as a kind of “brainstorming dialogue” between the disciplines to ensure a better application of the law's desired ends. In this regard, Lemay believes that a dialogue between the disciplines will help to ensure the realization of the intention of the legislator and create a better coherence between the different anti-corruption laws and regulations : This is evident in the following quotation by Lemay and Cumyn who state:

On interroge la connaissance à travers un dialogue qui profite à l'avancée des connaissances en droit et on prête l'oreille à la voix du savoir étranger lorsque cela permet de mieux respecter l'intention du législateur ou de s'assurer d'une mise en oeuvre du droit conforme à l'esprit de la loi et à la cohérence des règles entre elles.¹⁸

¹⁵ Lemay, *supra* note 13 at 22.

¹⁶ Ejan Mackaay, *Law and Economics for Civil Law Systems* (Edward Elgar Publishing, 2013) at 5.

¹⁷ Mark Van Hoecke, “Le droit en contexte” (2013) me 70:1 Rev Interdiscip Détudes Jurid 189 at 192.

¹⁸ Lemay & Cumyn, *supra* note 14 at 36–37.

Larivière et al conducted a research where they analysed the success and failures of interdisciplinary papers according to the number of citations from these papers. The findings show that “interdisciplinary research is more successful and leads to results greater than the sum of its disciplinary parts.”¹⁹ Therefore, research shows that combining the knowledge of each discipline by using an interdisciplinary approach will yield better results in fighting corruption, and supports the fact that knowledge is a construct created by different disciplines.

A.3- Interdisciplinarity as an Instrument in Support of the Egyptian Anti-Corruption Governance

Putting into consideration that this research fundamentally seeks to answer the central question of “How can Egypt’s legislative governance benefit from an interdisciplinary inventory of anti-corruption remedies?”, the research views corruption not only as a problem of law but one of governance as well. According to Hellman for example: “the search for effective methods of combating corruption has led to an increasingly wide recognition that corruption is fundamentally a problem of governance.”²⁰

A.4- Conceptual Framework for Hybrid Question

The research seeks to better understand corruption as a problem of “governance”. It explains what is meant by “governance” and “corruption” as well as the meaning of an ‘interdisciplinary inventory’ and “anti-corruption remedies.” These are all questions to be discussed by this thesis.

¹⁹ Vincent Larivière, Stefanie Haustein & Katy Börner, “Long-Distance Interdisciplinarity Leads to Higher Scientific Impact” (2015) 10:3 PLOS ONE e0122565.

²⁰ Joel Hellman et al, *Measuring governance, corruption, and State capture - how firms and bureaucrats shape the business environment in transition economies*, WPS2312 (The World Bank, 2000) at 4.

A.4.a.- The Denotation of “Governance” in the Research

The research aims at supporting an anti-corruption “governance” in Egypt. However, it is worth noting that this research does not aim at employing philosophical ways to reflect on what governance should ideally or philosophically look like. Besides, the word “governance” in this research should not be understood within the political scientists definition of the word which focuses more on the political principles and ways to achieve democracy. Instead, the research adopts a meaning similar to the one employed within the research tradition of the Centre de recherche en droit public (CRDP) in the University of Montreal. The “governance” perspective at CRDP focuses more on the empirical effects of the legislative state tools than on philosophical norms. For example, the CRDP states that the research in this axis is based on:

Les travaux menés [dans l’axe Droit et nouveau rapport sociaux du CRDP] s’articulent autour de la gouvernance en général et s’ouvrent à la vision offerte par la sociologie, la juriscomptabilité, la science politique, l’anthropologie, l’histoire et la philosophie. Le droit y est abordé à la fois comme production sociale et comme facteur structurant des rapports sociaux. Les thèmes abordés au sein de cet axe touchent notamment la gouvernance autochtone, la déontologie judiciaire et les nouvelles formes de la gouvernance étatique.²¹

Following the CRDP’s research tradition and according to A.M. Kjaer, the research refers to “governance” in a sense of concrete or empirical “steering society”²²

As suggested by A. M. Kjaer "governance is the capacity of government to make and implement policy, in other words, to steer society". This definition refers more to traditional steering capacities of states and introduces an important distinction between ‘old’ and ‘new’ governance. Inherent to the old governance is a traditional notion of steering by national governments through applying the top down approach, and measuring the degree of control the government is able to have over social and economic activities. The new governance has more to do with interactions of the center with society; and in case there is more self- steering in networks, because self-organizing networks can block implementation.”²³

²¹ Centre de recherche en droit public, “Droit et nouveaux rapports sociaux”, online: *Cent Rech En Droit Public* <<https://www.crdp.umontreal.ca/recherche/axes/droit-et-nouveaux-rapports-sociaux/>>.

²² Anne Kjaer, *Governance* (UK: Polity press, 2004) at 10–11.

²³ *Ibid.*

Kjaer refers to governance as the ability of the government to direct the society through the formulation and application of policies. Therefore, the main goal of this study is to find ways, tools or keys to help the legislative state in “steering” Egyptian society to control corruption. The study views “legislative governance” as the ability of the law and its application to bring the desired social changes.

As explained earlier, since corruption can be understood in different ways depending on the field of study, this section reviews different popular definitions of corruption followed by a presentation of its meaning within the context of this research.

A.4.b- The Evolution of the Concept of “Corruption” in Literature and its Meaning in this Research

It is important to understand the meaning of corruption, due to the polysemic nature of the term.²⁴ Corruption definitions range, for example, from regarding it as a political, economic, legal problem to a cultural or moral one. On the one hand public officials - who abuse their power- and dysfunctional institutions are both seen as real barriers to growth and prosperity even in countries which are rich in terms of natural resources like most African countries. On the other hand, countries like Denmark - whose most powerful resource is functional institutions- did better in terms of growth and development. Although most scholars agree that the definition of corruption cannot be reduced to a one sentence definition, it is still important to understand the different definitional approaches.²⁵ The way corruption is defined is important for this research, and for the reform strategies it examines. In the following section various basic definitions and concepts will be explored for a better understanding of the meaning of corruption.

A.4.b.i- Different Definitions of Corruption

²⁴ It means that it has different meanings and interpretations.

²⁵ Mark Philp, “Defining Political Corruption” (1997) 45:3 Polit Stud 436.

To understand the phenomenon of corruption, the evolution of its meanings and its effect, it is important to refer to different scholars, practitioners and schools of thought and their definitions as well as analyses of this phenomenon. These definitions can be summarized in a number of schools of thoughts: the moralists, the functionalists, the public interest definition, the public office definition, and the market centered definition. It is important to note that these new trends of definition did not replace the older ones.

Moralist definition of corruption: is there one?

Moralists believe that corruption is destructive to society, politics, and development. Their definition is based on ethics and values. It describes corruption as an outcome of the lack of integrity and moral commitments on the public officials' side. It also explains the relationship between the lack of morality and the decreased level of public trust. The moralist definition finds its roots in Machiavelli's writings on morals. Moralists have always sought to establish a common standard to determine whether a certain act was corrupt or not.²⁶ Their search for a common standard was the reason for criticising their Western biases, as they did not take into consideration the cultural differences.

Colin Leys²⁷ explains that Wraith and Simpkin's *Corruption in Developing Countries*²⁸ reflects the moralist point of view, and explains that all types of nepotism or favouritism is evil, and should be condemned. Leys agrees that nepotism represents a problem; however, he disagrees with the generalization because nepotism is not viewed as corrupt in all societies. Leys also finds that the results of corruption should not be included in one single definition. Therefore, the moralists did not agree on a clear and consensual definition of corruption.

²⁶ M McMullan, "A THEORY OF CORRUPTION Based on a Consideration of Corruption in the Public Services and Governments of British Colonies and ex-Colonies in West Africa." (2011) 9 *Sociol Rev* 181.

²⁷ Colin Leys, "What is The Problem About Corruption? | The Journal of Modern African Studies | Cambridge Core" (1965) 3:2 *Camb Univ Press*, online: <<https://www.cambridge.org/core/journals/journal-of-modern-african-studies/article/what-is-the-problem-about-corruption/D1FCBCF5D6D51927DCB9C66B52046273>>.

²⁸ Ronald Wraith & Edgar Simpkins, *Corruption in Developing Countries* (Routledge, 2010).

The school of thought that challenged the moralists' view of corruption was the functionalist, which did not see that corruption per se was as destructive as described by the moralists.

The functionalists' view of corruption

The functionalists view corruption in a more social way, that is, as an inherent characteristic in every society. They believe that it differs according to each country's political institutions, cultural traits and values and economic circumstances. Unlike the moralists, their definition of corruption is not based on values or ethics. Leff defines corruption as: "...an extra-legal institution used by individuals or groups to gain influence over the actions of bureaucracy. As such the existence of corruption per se indicates only that these groups participate in the decision-making process to a greater extent than would otherwise be the case."²⁹

To the functionalists, corruption is not always destructive. Scholars sometimes view it as part of the transition and adaptation process³⁰ that will fade with the development of the bureaucratic and political institutions. Leff even goes further and argues that bureaucratic corruption can be beneficial.³¹ Huntington also believes that corruption can promote political participation by irregular means in times where the system fails to develop and adapt fast to assimilate those groups in a more legitimate means.³²

²⁹ Nathaniel Leff, "Economic Development through Bureaucratic Corruption" (1964) 8:3 Am Behav Sci 8.

³⁰ David H Bayley, "The Effects of Corruption in a Developing Nation" (1966) 19:4 West Polit Q 719; Leff, *supra* note 29; J S Nye, "Corruption and Political Development: A Cost-Benefit Analysis" (1967) 61:2 Am Polit Sci Rev 417.

³¹ Leff, *supra* note 29.

³² Samuel Huntington, *Political order in changing societies* (New Haven: Yale University Press, 1968) at 60–61.

Another scholar in this school, James Scott, remarks that corruption exists in the political and public sector institutions in transitional economy countries as a result of their inability to adapt with the increasing, unperceived demands made by local businessmen, investors, and the new business world.³³ Hence, according to the functionalists, corruption is a by-product of public and political institutional deficiency, and not, as the moralists believe, a result of moral degeneration problem. However, in transition societies, where the gap between the development of the economic and legal institutions is wide, corruption thrives.³⁴ The functionalists believe that corruption can “grease” the wheels of the economy by compensating for the dysfunctional institutions and inefficient bureaucracies. However, this view is widely criticized, since it only benefits those who hold economic and political power, and denies the importance of the rest of the society’s access to the public services.³⁵ Besides, when adopting the functionalists’ definition of corruption in transitional societies, it limits the problem of corruption to dysfunctional institutions. Therefore, fighting corruption by simply introducing reforms to these institutions will not guarantee the solving of the problem.³⁶

The functionalists’ view of corruption prevailed over the moralists, due to the general preference of adopting a definition that is not founded on values. However, attempts to find a definition of corruption continued because there was no consensus on which aspects of corruption are the most important when defining it. The political scientist Arnold Heidenheimer grouped these definitions in three different types: the public-office definition, the market-centered definition and the public interest centered definition.

Heidenheimer’s typology

³³ James Scott, *Comparative political corruption* (Prentice-Hall, 1972).

³⁴ Samuel P Huntington, *Political order in changing societies*.-- (New-Haven: Yale University Press, 1968).

³⁵ Vito Tanzi & Hamid Reza Davoodi, *Roads to nowhere: how corruption in public investment hurts growth* (International Monetary Fund, 1998) at 18.

³⁶ We cannot deny the importance of reforming dysfunctional institutions, however, it is worth noting that institutions can sometimes develop to serve the interests of the elites.

Heidenheimer focusses on public officers' behavior showing how their acts fall under one the three following types:

i- Public- Office Definition of Corruption

The public - office definition of corruption stresses the importance of legal institutions and describes corruption as a deviation from the binding rules in the sense of misusing power or authority for private gains. This is best explained in the following quotations by Bayley and Mc Mullan. The former remarks: "Corruption while being tied particularly to the act of bribery, is a general term covering misuse of authority as a result of considerations of personal gain, which need not to be monetary."³⁷ As for Mc Mullan, he notes:

A public official is corrupt if he accepts money or money's worth for doing something that he is under duty to do anyway, that he is under duty not to do, or to exercise a legitimate discretion for improper reasons. Institutions have official aims, the individuals that work them have personal aims. The ideal relation between the individual and the institution is that the individual should be able to satisfy his personal aims in harmony with, and while forwarding the official aims of the institution.³⁸

Nye too formulated the most popular and widely used public-office definition of corruption to date describing it as "[b]ehaviour which deviates from the normal duties of a public role because of private regarding (family), pecuniary or status gain; or violates rules against the exercise of certain types of private-regarding influence."³⁹ Thus, according to the public- office definition, a public official, whether elected or appointed, is corrupt if he/she abuses power or the pre- set rules to achieve personal gains. For Nye, "formal duties" are not limited to the laws, but also refer to the prevailing norms and customs in a society. Although Nye's definition builds on Bayley's and McMullan's (which associates corruption with public officials' abuse of power for private gain) he also adds that this gain may be in the form of "remaining in office". One main advantage of this definition is that it is relatively clear, concise and easily applied. It does not simply prescribe a set

³⁷ Scott, *supra* note 33.

³⁸ McMullan, *supra* note 26 at 183.

³⁹ Nye, *supra* note 30.

of acts as corrupt, but also takes into consideration habits, time and place as well as culture as playing a role in causing and defining corruption.

ii- Public-Interest definition

Scholars who follow the public-interest school of thought describe the act as corrupt when it contradicts the common or public interest such as when a public officer prefers his private gains over the public interest. This is clear in Carl Friedrich's following remark:

The pattern of corruption can be said to exist whenever a power holder is charged with doing certain things i.e. who is a responsible functionary or officeholder, is by monetary or other rewards not legally provided for, induced to take actions which favour whoever provides the rewards and thereby does damage to the public and its interest.⁴⁰

Arnold A. Rogow and H.D Lasswell explain that

[a] corrupt act violates responsibility toward at least one system of public or civic order and is in fact incompatible with (destructive of) any such system. A system of public or civic order exalts common interest over special interest; violations of the common interest for special advantage are corrupt.⁴¹

Thus, according to the above definitions when a public official acts to satisfy or fulfill his/her own interests, he negatively affects the public interest. Therefore, public interest has to be considered an important variable when examining corruption.

The problem with this definition is that it denies the impact of informal relationship and the culture of corruption that exists in some institutions. This prevailing culture of corruption and the informal relationships outside the workplace. These relationships and the prevailing culture of corruption make officials themselves ignore and overlook the public interest. Besides, measuring and defining public interest are also controversial and problematic. Moreover, public interest is a very vast term,

⁴⁰ Carl Friedrich, "Political Pathology" (1966) 37:1 Polit Q 70 at 74.

⁴¹ Arnold A Rogow & Harold Dwight Lasswell, *Power, Corruption, and Rectitude* (Greenwood Press, 1977) at 132–133.

and designing anti-corruption reforms according to this definition denies the importance the different stakeholders give to their variable interests. It is difficult to mobilize the public opinion to protect the common interest.

iii- Market centered definition of corruption

Heidenheimer's typology ends with the market centered definition of corruption. This view presents every corrupt public official as a person seeking to maximise his/ her personal profit. This mainly occurs when public officials have large discretionary power over the distribution of resources. Van Klaveren argues that

"[a] corrupt civil servant regards his public office as a business, the income of which he will seek to maximize. The office then becomes a 'maximizing unit'... The size of his income depends upon the market situation and his talents for funding the point of maximal gain on the public's demand curve."⁴²

This attitude undertaken by the public official seems to happen particularly when the rules governing public officials' conduct are not clear enough. In this view, Robert Tilman gives this explanation:

Corruption involves a shift from a mandatory pricing model to a free-market model. The centralized allocative mechanism, which is the ideal of modern bureaucracy, may break down in the face of serious disequilibrium between supply and demand. Clients may decide that it is worthwhile to risk the known sanction and pay the higher costs in order to be assured of receiving the desired benefits. When this happens bureaucracy ceases to be patterned after the mandatory market and takes on characteristics of the free market.⁴³

These market centered definitions provide an economic analysis of corruption, where corrupt deals follow the supply and demand rules, making public officials provide services to the citizens according to the governing market rules rather than the public rules. However, they do not clearly

⁴² Jacob VanKlaveren, "the concept of corruption" in Arnold J Heidenheimer, ed, *Polit Corrupt Read Comp Anal* (New York: Holt Rinehart and Winston, 1970) at 67.

⁴³ Robert Tilman, "Emergence of Black-Market Bureaucracy: Administration, Development, and Corruption in the New States" (1968) 28:5 Public Adm Rev 437 at 440-442.

define corruption; rather, they explain why and how it happens. According to Johnston, the market-centered definition “overlooks not only the intangible benefits (prestige, promises of political support) that can flow from the abuse of authority, but also varieties that are not quid pro quo exchanges, such as embezzlement”⁴⁴

Having discussed Heidenheimer’s three- type- typology, this study tends to relate the Egyptian problem of corruption to the public office definition which has also been used by the World Bank, as will be explained in the following section.

A.4.b.ii - The World Bank Definition as the Most Fitting to Describe the Type of “Corruption” to be Controlled in Egypt

Each discipline proposes its definition and, of course, there is no complete consensus among them. Besides, the objectives of each discipline imply inevitable variations. Lemay explains⁴⁵ that it goes without saying that philosophers prefer the most "idealizing" definitions - those that best fit their historical scholarly goal, i.e. that of the quest for the most "ultimate", the most perfect and universalizing conceptual representations. Contrarily, sociologists prefer the most "objectifying" definitions - those judged the closest to empirical observations. Although a complete consensus is not reachable, however, there are some observed convergences. For example, the market centered definition has certain things in common with the functionalists’ definition of corruption. The functionalists adopt the ideology which emphasizes economic development and some economists’ point of view who may view corruption as beneficial since it “greases the wheels of the economy.” This may result in economic prosperity regardless of the importance of the social factor adopted, for example, by scholars who view corruption as a violation of the public interest.

Although attempts and debates to define corruption continue to exist and scholars have not agreed upon a universal definition, we can say that the public office definition has gained popularity and acceptance over other definitions. In the context of this research, it is first of all a matter of

⁴⁴ Michael Johnston, “The definitions Debate: old conflicts in new guises” in Arvind K Jain, ed, *Polit Econ Corrupt* (London; New York: Routledge, 2001) at 19.

⁴⁵ Violaine Lemay, “Trois principes de rénovation tranquille pour l’enseignement du droit” 72 *Evue Interdiscip Détudes Jurid* at 27–50.

determining which conceptualization aligns best with the specific objectives of this thesis: those of combating a specific human problem, corruption, which is detrimental to the governance of a given State, Egypt. It is then important to have an interdisciplinary inventory to make the most of each disciplinary achievements which are potentially useful instruments to find solutions or remedies to the problem of corruption. After reflection, the conceptualization proposed by the World Bank “the abuse of public office for personal gain”⁴⁶ seemed the most appropriate for this project because it best describes the aspects of corruption that need to be controlled. The definition chosen by the World Bank finds its roots in the academic environment and is widely used by a large number of authors. For example, Klitgaard explicitly adopted Nye’s definition in his book *Controlling Corruption*. Moreover, in her influential book *Corruption: Study in Political Economy* Susan Rose-Ackerman says that her definition of corruption is similar to Nye’s. Furthermore, the research will progressively demonstrate that this definition was the one chosen by the policy makers to contextualise the problem of corruption in Egypt according to the National Strategy to fight corruption.⁴⁷

A.4.b.iii - Forms of Corruption

Corruption can take many forms like bribery, embezzlement, fraud, favouritism, and nepotism. This thesis aims at fighting public corruption through analysing its causes to formulate better solutions. However, it remains vital to clarify the type of corruption it prioritizes since we cannot deal efficiently with or eradicate all forms at the same time. This research chooses to focus on bribery; this choice is motivated by the following reasons:

First, it is one of the major common problems observed in many countries. *Second*, it is one of the main reasons that hinder institutional development. *Third*, the research will prove that bribery is contagious and can hinder any attempt to control poverty. *Fourth*, it also creates social inequality.

⁴⁶ *World development report 1997: the state in a changing world*, by Ajay Chhibber et al, documents.worldbank.org, 17300 (The World Bank, 1997).

⁴⁷ National Anti-Corruption Coordinating Sub-Committee, ed, *National Anti-Corruption Strategy* (2014). http://www.undp-aciac.org/publications/ac/compendium/egypt/Egypt_NACS_2014-2018_en.pdf

Fifth, it becomes an obstacle for people's access to important governmental services. *Sixth*, bribery affects economic growth since it reduces the attraction of foreign direct investment. *Seventh*, it also imposes an extra cost on firms doing business in a certain country. Therefore, bribery is one of the root causes of corruption that needs an in depth research. In addition, nepotism is a form of corruption that is widespread in Egypt and many different African countries and it is worth studying it. Bribery will not be discussed as a form of corruption *per se*; instead, it will be also examined within the framework of the national strategy to fight against corruption (2014-2018) which was the first drafted anti-corruption strategy in Egypt's history. A post-mortem critical interdisciplinary analysis of the strategy will be undertaken⁴⁸.

Understanding the specific meaning given to corruption throughout the research implies the importance of explaining the types of corruption that will be approached in the thesis.

Bribery as a form of corruption

Bribery is the money or any like value paid or received within the framework of a corrupt deal. Bribes can take many forms: they can be a fixed sum of money, or a percentage of a contract, or a similar value of money, mostly paid to a public official who is in charge of undertaking contracts on behalf of the state, or grant benefits to businesses or people.

Given the nature of corruption as an illegal activity, it is in the interest of the bribe giver and the bribe taker to keep the transaction secret,⁴⁹ which makes it more difficult to approach the problem from a research point of view.

⁴⁸ The Critical Analysis of the National Anti-Corruption Strategy is studied in part two .

⁴⁹Arnold Heidenheimer "Parties, Campaign Finance and Political Corruption: Tracing Long-Term Comparative Dynamics." *Political Corruption. New Brunswick: Transaction Publishers* (2002): 761-776.

Legal scholar John Nonan explains that bribery is an old common problem that all cultures face. This does not mean that it is widely accepted. He argues that:

Bribery is universally shameful. Not a country in the world which does not treat bribery as criminal in its law books. Significantly, it is often the westerner with ethnocentric prejudice who supposes that a modern Asian African society does not regard the act of bribery as shameful in the way Westerners regard it.⁵⁰

Therefore, corruption in general- and bribery as one of its forms- is condemned by all legislations. The act of bribery can be initiated from both the demand and the supply sides. Therefore, to curb this form of corruption, both sides have to be approached. In general, bribery as a form of corruption is harmful to the society and negatively affects any attempt to achieve economic development.

Scholars have differentiated between two main types of bribes: grand corruption and petty corruption.⁵¹ The distinction between them is mainly based on the money's recipient, the motive for payment, and the amount of money paid.

Bribery as a form of grand corruption

Economist Rose- Ackerman and former researcher at World Bank defines grand corruption as a high level of payments to government officials usually in procurement process.⁵² Gary and Kaufman support the view that it is usually related to large procurement projects.⁵³ Grand

⁵⁰ John Thomas Noonan, *Bribes* (New York: Macmillan, 1984) at 702–3.

⁵¹ Petter Langseth, “Measuring Corruption” in Arthur Shacklock, & Fredrik Galtung, eds, *Meas Corrupt* (2016); Susan Rose-Ackerman, *Corruption and government : causes, consequences, and reform* (New York: Cambridge University Press, 1999).

⁵² Susan Rose-Ackerman, “‘Grand’ corruption and the ethics of global business” (2002) 26:9 J Bank Finance 1889.

⁵³ “Gray, Cheryl W. and Daniel Kaufmann. 1998. ‘Corruption and Development.’ *Finance and Development*. Vol. 35:3, No.1:7-10.-Google Search”, online: <<https://www.google.com/search?q=Gray%2C+Cheryl+W.+and+Daniel+Kaufmann.+1998.+%22Corruption+and+D>

corruption occurs at the highest level of political authority.⁵⁴ It occurs when the top officials, and political decision makers (presidents, ministers) who are entitled to enact and apply the laws in the name of the people, are themselves corrupt.⁵⁵

The World Bank describes grand corruption as bribes that might aim to influence laws.⁵⁶ Thus, it happens when policies and laws are custom made to benefit certain politicians or groups of people.⁵⁷ According to Johann Graf Lambsdorff, grand corruption refers to payment of one time large sum of money to high-level officials; and it targets laws, judicial decisions, policies, and large public contracts.⁵⁸

Thus, the main goal of grand corruption is to access the state's privileges to influence the state's budget or legislations in favour of a certain group. It persists at the high level of government, where officials redirect the money originally allocated to the state's budget to serve some public interest and channel it to serve private interest. Grand corruption may result in the shift of a country's priorities, in the sense that, it can affect the public officials' choices of important projects. Thus, choices are made according to what will generate their personal gains.

Petty corruption

Petty bribes are also called “grease money” or “speed bribes” which cover payments to low level officials. The payments are designated to facilitate the performance of routine services. Petty corruption is defined by Susan Rose Ackerman as small amounts of money that citizens pay to

velopment.%22+Finance+and+Development.+Vol.+35%3A+3%2C+No.+1%3A+7-10.&ie=utf-8&oe=utf-8&client=firefox-b> at 10.

⁵⁴ Arne Bigsten & Karl Ove Moene, “Growth and Rent Dissipation: the Case of Kenya” (1996) 5:2 J Afr Econ 177 at 177–198.

⁵⁵ Arnold Heidenheimer & Michael Johnston, *Political Corruption: Concepts and Contexts* (Transaction Publishers, 2011).

⁵⁶ Charles Kenny & Tina Søreide, “Grand Corruption in Utilities” (2008) World Bank Finance Econ Urban Dep.

⁵⁷ Alan Doig & Robin Theobald, *Corruption and Democratisation* (Routledge, 2013).

⁵⁸ Johann Graf Lambsdorff, *The Institutional Economics of Corruption and Reform: Theory, Evidence and Policy* (Cambridge University Press, 2007).

public officials to finalise their daily public affairs.⁵⁹ The World Bank distinguishes petty corruption as bribes designated to influence policy application.⁶⁰

The motive of payment is to execute some services or obtain some goods that sometimes citizens are initially entitled to receive. Lambsdorff also explains that petty corruption is characterised by frequent small payments to low level public servants and bureaucrats as a form of speed money.⁶¹ Petty bribes have three main characteristics: they are frequent small amounts of money paid, and they are vast in scope.⁶² Kraay and Kaufmann explain that although the sum of money paid can be regarded as small, it can also involve- in particular cases - considerable amounts, or by the simple fact of adding them up to complete every service.⁶³ The amount of money paid in this type of corruption can range from small gifts that have nominal value to large amounts of money that drain the budget of the poor and put more burden on them.

Robert Shaw and Gatheru explain that petty corruption is more widespread in the public administration and is usually paid to influence the application of regulations.⁶⁴ It is usually widespread in the services that almost all citizens frequently seek. Pranab Bardhan asserts that petty corruption takes place when citizens try to find ways to escape taxes or duties, and low level officials and bureaucrats abuse their discretionary power to extract personal benefits.⁶⁵ This can usually happen in the issuance of licenses, permits, checkpoints, and to escape from paying taxes

⁵⁹ Rose-Ackerman, *supra* note 51.

⁶⁰ *Annual review and summary financial information*, by Manorama [editor Gotur, documents.worldbank.org, 21793 (The World Bank, 2001).

⁶¹ Lambsdorff, *supra* note 58.

⁶² *Ibid.*

⁶³ Daniel Kaufmann, Aart Kraay & Massimo Mastruzzi, *Governance Matters VIII: Aggregate and Individual Governance Indicators, 1996-2008*, SSRN Scholarly Paper ID 1424591 (Rochester, NY: Social Science Research Network, 2009).

⁶⁴ Wamuyu Gatheru & Robert Shaw, *Our Problems, Our Solutions: An Economic and Public Policy Agenda for Kenya* (The Institute, 1998).

⁶⁵ Pranab Bardhan, "Corruption and Development: A Review of Issues" (1997) 35:3 J Econ Lit 1320 at 1320–46.

and duties. However, it is worth noting that taxes and customs can also be subject to grand corruption from big firms.

How to distinguish between petty and grand corruption?

Although grand and petty corruption may differ in the scope, scale and motivation, they have many similarities and one type of corruption can be a consequence of another since corruption is defined as the misuse of public power for private gain and this definition applies to both petty and grand corruption. High-level public officials are entrusted to achieve public benefit by enacting fair laws and managing the budget in a way that guarantees that the public interest is achieved. Therefore, grand corruption cannot be simply regarded as a deviation from laws and regulations. It is the abuse of the entrusted power, where laws and regulations are tailored to achieve private interests.⁶⁶ Like grand corruption, petty corruption is also socially destructive. It occurs on the implementation of rules and regulations level, and also affects people's trust in the government and the ability of the leaders to control corruption.

The distinction between grand and petty corruption is a bit problematic, especially in emerging countries. Since this distinction primarily depends on the Weberian view that separates the administration from the politics. Usually, this separation/ distinction does not clearly exist in the emerging countries. However, the distinction is important to understand each type's dynamics. Grand corruption usually occurs when the legal foundation of what is wrong is unclear, and subject to the ruler's or leader's interpretation or negligence (non-respect).⁶⁷ It results from lack of respect of the rule of the law.

⁶⁶ Harry G Broadman & Francesca Recanatini, "Seeds of Corruption – Do Market Institutions Matter?" (2001) 11:4 MOST Econ Policy Transitional Econ 359 at 359–92.

⁶⁷ Geeta Batra, Daniel Kaufmann & Andrew H W Stone, *Investment climate around the world: voices of the firms from the World Business Environment Survey* (World Bank Publications, 2003).

According to Bayart, grand corruption exists in almost all non-democratic countries called “neo- patrimonial”.⁶⁸ In these types of regime, grand corruption is a way by which leaders enrich themselves. When leaders and high public officials adopt corrupt practices and corrupt behaviour becomes widespread, petty corruption follows the same pattern. The reason is that in the absence of political will, neither petty nor grand corruption can be controlled.

Contrary to the authoritarian and non-democratic regimes, grand corruption is controlled in the liberal democratic regimes. History reveals successful experiences in curbing petty corruption in democratic countries by effective monitoring, institutional and legal reforms.⁶⁹

Grand corruption is never systemic in most developed democratic countries. It tends to be incidental and the political system deals with it by reforming the existing strong political, legislative, judicial, and executive system of checks and balances. On the contrary, in countries where corruption is widespread and systemic, the legal system is not enough to define and intervene with the problem of grand corruption.⁷⁰

Therefore, due to the particularity of the problem of corruption, it is worth noting that it cannot be solved by a legal and administrative approach only. Robert Brooks argues that

Definitions of corrupt practices...found in every developed legal code ...are scarcely broad enough to cover the whole concept as seen from the viewpoint of political science or ethics. The sanctions of positive law are applied only to those more flagrant practices which past experience has shown to be pernicious that sentiment has crystallized into statutory prohibitions and adverse judicial decisions. Even with this comparatively limited circle clearness and precision are but imperfectly attained.⁷¹

⁶⁸ Jean-François Bayart, *The State in Africa: The Politics of the Belly* (Longman, 1993).

⁶⁹Michael Johnston, "Independent anti-corruption Commissions: success stories and cautionary tales." *Global forum on fighting corruption and safeguarding integrity, The Hague: Memo*. Vol. 4. 2002.at20

⁷⁰ Bayart, *supra* note 68 at 20

⁷¹ Robert Brooks “ Apologies for Political Corruption” in Arnold J Heidenheimer, *Political corruption; readings in comparative analysis* (New York: Holt Rinehart and Winston, 1970).

Thus, according to Brooke, in fighting corruption, the law is retroactive, rather than proactive, which makes it difficult for it to deal on its own with the problem of corruption. In the first place the political will to fight this problem has to be present, systems have to be targeted rather than only targeting individuals and a moral as well as an ethical approach has to be introduced to the reform system. According to Johnston, when corruption is endemic and widespread in a country, reforms have to approach the political system, and to establish a strong and effective system of check and balance in addition to democratisation.⁷² This means that the aim is not to use democracy to fight corruption, but rather the tools that democracy offers to curb corruption.

Finally, both petty and grand corruptions have destructive effects on the society. Even petty bribes can represent an important cause to corruption. Rose-Ackerman and Truex argue that “Small bribes can have large distortionary effects when bribe payers are in strong bargaining position. Conversely, some corrupt deals are mostly transfer payments albeit often a regressive direction from poor citizens and tax payers to wealthy officials and multinational firm.”⁷³ Thus, petty corruption cannot be underestimated as an unimportant cause to corruption because, similar to grand corruption, it makes the poor poorer and the rich richer and undermines people’s trust in governments. Moreover, the importance of dealing with petty corruption cannot be undermined since it has important implications on the public’s perception of the level of corruption in general in the country, since they shape their view about corruption according to their personal interaction with bureaucrats.

A.4.c - The Meaning of “Interdisciplinary Inventory” within the Context of the Research

There is a growing literature on the types of reforms that can be implemented to fight corruption. There are also some facts that were mostly agreed upon among scholars, academics,

⁷² Michael Johnston & Sahr Kpundeh, *Building a Clean Machine: Anti-Corruption Coalitions and Sustainable Reform*, SSRN Scholarly Paper ID 647610 (Rochester, NY: Social Science Research Network, 2004).

⁷³ Susan Rose-Ackerman & Rory Truex, “Corruption and Policy Reform” (2012), online: <<http://papers.ssrn.com/abstract=2007152>> at 5.

policy makers, and donors. Those facts are that corruption is a destructive problem, that the main “ingredients” of successful reform strategies are more or less known and that those reforms do not always work.

Most of those reforms stress the importance of institutional foundations and the presence of anti-corruption legal framework. Some researchers have focused on studying the success stories of some countries, like Hong Kong and Singapore, to eradicate corruption to see the missing ingredients in other reforms strategies that did not yield the desired results. However, it is worth noting that each country has its particular prerequisites to attain the strong institutional foundation required to curb corruption and attain development and growth. This research will use any available knowledge, regardless of its disciplinary affiliation, to understand the prerequisites of a successful anti- corruption reform program in Egypt after studying its first attempt to draft a national anti - corruption strategy.⁷⁴

Hence one of the main goals of this research is to build an “interdisciplinary inventory” that can fight corruption though using a legislative public tool. What does this “interdisciplinary inventory” imply? It means that the research will create a kind of inventory with various solutions to the problems related to corruption. Moreover, it will study some countries’ successful experiences to eradicate corruption, like Hong Kong and Singapore, and other countries like Colombia, Georgia, and Philippines that were able to achieve some progress in their fight against corruption due to their anti - corruption strategies. It will also study some successful policies in fighting corruption. From those successful solutions and experiences, the research will choose the ones that can guarantee a successful and adapted anti-corruption strategy. In other words, some solutions and countries’ experiences may be very inspiring and promising, but will not guarantee success because of the country’s particular context. It is also worth noting that the research will seek the solutions that can guarantee “progress” in the battle against corruption, rather than the

⁷⁴ Talking about interdisciplinary inventory means the important reforms suggested by different university disciplines like economics, political science, law, and behavioural ethics, along with country successful experiences to draw important reform strategies.

“eradication” of it. This is because realistically speaking, eliminating corruption is almost impossible; however, designing legislative anti-corruption strategies to help the country’s efforts to fight corruption is more realistic and attainable.

A.4.d – The Search for “Legislative Anti-corruption Remedies”

There is no such thing as “one size fits all” anti-corruption remedy. This research does not rely solely on reviewing Egypt’s anti-corruption laws - precisely the anti-bribery laws, prohibiting nepotism, and the conciliation laws- to evaluate them and design an effective anti-corruption strategy. To design a better fitted legislative anti- corruption strategy, this study will encompass the state laws within the framework of the anti-corruption strategy (2014-2018), an inventory of multi-disciplinary solutions, in addition to other countries’ successful experiences in curbing corruption. The aim is to suggest a better environment where the law can be applied and yield the expected results as set by the legislator, since the law does not operate in isolation of its surrounding environment.

Given the wide range of corrupt acts, an effective legislative anti -corruption remedy has to take into consideration the particular causes of corruption as well as the political and socio-economic environment. In other words, it should seek to understand the complex interaction between the parties of the corrupt acts and its effect on the society which bears the cost of corruption. An effective legislative anti -corruption remedy should not be restricted to the texts of the laws, but also consider the surrounding political, social, economic, and cultural contexts that contribute to the application of those laws. For the law has never worked in isolation of the context in which it operates. This is evident in the fact that the same text of the law can yield different results according to its context.⁷⁵ Taking these things into account allows the anti-corruption laws to be successfully applied to attain the legislator’s intention in fighting corruption. Therefore, it is an all-encompassing remedy that targets the corrupt system rather than merely the corrupt “people”. A successful legislative anti-corruption solution recognizes the importance of the cooperation of

⁷⁵ Sheryl Grana, Jane Ollenburger & Mark Nicholas, *The Social Context of Law*, 2nd edition ed (Upper Saddle River, N.J: Prentice Hall / Pearson, 2001).

all the stakeholders represented in the public sector, the private sector, the civil society and the general public in fighting corruption.

A.5- The Importance of the Social Context of the Law

The search for an interdisciplinary inventory of anti-corruption remedies should take into consideration the social context. This means that the country's unique context had to be carefully taken into account to better serve the anti-corruption laws /goals as dictated by the legislator. The law has never worked in vacuum. It had always been the cause and the result of the social, economic, and political context and changes. Van Hoecke explicates that

Le droit vit dans une société, mais est à son tour influencé par elle. Certaines règles sont largement appliquées, d'autres ne le sont pas. Une connaissance sociologique des causes et effets de cela est nécessaire pour bien comprendre le rôle du droit et les limites du droit dans la société.⁷⁶

Therefore, when trying to initiate legal reforms to fight corruption, the context in which the law operates has to be put into consideration to better understand the limits of the law. Menski suggests a “methodological approach that integrates the social and ethical elements of the law into a necessarily legal analysis to understand the pervasive role of law in its various social contexts.”⁷⁷ Hence, the legal reforms and legal framework that works in one country will not necessarily work in another country. Even if it works in another country it will never yield the same results. Therefore, reforms cannot rely on copying or duplicating successful experiences.

Law cannot be understood or applied as an abstract set of rules that are detached from its context. Gaudreault-Desbiens reminds us that this new approach necessitates “mettre en question nos présupposés, à nous ouvrir à la différence et à réfléchir sur la manière dont nous pouvons intervenir, à l'aide du droit, sur la société. »⁷⁸ While taking into consideration that the social context

⁷⁶ Van Hoecke, *supra* note 17 at 192

⁷⁷ Werner Menski, *Comparative law in a global context : the legal systems of Asia and Africa*, 2nd ed.. ed (Cambridge: Cambridge University Press, 2006). at15

⁷⁸ Jean-François Gaudreault-DesBiens, *Le contexte social du droit dans le Québec contemporain : l'intelligence culturelle dans la pratique des juristes* (Cowansville, Québec: Éditions YBlais, 2009) at back cover.

relies on « des considérations juridiques, déontologiques, éthiques et politiques [...] des pratiques sociales, des perceptions stéréotypées et des présupposés idéologiques », those considerations necessitate giving special attention to the social context of the law.

The theoretical emphasis on the social context of law also implies that one cannot transfer a legal framework from one country or political regime to another and expect it to generate similar outcomes if the cultural context is different. Moreover, it may be considered as an implicit source of cultural colonization. Two authors recently illustrated this idea. Guy Azebové and Pierre Noreau explain that following the declaration of independence of several African countries, those countries imported some norms and constitutional frameworks from the western countries. In the absence of balance during the negotiation phase, those norms and Constitutions are promulgated in those African Countries.⁷⁹ However, the authors note that those laws and Constitutions become an important subject of debates in the application phase due to important cultural variations. Therefore, it is not about copying or imposing the best anti-corruption legal frameworks because they will not yield comparable results in other countries since they will be faced with the inherent cultural, political and social constraints of these countries. A major theoretical trend in the South originates from the world leader jurist Boaventura De Sousa Santos, who argues that the habit of exporting dominant occidental and Northern form of knowledge to the South, while presuming them as « universal » is an important cause of actual injustice and cultural colonization of the North toward the South.⁸⁰

A.5.a- Culture as a Determinant of the Outcomes of the Law

Understanding social relations, and the social structures of different countries may better help policy makers in initiating reforms and understanding the reason why the law is not applied. Sometimes the solution is not to amend the law as much as it is to better understand the context in which the law operates to guarantee a better application of the law. The culture in which the law

⁷⁹ Guy Azebové Tetang & Pierre Noreau, “La constitution : entre contrat social et règle de droit” in Jacqueline Bergeron & Marc Cheymol, eds, *D'un Seuil À L'autre Approch Plurielles Rencontres Témoign* (Archives contemporaines, 2017) at 137.

⁸⁰ Matikas Santos, “Gov’t to launch updated Foreign Aid Transparency Hub”, (20 March 2014), online: <<http://technology.inquirer.net/34989/govt-to-launch-updated-foreign-aid-transparency-hub>>.

operates sometimes shapes the outcomes of the law. The same law can have different outcomes in different countries. In this sense, Belley explains the concept of the “solubility of law” that literally “dissolves” in the fluid of the social and cultural elements.⁸¹

Every country has a unique culture. When discussing culture as a determinant of the outcomes of the law, the intellectual goal is to reflect on the unavoidable relationship between the law and the culture in a given country’s context. The aim of the research is not to seek to change the culture but to highlight the importance of taking it into consideration. Indeed, the concept of culture has been the center of attention in many disciplines for decades in the 20th Century.

According to two university professors of Management, Thomas and Inkson:

“Culture is something that a group has in common that is not normally available to people outside the group. It is mental programming held in common that enables insiders to interact with each other with a special intimacy denied outsiders [...] The mental programming of a group is learned by its members over long periods as they interact with their environment.”⁸²

Therefore, it is sometimes difficult for people in other cultures to understand the main characteristics of a group in one specific culture.

According to Geertz, an anthropologist

“ Man is an animal suspended in webs of significance himself has spun, I take culture to be those webs, and the analysis of it to be therefore not experimental science in search of law but an interpretative one in search of meaning.”⁸³

Therefore, Geertz views culture as means of communication because it is the “web of significance”.

⁸¹ Jean-Guy Belley, *Le droit soluble : Contributions québécoises à l'étude de l'internormativité* (Paris: LGDJ, 1996).

⁸² David C Thomas & Kerr Inkson, *Cultural intelligence: people skills for global business* (San Francisco, CA: Berrett-Koehler Publishers, 2004) at 15.

⁸³ Clifford Geertz, *The Interpretation Of Cultures* (Basic Books, 1973)

Hence, understanding the law cannot be detached from understanding the culture where it is applied. The relation between law and culture has become more important when foreign reformers seek to analyse the effectiveness of the law in another country that does not share similar cultural values. In this regard, it is important to refer to a research which has proved that a number of cultural values affect the application of anti-corruption laws like the degree of family ties, individualism versus collectivism, power distance index and cultural intelligence.

Family ties

Family ties can be a very important determinant (variable to be put into consideration) when setting anti -corruption laws and policies, especially within contexts where governmental institutions are not quite strong. According to Fukuyama:

[H]uman beings are born with a suite of emotions that fortify the development of social relationships based on cooperation with friends and family. To behave differently—to choose, for example, a highly qualified employee over a friend or relative, or to work in an impersonal bureaucracy—is socially constructed behavior that runs counter to our natural inclinations. It is only with the development of political institutions like the modern state that humans begin to organize themselves and learn to cooperate in a manner that transcends friends and family. When such institutions break down, we revert to patronage and nepotism as a default form of sociability.⁸⁴

Accordingly, in countries where political and governmental institutions are not strong enough or not well developed, people compensate this weakness by building and keeping stronger family ties. Therefore, the weakness of institutions- rather than the weakness of the enforcement mechanisms- may be one reason behind the limited implementation of the laws that prohibit nepotism.

Other researches show that the degree of the strength of family ties differs from one country to another. This variable will also determine the degree of the development of the institutions.

⁸⁴ Francis Fukuyama, *Political Order and Political Decay: From the Industrial Revolution to the Globalization of Democracy* (Farrar, Straus and Giroux, 2014)

Alesina, and Giuliano used responses from the World Value Survey (WVS)⁸⁵ about people's beliefs regarding the "importance of family in an individual's life, the duties and responsibilities of parents, and the love and respect for one's own parents."⁸⁶ They concluded that

Scandinavian countries and many Eastern European countries tend to have the weakest levels of family ties. In a middle range are France, Canada, the United States and the United Kingdom. More familistic societies are Italy and many Latin American countries including Colombia, Peru and Brazil. In the extreme part of the distributions are some Latin America countries like Guatemala and Venezuela, African countries like Egypt and Zimbabwe and Asian countries like Indonesia, Vietnam and the Philippines.⁸⁷

Moreover, using the World Bank Governance Indicator,⁸⁸ they studied the relationship between the strength and weakness of family ties and the quality of the institutions.⁸⁹ They came to the conclusion that the stronger the family ties are, the weaker the institutions are.⁹⁰ Hence, there is a direct correlation between family ties and the level of corruption in a country.⁹¹ This also indicates that the more the institutions develop, the more the probability of controlling corruption becomes. But this is also the reason why we cannot compare the outcome of reform strategies in countries with strong institutions to countries with weaker institutions because the context is completely different. This also explains the reason why the laws that prohibit nepotism and favouritism in countries with strong family ties and weak institutions are not well enforced.

This does not mean that the law needs to change the culture. Anti- corruption laws are set by the legislator to curb corruption for many reasons including ensuring that citizens have equal

⁸⁵ *The World Values Survey (WVS) is a global research network studying trends and variations in social, political, and cultural values.*

⁸⁶ Alberto Alesina & Paola Giuliano, "Family ties" in *Handb Econ Growth* (Elsevier, 2014) 177 at 11.

⁸⁷ *Ibid.*

⁸⁸ Based on a long-standing research program of the World Bank, the Worldwide Governance Indicators capture six key dimensions of governance (Voice & Accountability, Political Stability and Lack of Violence, *Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption*) between 1996 and present

⁸⁹ Alesina & Giuliano, *supra* note 80 at 23.

⁹⁰ Alesina & Giuliano, *supra* note 80.

⁹¹ *Ibid* at 177.

opportunities. Therefore, once the law understands the challenges that negatively affect its application, it can shift its focus on the target to be better applied. In this case, the law will not aim at changing people's belief; instead it should aim at setting rules to guarantee better transparency, monitoring, and accountability. For example, enacting freedom to access of information laws to enforce transparency measures may be a pre requisite to enforce the laws that prohibit nepotism and favouritism.

Individualism versus Collectivism

Another measure related to the degree of the strength of family ties and its effect on corruption is the concept of individualism versus collectivism. In societies that celebrate individualism and have weaker family ties, people are expected to take care of themselves and seek their self-interest. Contrarily, in collectivist societies people are expected to take care of their extended families. Kyriacou remarks:

[T]he individualist–collectivist dimension can also affect development through its impact on the quality of government. The in-group favoritism inherent to collectivist societies is likely to engender corruption, nepotism and clientelism in the public sphere. In individualist societies, the relative weakness of in-group pressures and an emphasis on personal achievement and worth will contribute towards a more meritocratic and efficient public sector to the benefit of long-run growth. Empirical evidence is provided suggesting that insofar as individualism affects economic development it does so because it promotes good governance.⁹²

Therefore, according to this research, good governance and control of corruption are more easily achieved in countries with less nepotism and favouritism, which in turn are negatively correlated to the degree of collectivism in a society. Therefore, a reflexive researcher has to put into consideration this cultural aspect when studying the anti-corruption laws in an attempt to design an anti-corruption strategy. This does not mean that the concepts of corruption differ from one country to another. Rather, it denotes that it is only the context that differs, which makes it difficult for anti-corruption laws to attain the expected results.

⁹² Andreas Kyriacou, "Individualism–collectivism, governance and economic development" (2016) 42 Eur J Polit Econ 91 at 1.

Power Distance Index (PDI)

Power distance is defined as “the extent to which the less powerful members of institutions and organisations accept that power is distributed unequally”⁹³ Researchers have also shown that the power distance is a determinant of corruption. Hofstede et al. studied the Power Distance Index factor in 76 countries; they came up with the conclusion that PDI tends to be higher for East European, Latin, Asian and African countries and lower for Germanic and English-speaking Western countries. This study proved that power distance is highly correlated with the level of corruption in a country.⁹⁴ Therefore, being aware of this determinant makes it essential to work on reducing the gap between the people in power and their subordinates, and to work on the hierarchical structures to reduce corruption.

Cultural Intelligence

This significant determinant is strongly related to the above mentioned concepts of family ties and others. Cultural intelligence is described by David Thomas and Kerr Inkson as:

... being skilled and flexible about understanding a culture, learning more about it from your ongoing interaction with it, and gradually reshaping your thinking to be more sympathetic to the culture and your behaviour to be more skilled and appropriate when interacting with the others from the culture.⁹⁵

Taking into account the social and cultural context in which the law operates is an important step towards developing cultural intelligence.

This factor is also important in that it enables legal practitioners to better understand the reason behind the gap or disparity between the law in books and the law in action. In African countries and other nations where research shows that there are strong family ties, the laws prohibiting nepotism and favouritism are at stake. Public officials in those countries are confronted

⁹³ Linghui Tang & Peter E Koveos, “A framework to update Hofstede’s cultural value indices: economic dynamics and institutional stability” (2008) 39:6 J Int Bus Stud 1045 at 41.

⁹⁴ Geert Hofstede, “Dimensionalizing Cultures: The Hofstede Model in Context” (2011) 2:1 Online Read Psychol Cult, online: <<https://scholarworks.gvsu.edu/orpc/vol2/iss1/8>>.

⁹⁵ Thomas & Inkson, *supra* note 82 at 14–15.

with a dilemma that may be alien to the Western world, to those parts of the world where family ties are weak or where individualism prevails over collectivism. In those African countries and others, the public officials face the dilemma of whom to obey? Should they obey the law or their family obligations as seen by the informal rules, which are sometimes more binding? In this case and because the cultural aspect was a strong determinant regarding corruption and the power of the law, we cannot say that the law was not able to prohibit nepotism.

Hence, from the above discussion, it becomes inevitable for legislators to examine the social and cultural context so as to set laws that protect the integrity and impartiality of public officials, to set clear rules for recruitment and promotion, for effective monitoring and accountability measures to ensure that the law is applied as they intended to be. In other words, the law has to take into consideration the cultural traits as well aim at changing the system and not the culture and the people.

Taking into consideration the social context in which the law operates helps legal practitioners to better comprehend the law and the environment in which it operates. Once the social context gets into the picture, the law is not understood as an abstract independent set of rules or as part of the legal system. Rather, it is seen as part of a complex comprehensive system in which the legal system operates. Therefore, we need to look at the big picture to understand the law and the barriers that prevent it from generating the expected results. Gaudreault-DesBiens explicates that: “le contexte sociale oblige les juristes à voir les limites des façons de penser existante et les incite, lorsque cela s’avère possible à les dépasser. Sa prise en compte les enjoint à comprendre avant d’affirmer.”⁹⁶ Thus, Gaudreault-DesBiens makes it clear that the social context of the law enables legal practitioners to be aware of the limits and obstacles created by a society’s or a culture’s current beliefs and ways of thinking, and pushes them, when possible, to overcome these limits. Understanding the surrounding social context enables the judges, legal practitioners and reformers to ask the right question i.e. why the anti -corruption law does not yield the expected

⁹⁶ Gaudreault-DesBiens, *supra* note 78 at 244.

results? instead of asking why the law is not applied. And a better formulation of the question promises a more realistic answer.

The need for a multilingual law to understand the different stakeholders' languages

To attain the governance goals, the law has to understand the diverse languages of the different stakeholders who are affected by its application. According to Pauline Morris et al:

[A]n open model ... is that of a society which recognizes a continuing multiple conflict of interests and values taking place within an accepted over-arching structure of a more or less fluid or dynamic nature. In this society there are not just two sides but many conflicts. There are not just conflicts between individuals but also structural conflicts between interest groups of various sorts: consumers against manufacturers, employees against employers, municipal tenants against local authorities, conflicts between ethnic groups, and residents against planners.⁹⁷

Being aware that the law will affect the interest of different stakeholders may explain the reason why some interest groups will resist the application of the law and others will encourage it. Being aware of the big picture will help mobilize the groups whose interests are affected by the limited application of the law as well as mobilise the public in favour of its application. In other words, this external vision of the law will help answer the question why there is resistance in the application of the law rather than why the law is ineffective.

Finally, understanding the social context- in which the law operates with all the challenges it encounters in its interpretation phase- helps in developing a better understanding of the problem. Once the problem is understood while the social context is taken into consideration, the goals to attain a better application of the law and a better governance will be attained. The idea of being “reflexive,” as always stressed by Lemay, means that the researcher has to be fully aware of what he/she is doing and to question himself/ herself about the external factors that affect the application of the law, instead of understanding the law as an abstract set of rules. This attitude helps in

⁹⁷ Pauline Morris, *Social Needs and Legal Action* [by] Pauline Morris, Richard White [and] Philip Lewis (Martin Robertson, 1973) at 16–17.

achieving the major whole aim of better serving the law to attain the results expected by the legislator.

B- Methodology

The methodology is a vital part in the research since it establishes the tools, methods and criteria employed to evaluate the scientific value of a research and to describe the way the research question will be answered. According to Van Hoecke “ La method est la manière dont on trouve la réponse à ces questions de recherche et dépend de ces dernières.”⁹⁸ As explained earlier, the research adopts an interdisciplinary approach to answer the main question it poses.

B.1-A Meta Theory and Synthesis of Useful Scientific Researches

This research relies on secondary data that includes literature review, other countries' success and in-progress stories, a review of some the Egyptian anti- corruption laws - that were to be amended to adapt with the national anti-corruption strategy (2014-2018) goals- a review of the different anti- corruption strategies suggested by different disciplines, knowledge of the country's context, and legal practitioner expertise in this area.

The interdisciplinary literature review takes the form of an exploratory trip to demystify the corruption phenomenon. Along this research trip the political, social, economic, legal, and cultural causes and effects of corruption are explored. The aim is to better apprehend the law and design a better anti-corruption strategy. In spite of the fact that the research adopts an interdisciplinary framework and methodology, which may not be quite uncommon to some jurists, the aim is to understand the interaction between the law and its context while always putting into consideration how to better serve the law as a discipline by ensuring that it attains its expected goals. Jean François Gaudreault-DesBiens writes in his own doctoral research that:

⁹⁸ Hoecke, *supra* note 17 at 190.

“ Cela dit, tout-critique serons-nous, tout interdisciplinaire la méthode employée, il n’en demeure pas moins que notre point de vue sera d’abord et avant tout celui d’un juriste, certes soucieux de s’ouvrir à d’autres savoirs, mais d’un juriste néanmoins. On ne s’étonnerai pas dès lors, de retrouver dans cette thèse un propos d’ordre normatif, nécessairement inspiré d’une idée de ce que devraient être le droit et l’étude du droit.”⁹⁹

Measuring corruption is important as a starting point to position the country properly in comparison with other countries. It can also serve as a baseline to track the performance and progress of countries in implementing their national anti -corruption strategies. In spite of the secret nature of corruption, it is important to study some important tools to measure it. According to Kauffman, corruption can be measured and the margin of errors resulting from this measurements is trivial.¹⁰⁰ Moreover, we have a number of simple and aggregate measures designed by international organisations; some of these measures correlate well together as explained in the research.¹⁰¹

This research will explore the different solutions proposed by different disciplines to curb corruption. The inventory of solutions is not separated by disciplines, instead it relies on a dialogue between them. Each solution was found to be worth exploring and understanding in an attempt to start drawing a better and a more realistic anti - corruption strategy that aligns with the national legal anti -corruption laws in Egypt.

According to Van Hoecke

[..] en demandant trop du chercheur, c’est-à-dire maîtriser toutes les disciplines sociales, on n’aboutira nulle part. Ici, faudra bien être conscient du fait que la recherche scientifique n’est pas le travail d’un “Hercule Nobel”, mais une longue chaîne à laquelle beaucoup ajouteront une maille. Dès lors, on ne devra pas mesurer chaque étude sur base du modèle idéal de la recherche interdisciplinaire, mais simplement sur base de question si cette étude ajoute quelque chose à nos connaissances. En illuminant un aspect contextuel jusqu’à présent non

⁹⁹ Jean-François Gaudreault-DesBiens, *La critique identitaire, la liberté d’expression, ou, La pensée juridique à l’ère de l’angoisse : un essai critique d’épistémologie de la pensée juridique* Ottawa, 1998) [unpublished].

¹⁰⁰ Daniel Kaufmann, *Myths and Realities of Governance and Corruption*, SSRN Scholarly Paper ID 829244 (Rochester, NY: Social Science Research Network, 2005).

¹⁰¹ Johann Graf Lambsdorff, “An Empirical Investigation of Bribery in International Trade” (1998) 10:1 Eur J Dev Res 40.

étudié, en ajoutant des données empiriques ou des perspectives théoriques d'une discipline non juridique, on contribuera à une meilleure compréhension du droit et de sa pratique.¹⁰²

Therefore, the researcher will not provide an expert study in all the solutions proposed by the different disciplines as she is not expected to have an in depth knowledge of all the techniques of these disciplines. However, the solutions suggested by the various disciplines are carefully studied to guarantee a better application of the law.

Following the review of important anti - corruption strategies and some national policies to curb corruption, it is important to explore the success stories of curbing corruption in some countries. Studying these countries' progress and their successful experiences is not meant to copy the same anti-corruption strategies used and apply it to Egypt. Instead, the study helps in inspiring policy makers and in trying to avoid the mistakes common to these countries, while putting into consideration their special social, cultural, political, and economic contexts. Inspiration breathes ideas and hopes that corruption as a problem can be solved or curbed, especially when the countries share similar contexts.

B.2- Internships in International Academies

This study also relies on the researcher's participation in trainings offered by international renowned organisations like the International Anti-Corruption Academy and the Arab Organisation for Administrative Development to learn about the best practices in fighting corruption. Professional training has also helped her to learn from professionals and participants from different parts of the world, from various backgrounds and academic disciplines about how their countries fight corruption. The knowledge was valuable since it exposed the researcher to different cultures and different perspectives of dealing with this problem.

¹⁰² Hoecke, *supra* note 17 at 193.

B.3- An Analysis that Aims at a Better Application of the Law

This research approaches its final destination when it starts exploring Egypt's legal, social, historical, economic, and cultural context to help in creating a better adapted anti bribery legal strategy to curb corruption. In this section, a historical overview of Egypt's legal (anti -corruption laws) and social (revolutions) attempts to curb corruption from 1952-2017 is presented to show that the need to curb corruption has always been there, and has always been the reason behind important revolutions that changed the path of Egypt's history. Furthermore, the research studies the available reports about corruption in Egypt issued from important International Organisations like the World Bank and Transparency International. The role of the law and its limits in curbing corruption are put into consideration. It is worth noting that the study of the Egyptian anti-corruption law did not aim at reading its articles to interpret it or to analyse its content. The study rather aimed at understanding better the problem of corruption and suggesting a better legislative anti-corruption governance that puts into consideration the country's particular context.

In light of the Egyptian government's commitment to fight corruption in the aftermath of the Revolutions of 2011 and 2013, the Egyptian National anti-corruption strategy 2014-2018 was drafted. This strategy is carefully studied. The main aim of the study is to evaluate its progress and its contribution in pursuing its goal in curbing corruption as stated in the Egyptian constitution. The role of the national committee in curbing corruption was studied in regard of its role in monitoring the implementation of the strategy by different governmental institutions. Furthermore, the degree of the involvement of those governmental institutions in assessing their internal sources of corruption and finding customized and adapted measures are studied.

Since the strategy was drafted to fulfill the requirements of the Egyptian Constitution, the research suggests - after critical and extensive evaluation – making certain changes in the strategy to better fulfill its aim of curbing corruption. Finally, a dialogue between the disciplines within the context of Egypt's social, political, cultural, and economic context permitted the suggestion of a comprehensive anti-corruption legal strategy that may guarantee the effective application of the anti -bribery law.

CHAPTER 2: Inventory of Anti-Corruption Strategies by Common Themes

This section of the research deals with the causes, effects, important reform strategies to curb corruption, the different methods of measuring corruption and the importance of tracking the effectiveness of these reforms measures.

A- Causes of Corruption

In order to design effective reform programs, it is important to study thoroughly the causes of corruption. Learning about these causes helps identify and address areas where the system can become more susceptible to engaging in corruption. According to Dale Olowu, “One of the main reasons why governmental corruption has grown to be pervasive in Africa today is primarily because much more effort has been spent to remedy the problem than to understand it.”¹⁰³

The first step in any attempt at curbing corruption is to diagnose the problem before finding the remedy. Søreide and Rose-Ackerman argue that: “Anti-corruption campaigns and integrity reforms exist all over the world, but unless one studies the causes of weak performance, these efforts will not get to the roots of corruption”.¹⁰⁴ Thus, the departing point for any anti-corruption reform campaign must first be to understand the underlying root causes of corruption in order to optimize the potential for success of remedial interventions. It is important to understand the underlying causes of corruption, and how these corrupt systems operate in order to remedy them.

¹⁰³ Dale Olowu, “Governmental corruption and Africa’s democratization efforts” (1993) 7:3 J Corrupt Reform 227 at 227.

¹⁰⁴ Tina Soreide & Susan Rose-Ackerman, *supranote 6* at 10.

Huntington remarked that: “In terms of economic growth, the only thing worse than a society with rigid, over centralized, dishonest bureaucracy is one with a rigid, over centralized, and honest bureaucracy.”¹⁰⁵

According to Svenssons, “corruption is an outcome- a reflection on a country’s legal, economic, cultural, and political institutions.”¹⁰⁶ Thus, the causes of corruption or the driving factors of corruption within a given society must be studied within that country’s existing context and not as a separate phenomenon.

The contributing factors of corruption which will be discussed in this section of the research are: tax evasion, weak accountability and enforcement measures, corruption and culture, weak transparency measures, inadequate monitoring measures, level of education, public sector wages, quality of institutions, denying the importance of creating ethical culture, excessive regulations the absence of clear procurement regulations, ignoring the role of agent, ineffective justice system, lack of merit based promotion systems , the absence of political resolve or will to fight corruption and the absence of witnesses protection laws and whistleblowers.

A.1- Tax Evasion

Taxes can be either an important source of income for a country or a major source of corruption within that nation. If taxes are well regulated and managed, they can contribute to the prosperity of the country but if they are evaded, they can significantly contribute to its poverty and slow economic growth. Tax revenues are an important source of income for the development and economic growth of any nation when they are invested in major development projects, infrastructures and improving the quality of vital systems such as health and education. When the

¹⁰⁵ Samuel Huntington, *Political Order in Changing Societies* (Yale University Press, 1968) at 386.

¹⁰⁶ Jakob Svensson, “Eight Questions about Corruption” (2005) 19:3 J Econ Perspect 19 at 20.

taxation system is not well designed and implemented, however, it can be a major cause for corruption in a country and a significant contributor to its decline.

According to Tanzi, corruption flourishes in countries where tax laws are unclear and require interpretation and assistance, or when the system does not provide sufficient transparency, monitoring, and sanctions, and especially when tax collectors or their superiors have excessive discretionary power.¹⁰⁷

Taxes can be a major source of corruption in the following specific cases:

- As mentioned above, if the law is not clearly defined to citizens or provides high discretionary power to the public officials, this can present a major problem. In many emerging countries, public officials are responsible for evaluating the amount or percentage of taxes that companies and or individuals must pay. When the taxation system allows for unregulated interaction between the citizens and the tax collection officers, this presents great opportunities for corruption.
- Another area of concern is where the imposed taxes or tariffs are excessively high to the point that this situation opens the door to corruption or tax evasion. Prichett and Sethi collected data from Jamaica, Kenya, and Pakistan to show the effect of high tariffs on the patterns of tax collection. They concluded that high tariffs were associated with low collection in terms of the amounts paid and the rates of collection, besides the variance in the amount of money paid.¹⁰⁸

¹⁰⁷ Vito Tanzi, "Corruption and the Budget: Problems and Solutions" in Arvind K Jain, ed, *Econ Corrupt*, Recent Economic Thought Series 65 (Springer US, 1998) 111 at 111–122.

¹⁰⁸ Lant Pritchett & Geeta Sethi, "Tariff Rates, Tariff Revenue, and Tariff Reform: Some New Facts" (1994) 8:1 World Bank Econ Rev 1.

According to Susan Rose-Ackerman, “High nominal tax rates lead to bribes and other types of tax avoidance which lead to even more avoidance, and so forth in a vicious spiral.”¹⁰⁹ Therefore, exaggerated tax rates or tariffs lead to lower amounts of money collected and create opportunities to engage in corrupt deals. Corrupt tax agent superiors is an additional contributing factor to tax evasion to the extent that it reduces accountability.

Corruption is also more likely when tax agents are under paid. Reports from several countries showed a high demand for poorly paid jobs in tax and customs administration as compared to well paid jobs in the private sector because applicants were aware of the existing potential to generate extra income.

- Tax evasion also worsens when existing monitoring system of superiors and/or the state do not provide appropriate corruption detection methods, particularly when breach penalties are not severe enough to deter evasions or other tax law infringements.
- Another factor comes into play when penalties are not effectively or consistently enforced.

In some countries, pressure exerted by the rich or elite can result in exemptions from certain forms of taxes, like property taxes, that are essential and indispensable to other countries. A study conducted in two African countries, namely Gambia and Mozambique, showed that corruption enabled the rich to avoid paying taxes.¹¹⁰

However, a country’s budget is directly impacted when tax collectors are corrupt and the tax system is not efficient and/or contains loopholes that facilitate tax evasion. A 2001 study conducted in Bolivia concluded that 42% of the VAT was lost that year, and that subsequent

¹⁰⁹ Susan Rose-Ackerman, *Corruption and government : causes, consequences, and reform* (New York: Cambridge University Press, 1999) at 21.

¹¹⁰ Thandika Mkandawire & Adebayo Olukoshi, *Between liberalisation and oppression: the politics of structural adjustment in Africa*, Thandika Mkandawire & Adebayo Olukoshi, eds. (Dakar, Senegal: CODESRIA, 1995) at 6.

reforms yielded a 29% reduction in losses.¹¹¹ Fjesldstat also emphasizes the magnitude of the problem and argues that in some countries corruption has resulted in the loss of up to 50% of its tax revenues.¹¹²

Thus, well-administered tax systems are an essential source of revenue for any country. When corruption invades this sector, the budget is directly impacted which has many adverse economic and developmental outcomes.

A.2- Weak Accountability and Enforcement Measures

Transparency and a well-designed anti-corruption monitoring system are essential in the fight against corruption but will not succeed if public servants and officials are not held accountable for their actions. A monitoring system will also not yield its desired goals if, in the case of conviction, the imposed sanctions are inadequate or inconsistently enforced.

In order to deter corruption, the severity of sanctions must be proportionate to the crimes committed. An overly lenient sanction system will not register as a substantial risk factor for certain bureaucrats engaging in corrupt deals. On the other hand, excessively harsh sanctions may not be easily and consistently enforced by reluctant officials who might view them as being disproportionately severe.

James M. Lager argues that “though punishing a particular individual may incapacitate him for a while and may deter others, as a general rule, the threat of an unproductive method for

¹¹¹ Juan Carlos Zuleta, “Combating Corruption in the Revenue Service: The Case of VAT Refunds in Bolivia” (2008) 2008:14 U4 Brief, online: <<https://www.cmi.no/publications/3040-combating-corruption-in-the-revenue-service>>.

¹¹² Odd-Helge Fjeldstad, “Revenue administration and corruption” (2005) 2 U4 Anti-Corrupt Resour Cent Bergen NorwayChr Michelson Inst, online: <<https://www.u4.no/publications/revenue-administration-and-corruption>>.

achieving behavioral change.”¹¹³The power of consequences to deter or change the behavior of individuals or the public in general who commit crimes is significant.

A group of researchers conducted an experiment in Mexico which concluded that public officials tended to adjust their corrupt behaviors according to the potential risk of expected punishment. Researchers divided the experimental group into two. The first group was assigned an expensive car and the appearance of a high socio-economic status the other group appeared to be of lower income. Participants in both groups were instructed to commit illegal left turns on a road in Mexico City. Researchers observed that officials tended to demand bribes from the¹¹⁴“lower income” people more than from those who appeared to be wealthy. When asked the reason behind this differentiation, they explained that wealthier people were generally believed to be better connected and therefore more likely to report the officials which may have resulted in disciplinary measures or loss .The conclusion was that officials tended to alter their behavior according to the probability of repercussions .¹¹⁵Therefore, among the important causes for corruption are low levels of detection and low probability of imposed sanctions.

Klitgaard asserts that “Corruption is a problem of calculation not passion.”¹¹⁶ He explains that generally, people prone to corruption will engage in corrupt deals if the risk of being punished is low even if the probability of detection is high since the calculated risk is in their favour. Thus, when it comes to corruption, it seems that, if the size of the bribe is substantial and the probability of being caught or punished is minimal, individuals prone to corruption are more likely to be tempted and to accept bribes.¹¹⁷ Bribery most often occurs in cases where public servants hold a

¹¹³ James Lager, “Overcoming Cultures of Compliance to Reduce Corruption and Achieve Ethics in Government” (2009) 41 McGeorge Law Rev 63 at 45.

¹¹⁴ Brian Fried, Paul Lagunes & Atheendar Venkataramani, “Corruption and Inequality at the Crossroad: A Multimethod Study of Bribery and Discrimination in Latin America” (2010) 45:1 Lat Am Res Rev 76.

¹¹⁵ *Ibid.*

¹¹⁶ Robert Klitgaard, “Cleaning up and invigorating the civil service” (1998) 17:5 Public Adm Dev 487 at 501.

¹¹⁷ *Ibid.*

high position, have a monopoly on power or influence possess high discretionary powers, or when the services or goods they offer are scarce.

The existence of punishments or legal sanctions does not guarantee that laws will be enforced to deter corruption. A group of researchers studied the effects of social norms on corruption in two incidents: the presence, and the absence of law enforcement, to be able to construct policy measures to fight corruption among officials.¹¹⁸

Since diplomats possessed diplomatic immunity regarding certain violations until 2002, a study was conducted to test the number of parking violations incurred in Manhattan, New York City by thousands of diplomats from 149 different countries. The number of parking violations was significant, particularly among diplomats originating from countries where corruption was rampant. The number of fines accumulated from November 1997 to October 2002 was 150,000 unpaid fines amounting to more than \$18 million. This shows that the effects of cultural norms on corruption in the absence of law enforcement remains high even outside of their own countries and within the confines of a foreign country. Since 2002, the State department has allowed New York City to prosecute parking violators by confiscating their licenses after diplomats have incurred three infractions. Law enforcement officials have had the right to enforce the law since 2002. When researchers compared the data they found that parking violations fell by 98%. These results demonstrate the effect of law enforcement and the power it wields on changing cultural norms. Thus, low accountability and weak punishment systems can contribute to the creation of a culture of corruption. When public servants and officials believe that laws will not be enforced and sanctions will not be imposed, corruption becomes the prevailing norm. In other words, lack of law enforcement breeds a culture of corruption.

Furthermore, one of the main causes of corruption is the notion that laws and sanctions are powerless and merely printed words in the books that are rarely enforced. This perception is usually

¹¹⁸ Raymond Fisman & Edward Miguel, “Corruption, Norms, and Legal Enforcement: Evidence from Diplomatic Parking Tickets” (2007) 115:6 J Polit Econ 1020.

the result of past experiences, when individuals engaging in corruption were not arrested, punished, or held accountable after being caught committing corrupt acts.

A.3- Corruption and Culture

Salbu explains that, “While all cultures eschew corruption, culture remains a critical differentiator as opinions vary on what conduct falls inside and outside of that label.”¹¹⁹ Two - to three decades ago, the Western community thought of corruption as a cause and consequence of the underdevelopment of countries that suffered deeply from this problem. Corruption was even seen as an inherent part of that culture. It was believed that corruption could not be solved except through economic development. This view seems to have recently changed however as the world has come to realize that principles of democracy, integrity, and honesty are paramount to and the first steps towards achieving economic development and growth. Therefore, the notion of culture as a cause of corruption was rejected.¹²⁰

Although corruption is theoretically not acceptable in any culture, the categorization of some acts as corrupt or not differs from one culture to another. Therefore, it is important to study the notion of culture as a cause of corruption and to carefully define what is considered corrupt behavior within each country and its cultural context. According to Rose- Ackerman “Sometimes sensitivity to culture and history in one society will lead to tolerance of actions that are labeled bribery in other societies.”¹²¹

¹¹⁹ Steven R Salbu, “The Foreign Corrupt Practices Act as a threat to global harmony” (1999) 20:3 Mich J Int Law Mich J Int Law 419 at 423.

¹²⁰ Claes Sandgren, “Combating corruption: the misunderstood role of law” (2005) Int Lawyer 717.

¹²¹ Susan Rose-Ackerman, *Corruption: Greed, Culture and the State*, SSRN Scholarly Paper ID 1648859 (Rochester, NY: Social Science Research Network, 2010) at 136.

As explained earlier, research has shown that countries with strong family ties have higher levels of corruption compared to other countries where family ties are weaker.¹²² They also found that some cultural traits related to the strength of family ties like collectivism as opposed to individualism affect the level of corruption. The higher the degree of collectivism the higher the degree of favouritism and nepotism, and the higher the degree of individualism the lower the level of corruption.¹²³

Sometimes, resistance to positive change is anchored in cultural impediments; those cultural impediments in turn become fertile ground for corruption.

Rose-Ackerman argues that

Voters do not always punish flamboyantly corrupt politicians at the polls, presumably because no credible alternatives exist. It may seem better to tolerate an incumbent who takes a share of the spoils of office than to risk retaliation from the incumbent by supporting an untested challenger.¹²⁴

Thus, lack of public awareness is yet another cause of corruption. This for example, happened in Egypt when people accepted Mubarak's presidency for thirty consecutive years despite clear corruption allegations on the basis that it is not worth taking a risk on an alternative scenario.

When corruption becomes widespread and systematic, people become more tolerant and acclimatized to it. Although they do not accept the corrupt acts per se, they acknowledge and are resigned to the notion that corruption is widespread and inevitable. This does not necessarily imply that countries are doomed to a perpetual culture of corruption. There exists no culture that openly promotes corruption, however, cultures where the system itself offers more opportunities to engage in corruption are not uncommon.

¹²² Fukuyama *Supra* note 84 at 7.

¹²³ Andreas Kyriacou, "Individualism–collectivism, governance and economic development" (2016) 42 *Eur J Polit Econ* 91.

¹²⁴ Rose-Ackerman, *supra* note 121 at 137.

Understanding culture as a cause of corruption can, to a certain extent, explain why some laws such as anti-nepotism policies are not upheld. Culture can explain how people respond to the law and its conflicting values. Taking culture into account when proposing or adapting policy reforms can help in designing more effective reforms thus altering the existing structures and the incentives to engage in corrupt deals.

A.4- Weak Transparency Measures

The term transparency is derived from the word “transparent” and refers to the ability to see a full, unobstructed image of an existing situation. Transparency can also apply to information to the extent that citizens are able to freely and easily access necessary information regarding what to expect from their governments in terms of services. It also implies that the information is clear and useful.

According to Lindstedt and Naurin:

Transparency literally means that it is possible to look into something, to see what is going on. A transparent institution is one where people outside or inside the institution can acquire the information they need to form opinions about actions and processes within the institution. Information about agency behavior is available for those principals who are willing and able to seek it.¹²⁵

Therefore, transparency *involves the ability* to access information and the *availability* of said information. Information can be available but inaccessible for many reasons such as illiteracy or ignorance about the existence of said information.

According to Mkandawire, transparency implies accuracy, and availability of information, because if citizens are unaware of the opportunities that their governments offer, they cannot benefit from them.¹²⁶ Transparency International defines transparency as

¹²⁵ Catharina Lindstedt & Daniel Naurin, “Transparency is not Enough: Making Transparency Effective in Reducing Corruption” (2010) 3:3 Int Polit Sci Rev 301 at 303.

¹²⁶ Mkandawire & Olukoshi, *supra* note 110 at 6.

A principle that allows those affected by administrative decisions, business transactions or charitable work to be aware of not only the basic facts and figures but also the mechanisms and processes. It is also the duty of civil servants, managers and trustees to act visibly, predictably and in a straightforward manner.¹²⁷

The Transparency International definition holds decision makers responsible for revealing the established decision-making processes which were followed to reach certain decisions in order to make them predictable, and to provide explanations for the reasons behind these decisions whenever necessary.

The lack of clear, transparent rules in a country usually results in reduced monitoring and accountability since people cannot monitor what they do not know. Nor can they hold public officials accountable for unrevealed actions. Therefore, lack of transparency and absence of applicable Freedom of Information Acts or Rights to information Acts are considered as the most important reasons for the prevalence of corruption.

Sometimes, for people to access information, they must show legitimate cause for requesting the information. However, these types of conditions or restrictions violate transparency and the individual's right to access information. According to Rose-Ackerman:

Freedom of information acts in the United States and in a number of European countries are an important precondition for effective public oversight. These laws permit citizens to request information as members of the public without showing that their own personal situation will be affected.¹²⁸

Thus, the right to the access of information must be granted to all citizens without restrictions or conditions. The only justifiable restriction should be state security issues, which must also be clearly defined.

¹²⁷ Transparency International, "FAQs about corruption", online: *Transpar Int N Z* <<https://www.transparency.org.nz/faqs-about-corruption/>>.

¹²⁸ Susan Rose-Ackerman, "Role of the World Bank in Controlling Corruption, The" (1997) 29 *Law Pol Intl Bus* 93 at 109.

Lack of information especially regarding financial issues denies citizens the ability to monitor the actions of public officials. This form of secrecy can potentially create a fertile environment for corruption. Rose-Ackerman explains that: “Secret funds available to chief executives and top ministers are an invitation to corruption.”¹²⁹ Therefore, transparency can be considered both a preventive and reformatory measure to curb corruption. If mismanaged however, transparency can become a precondition to a corrupt environment.

Transparency or free access to information is not a remedy to corruption in itself. According to Susan Rose-Ackerman, “finding out what is happening is of little value unless people can use this knowledge to influence the government.”¹³⁰ If Information is readily available but citizens are not given the right and the tools to act upon it accordingly, then the lack of transparency could be a contributing cause to the widespread corruption in a country. This to the extent that the absence of transparency denies citizens the enabling tools to use the information and act accordingly.

Sometimes corruption is not caused by inaccessibility of information but the inability to monitor and hold public officials accountable according to the available information. Lindstedt and Naurin explain that: “Transparency will be a less effective remedy for corruption when it is not accompanied by institutional and other circumstances favourable to achieving publicity and accountability.”¹³¹

Therefore, the absence of transparency and a freedom of information act or similar laws should not be seen as the main cause of corruption if institutional and accountability tools are also not enabling. Therefore corruption can be translated in an equation

$C = \text{lack of } T + \text{lack of } M - A$

Corruption = lack of Transparency + lack of Monitoring - Accountability.

¹²⁹ *Ibid.*

¹³⁰ *Ibid.*

¹³¹ Lindstedt & Naurin, *supra* note 125 at 305.

Information is not relevant in and of itself: What is relevant is the right to being informed and how the information is handled.

Transparency is an important first step in fighting corruption when the information accessed is used by different avenues (citizens, media, press) to monitor and hold public officials accountable when needed. According to Call and Bentley who conducted a number of researches to study the effect of the access of information on specific socioeconomic conditions, it was concluded that:

The diagnostic findings of the various effectiveness of certain freedom of information laws have many features and include: political will, infrastructural inadequacy, deficits in records management, procedural defects that create barriers to responsiveness, institutional cultures and traditions of secrecy.¹³²

Thus, in order to achieve transparency, some preconditions must be fulfilled, mainly the political will to provide information, the resources to keep and manage accurate records and the ability of the civil societies or the public to diffuse this information effectively. A group of researchers conducted a study after India had passed the Right to Information Act (RTIA) and found that corruption was directly associated with lack of transparency. Access to information in helping the poor to access basic public services was restricted without bribery.¹³³ In this experiment, slum dwellers were divided into four groups involved in the process of applying for ration cards. Generally, the slum dwellers were compelled to payoff the agents who were supposed to facilitate the procedure for them. The control group was asked to go through the legal procedure without offering bribes. The other three groups accompanied their application either with a Right to Information request or a recommendation letter from NGO or with a bribe. Despite the fact that the bribe proved to enable the applicants to receive their ration cards in the most effective and timely manner, the experiment showed that the applications, which were accompanied with the

¹³² Richard Calland & Kristina Bentley, "The impact and effectiveness of transparency and accountability initiatives: Freedom of information" (2013) 31:s1 Dev Policy Rev s69 at 84.

¹³³ Leonid Peisakhin & Paul Pinto, "Is transparency an effective anti-corruption strategy? Evidence from a field experiment in India" (2010) 4:3 Regul Gov 261.

RTIA request, received comparable services.¹³⁴ Therefore lack of transparency always enables corruption to flourish since it deprives citizens from the power to use information. Moreover, when citizens are not aware of their rights, or what these rights entail, it does not yield the expected results.

Information in itself is not valuable except when managed and used effectively. Pande explains how the Right to Information Act (RTIA) adopted in India in 1999 combined with the activist effective handling of the information enhanced accountability and enforceability.¹³⁵ A group of activists called Parivartan used the RTIA to access information on the public distribution system, which is a government program aiming to guarantee the distribution of food grains at an affordable price for the poor. Through information gathering, Parivartan succeeded in disseminating information through media about corrupt behaviors within the program and mobilized the public to hold the government accountable.¹³⁶ The access to information not only enabled citizens to hold public officials accountable, but also helped create an empowering environment where the public voice was heard. This indirectly helps in enforcing sanctions in the event of rule violations by the entrusted officials.

Thus, lack of transparency being one of the important causes of corruption is indisputable. However, effective transparency measures have to be followed and complemented by proper monitoring, accountability, sanction, and rewards measures in order to meet the ultimate goal of accessing information. The real value of the information stands in the actions that can be taken based on findings. Information in itself is empowering especially when complemented with enabling tools to use the information effectively.

¹³⁴ *Ibid.*

¹³⁵ Suchi Pande, "The Right to Information and Societal Accountability: The Case of the Delhi PDS Campaign" (2007) 38:6 IDS Bull 47.

¹³⁶ knowledge is empowering, the fact that they had access to information made them able to take serious actions and not to depend on allegations.

A.5- Inadequate Monitoring Measures

Monitoring, for the purpose of fighting corruption, enables citizens, media and the press to watch and audit the acts of public officials at all levels. Whereas transparency is the first step towards this goal, monitoring the acts of the public officials based on the information in question becomes the next logical step towards holding public officials accountable.

The lack of effective monitoring and auditing measures can result in widespread corruption. Monitoring can be exercised in several ways including bottom up or top down methods through media, citizens, and civil society. Corruption flourishes when the role of the above-mentioned constituents is unclear, absent or is rendered powerless.

Empirical studies demonstrating the positive effect of monitoring on corruption

A number of empirical studies have proven that increased monitoring reduces corruption and that when monitoring and auditing tools are not properly imbedded in an institution, the probability of corruption increases significantly.

When effective measures to enhance unbiased media and press coverage is not founded in a society, corruption is expected to flourish. In an interesting article entitled “Why isn’t the congress more corrupt: A preliminary inquiry”,¹³⁷ author Hasen explains that based on a study published in the American Economic Review, corruption is usually more widespread in areas isolated from state capitals as opposed to areas within closer proximity because of the absence of investigative journalism which is largely followed by a significant percentage of the population.¹³⁸ Hasen concludes that the reason why congress is not corrupt is not that representatives are more ethical but primarily because members of congress are closely watched by the media which is

¹³⁷ Richard L Hasen, *Why Isn’t Congress More Corrupt? A Preliminary Inquiry*, SSRN Scholarly Paper ID 2585260 (Rochester, NY: Social Science Research Network, 2015).

¹³⁸ *Ibid.*

scrutinized by a large percentage of the population.¹³⁹ Thus, the absence of effective monitoring measures increases the risk of corruption.

The absence of political will to control corruption and the lack of top down supervision creates a corruption prone environment. A research conducted to study the effect of monitoring and the level of salaries on the variation of prices in supplies of some basic items purchased in hospitals in Buenos Aires.¹⁴⁰ After allegations of widespread corruption in hospital purchases of supplies through procurement, the newly elected government in Argentina decided to take strict measures to monitor corruption.

In this study, researchers monitored the prices of some basic hospital supplies in Buenos Aires and concluded that high levels of monitoring of purchasing department personnel resulted in a 15% drop in supply prices. Overtime and with reduced monitoring the prices only dropped by 10% in spite of the fact that pharmaceutical wholesale price remained the same during the period of analysis.¹⁴¹ This study concluded that high salaries in the presence of monitoring measures help deter corruption whereas the absence of monitoring and supervision increases the potential of corruption even when salaries are high.

Another research was conducted in Indonesia to demonstrate the importance of top down monitoring to reduce corruption.¹⁴² Olken measured corruption in road projects in more than 600 villages by comparing reports prepared by engineers to measure the estimated price of all inputs to the actual expenditure reports. He discovered that when the probability of audit increased from a

¹³⁹ *Ibid.*

¹⁴⁰ Rafael Di Tella & Ernesto Schargrotsky, "The Role of Wages and Auditing during a Crackdown on Corruption in the City of Buenos Aires" (2003) 46 J Law Econ 269.

¹⁴¹ *Ibid.*

¹⁴² Benjamin Olken, *Monitoring Corruption: Evidence from a Field Experiment in Indonesia*, Working Paper 11753 (National Bureau of Economic Research, 2005).

baseline of 4% to 100%, the expenditures were reduced by 8 percentage points. According to this research the monitoring is cost effective in reducing corruption.¹⁴³

Consumers can play an important role in bottom up monitoring. Consumer interests are at stake in many programs especially in the areas of food subsidies, education and healthcare programs. In the absence of monitored bureaucrats or public officials performance the opportunities of corruption increased. Consumers have a more vested interests in protecting their rights related to such programs than the bureaucrats.¹⁴⁴Therefore, bottom up supervision can often be more cost effective than top down management, especially when superiors are corrupt.

According to Susan Rose-Ackerman and Roy Truex, engaging consumers to oversee measures has two main advantages: First, it helps reduce leakages of funds, and second, it increases citizen involvement in public life.¹⁴⁵ The authors explain that “Citizens have an interest in fighting corruption, and if given a voice, they can be a potent force for its reduction.”¹⁴⁶Of course, the success of such models also depends on the probability that those complaints will be addressed.¹⁴⁷ Therefore, ignoring the role of citizens in fighting corruption can be a significant cause of corruption.

Similarly, in road projects research conducted in Indonesia, the author concluded that community monitoring of the projects reduced corruption especially in cases where reelections were approaching.¹⁴⁸It was noted, however, that in some cases, professional monitoring can not

¹⁴³ *Ibid.*

¹⁴⁴ Joseph Stiglitz, “Participation and Development: Perspectives from the Comprehensive Development Paradigm” (2002) 6:2 RODE Rev Dev Econ 163.

¹⁴⁵ Susan Rose-Ackerman & Rory Truex, “Corruption and Policy Reform” (2012), online: <<http://papers.ssrn.com/abstract=2007152>>.

¹⁴⁶ *Ibid.*

¹⁴⁷ Atsu Amegashie, “The Welfare Effects of Consumers’ Reports of Bribery” (2015) J Econ Manag Strategy J Econ Manag Strategy n/a.

¹⁴⁸ Olken, *supra* note 142.

adequately be substituted by community members alone.¹⁴⁹ Thus, collaboration between professionals and citizens in monitoring increases the effectiveness of these measures and can significantly reduce corruption.

Lack of monitoring definitely opens the door to many corruption opportunities. Reinikka and Svensson conducted a research to study the effects of monitoring in a large public expenditure program in primary schools in Uganda.¹⁵⁰ In this program, the government decided to offer a grant calculated per student to cover non-wage expenditures. The researchers conducted a survey to measure the actual funds that reached the schools. They discovered that from 1991-1995 the schools received only 13% of the grants and that some schools received nothing.¹⁵¹ In addition, they found that some schools used their bargaining power to negotiate the amount of grants they were entitled to receive and accordingly received larger grants.¹⁵² This shows that there were no clear rules on government budgetary expenditures. The schools had limited information on the amount of money they were entitled to receive and were not provided with the proper monitoring tool.¹⁵³ Therefore, for a government to meet its development goals by directing its expenditures to a certain project, it must establish effective methods to monitor those expenditures. Otherwise, the expenditures could become a hidden way of enabling corruption rather than supporting development projects. The loss of funds could have been reduced if for example parent associations in different schools were allowed to monitor the inflow of the grants.

In this particular case however, the problem that arose from the lack of monitoring was not only the funds that were misallocated but also the potential for further corruption opportunities and expenditures. The government might decide to create committees to investigate why the quality of education is not improving despite funding programs and to ensure that the government budget is

¹⁴⁹ *Ibid* at 36.

¹⁵⁰ Ritva Reinikka & Jakob Svensson, "Local Capture: Evidence from a Central Government Transfer Program in Uganda" (2004) 119:2 Q J Econ 679.

¹⁵¹ *Ibid*.

¹⁵² *Ibid*.

¹⁵³ *Ibid* at 700.

properly invested in education development projects. Reinikka and Svensson found that this situation is not limited to Uganda alone but exists in other Sub-Saharan African countries as well.¹⁵⁴ Evidently, when the government does not allocate enough resources to monitor large expenditure programs as part of the program design itself, this implicitly invites corruption into the program.

In contrast, another study conducted by Reinikka and Svensson found that access to information by citizens regarding a school grant program reduced the leakage of funds from said program.¹⁵⁵ In 2004, the Ugandan government published information on a major education grant program, allowing parents and schoolmasters to be better informed through responsible officials about the release of funds. The results showed that the newspapers campaign generally reduced the amount of money being leaked and the rate of corruption by public officials. However, the positive effect of information was truly cultivated in communities where the consumption of newspapers was increased, combined with informed schoolmasters.¹⁵⁶ Therefore corruption clearly flourishes in the absence of transparent and well designed monitoring mechanisms. The above study also relates to the study conducted by Hasen, which found that corruption in congress is not as prevalent when members are watched and reported on by the media which is followed by a large percentage of the population. This in comparison to areas which are further removed from the state capital and therefore less informed. In this case, as the probabilities of monitoring decreases the opportunity of corruption increases.¹⁵⁷

When the right to access information is complemented with effective monitoring methods, corruption is controlled. Reinikka and Svensson conducted an experiment in Uganda to evaluate the effects of an enhanced access of information program which enabled parents to monitor expenditures of a large school grant program. The results indicated that with ongoing monitoring,

¹⁵⁴ Reinikka & Svensson, *supra* note 150.

¹⁵⁵ Ritva Reinikka & Jakob Svensson, "The power of information in public services: Evidence from education in Uganda" (2011) 95:7–8 J Public Econ 956.

¹⁵⁶ *Ibid.*

¹⁵⁷ Hasen, *supra* note 137.

the level of corruption was reduced from 80% in 1995 to 20% in 2001.¹⁵⁸ These findings show that enabling parents and teachers to access information on the grants program can result in better monitoring of the allocation of funds which consequently reduces corruption and enables program to achieve their ultimate goal of allocating funding where it is legitimately needed and intended.

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Thus, the absence of effective monitoring tools remains one of the main causes for the spread of corruption. The importance of monitoring in all its forms, whether bottom up, top down, or through the various media remains essential and the lack of such monitoring can be one of the main causes for causing corruption to be widespread in some countries.

A.6- Level of Education

The level of education in a country may determine its level of corruption. It may determine the level of citizens' awareness of their rights to access information, to monitor the behavior of bureaucrats and public officials' and behavior to hold them accountable, and to ensure that laws are enforced. Helliwell and Putnam notes that "education is usually the most important predictor of political and social engagement."¹⁶⁰ According to this view, when the level of education increases, the level of political and social awareness and participation also increases. More participation also correlates with better monitoring, accountability and less corruption. Mocan explains that higher levels of education also decrease the level of bribery and corruption in a country.¹⁶¹

¹⁵⁸ Reinikka & Svensson, *supra* note 155.

¹⁵⁹ *Ibid.*

¹⁶⁰ John Helliwell & Robert Putnam, *Education and Social Capital*, Working Paper 7121 (National Bureau of Economic Research, 1999) at 1.

¹⁶¹ Naci Mocan, "What Determines Corruption? International Evidence from Microdata" (2008) 46:4 *Econ Inq* 493.

When the level of education is relatively high in a country, citizens tend to be more involved in gathering information about candidates during the elections. They are more aware of the value of political participation and the importance of voting, and their right to express dissatisfaction with the performance of inadequate public officials by not reinstating them into office. Citizens of countries where the level of education is relatively low are generally not as interested in learning about the different political candidates running in elections. Moreover, the public officials and bureaucrats of these countries are also aware of this limitation and accord less value to the people's right to vote. A study conducted by Scholzman and Brady found a strong correlation between level of education and political participation as generally, educated citizens are more interested in political participation and in protecting their rights.¹⁶²

Furthermore, bureaucrats who are aware of this will not be compelled to provide the required information since citizens will not fight for their right to access information. Additionally, even when the information is properly documented and readily available to the people, they will not be capable of using it effectively for monitoring and accountability purposes.

The power of information lies in the ability of its holder to access and use it. The more educated a society, the greater their ability to access and wield information responsibly by holding public officials to a higher ethical standard and reminding them that their power is limited to and conditional upon their ability to gain and retain the trust of the people. A research conducted by Dee to study the effects of education on adult civic engagement concluded that education through various media channels such as newspapers increases civic knowledge and political participation which ultimately results in a better-informed and empowered citizen.¹⁶³ Glaeser et al explain that

¹⁶² Henry Brady, Sidney Verba & Kay Lehman Schlozman, "Beyond SES: A Resource Model of Political Participation" (1995) 89:2 *Am Polit Sci Rev* 271.

¹⁶³ Thomas S Dee, "Are there civic returns to education?" (2004) 88:9-10 *J Public Econ* 1697-1720, online: <<http://www.sciencedirect.com/science/article/pii/S0047272703002068>>; Edward Glaeser, Giacomo Ponzetto & Andrei Shleifer, "Why does democracy need education?" (2007) 12:2 *J Econ Growth* 77-99, online: <<http://link.springer.com/article/10.1007/s10887-007-9015-1>>; Juan Botero, Alejandro Ponce & Andrei Shleifer,

education increases civic engagement and the likelihood that people will work for a particular democratic regime. Higher levels of democracy correlate with lower levels of corruption since citizens are involved in monitoring public officials. Therefore when the level of education is low, it indirectly leads to higher levels of corruption. Another study conducted by Botero et al suggested that educated citizen tended to complain more regardless of the level of democracy. They found that the more people voiced their complaints, the more cautious public officials were regarding their conduct and decision making and the less likely they were to engage in corrupt behaviors.

In contrast, the lower the level of education , the more public officials tend to engage in corrupt deals since the probability of monitoring and accountability were low. This is evidenced by the fact that the level of education in developed countries is higher and corruption is lower as compared to emerging countries. Thus, a low level of education in a country can be an indirect cause of corruption.

A.7- Public Sector Wages

Many scholars have advocated that low wages in the public sector are an important cause of corruption. According to Klitgaard, the problem with low salaries is that while holding all variables constant, with few exceptions, countries with low level of civil servants salaries considerably underperform in the World Bank projects.¹⁶⁴Therefore, the level of salaries is an important determinant of the level of corruption.

A study conducted in Uganda in 1990 found that the highest possible salary of a civil servant at a managerial level was enough to cover food from basic local food sources for nineteen days

“Education, Complaints, and Accountability” (2013) 56:4 J Law Econ 959–996, online: <<http://www.jstor.org/stable/10.1086/674133>>.

¹⁶⁴ Klitgaard, *supra* note 116.

only (less than three weeks).¹⁶⁵ Another study conducted by the International Monetary Funds (IMF) and published in the *Economist* in August 1997 showed a correlation between the decline in the level of public sector salaries compared to the private sector and an increased level of corruption in some countries.¹⁶⁶ Low level wages make society more tolerant to corruption. Tanzi explains that “unrealistically low wages always invite corruption and, at times, lead society to condone acts of corruption.”¹⁶⁷ According to Susan Rose-Ackerman

[..] Although bribes can sometimes be characterized as incentive payments to public officials, a policy of active tolerance will undermine the prospects for long term reforms. It will also tend to delegitimize the government in the eyes of its citizens.¹⁶⁸

Thus, low salaries can incite public servants to engage in corruption and can normalize and legitimize corruption within that society which makes it more difficult to eliminate.

Van Rijckeghem and Weder empirically tested the relationship between corruption index and wage level and concluded that low wage levels lead to high levels of corruption and vice versa.¹⁶⁹ Lindbeck explains that Sweden, which is now ranked as one of the least corrupt countries in all current cross country rankings, was considered as one of the most corrupt countries in Europe during the Seventeenth and Eighteenth centuries.¹⁷⁰ The reason for this improvement in the twentieth century according to Lindbeck is high level salaries. Civil servants earned 12-15 times the salary of an average industrial worker. Thus, according to this study, increased remuneration was among the main causes of reducing the level of corruption.¹⁷¹ Similarly, Singapore has also increased the remuneration of public officials over the years in an attempt to build more competent

¹⁶⁵ David Chew, “Internal adjustments to falling civil service salaries: Insights from Uganda” (1990) 18:7 *World Dev* 1003 at 103–104.

¹⁶⁶ “PRICES AND WAGES”, *The Economist* (14 August 1997), online: <<https://www.economist.com/economic-indicators/1997/08/14/prices-and-wages>>.

¹⁶⁷ Vito Tanzi, *Corruption, Governmental Activities, and Markets* (International Monetary Fund, 1994).

¹⁶⁸ Rose-Ackerman, *supra* note 51 at 17.

¹⁶⁹ Van Rijckeghem, Caroline & Beatrice Weder, *Corruption and the Rate of Temptation: Do Low Wages in the Civil Service Cause Corruption?*, SSRN Scholarly Paper ID 882353 (Rochester, NY: Social Science Research Network, 1997).

¹⁷⁰ Assar Lindbeck, “The Swedish Experiment” (1997) 35:3 *J Econ Lit* 1273.

¹⁷¹ *Ibid.*

and honest civil servants. Singapore attained its intended goal and now ranks among the most corruption free nations. According to Rahman, “The [Singapore] government believed that an efficient bureaucratic system is one in which the officers are well-paid so the temptation of bribery would be reduced.”¹⁷² The large disparity between private and public sector salaries makes it more tempting for public servants to complement their salaries by engaging in corrupt behaviors. Mauro argues that decreased levels of civil servants’ salaries increases corruption.¹⁷³ A research conducted in Tanzania showed that civil servants’ wages accounted for only 40% of average household expenses. Consequently, the government encouraged public officials to supplement their salaries by finding additional employment.¹⁷⁴ Such scenarios increase conflict of interest cases which could also cause corruption to flourish.

Gorodnichenko and Peter conducted a study to measure the extent of corruption in the public sector in Ukraine.¹⁷⁵ They found that Public sector employees receive 23-32% less wages than their counterparts in the private sector. In spite of this relatively large disparity, the consumption level remained the same, which indicates some form of unreported potentially unethical compensation in the public sector such as bribery. Based on collected data, the extent of bribery in Ukraine was calculated to be between \$460-580 million, which translates to 0.9-1.2 percent of Ukraine’s GDP in 2003.¹⁷⁶

Another serious problem with low wages in the civil service sector is that this does not attract high skilled professionals. Consequently, those positions stay vacant or are filled by

¹⁷² Rahman, “Legal and administrative measures against Against Bureaucratic Corruption in Asia” in *Bur Corrupt Asia Causes Consequences Controls*, ledivina v cariño & ma concepcion p alfile ed (Quezon City, Phillipines: NMC Press, 1986) 109 at 151.

¹⁷³ Paolo Mauro, *Why Worry about Corruption?* (International Monetary Fund, 1997).

¹⁷⁴ Darius Mans, “Tanzania: resolute action” in Rashid [editors Faruqee & Ishrat Husain, eds, *Adjust Afr Lessons Ctry Case Stud* (Washington, D.C: The World Bank, 1994).

¹⁷⁵ Yuriy Gorodnichenko & Klara Sabirianova Peter, “Public sector pay and corruption: Measuring bribery from micro data” (2007) 91:5–6 *J Public Econ* 963 at 963–99.

¹⁷⁶ *Ibid.*

unqualified employees. A study in the Guyana and Jamaica showed that low paying positions which required qualified civil servants remained vacant .¹⁷⁷ However, when corruption is known to be widespread, some positions come with large bribes to compensate low salaries, in which case bureaucratic jobs become highly sought after.¹⁷⁸ Thus, low salaries do seem to contribute to corruption.

According to Williams, poorly designed institutions and lack of clear regulations in addition to disorganization in the public bureaucratic systems of the majority of African countries results in exaggerated corruption practices to the extent that in some cases a large number of civil servants' names exist only on the payrolls and on pay checks but are never truly present on the job.¹⁷⁹ Thus, mismanagement of institutions may facilitate corrupt practices.

In summary, when civil servants' salaries are low, and do not allow for a decent standard of living, tolerance for corruption increases. The values of integrity and ethics also decrease when civil servants are unable to provide themselves and their families with their basic survival needs. Therefore, the low salaries are one of the main causes of increased corruption.

A.8- Quality of Institutions

Low quality institutions are another important contributor to corruption. Scholars, policy makers and reformers have recognized that the quality of an institutions is a prerequisite for development. According to Douglas, "Third world countries are impoverished because institutional constraints define a set of payoffs to political/economic activity that do not encourage productive

¹⁷⁷ Richard Kitchen, "Compensation upgrading in Caribbean public services: Comparative Needs and experiences" in Amjad Shahid, Gary James Reid & Waleed Haider Malik, eds, *Civ Serv Reform Lat Am Caribb Proc Conf* (Washington, D.C: World Bank Publications, 1994) 120.

¹⁷⁸ Robert Wade, "The System of Administrative and Political Corruption: Canal Irrigation in South India" (1982) 18:3 ResearchGate 287.

¹⁷⁹ Robert Williams, *Political corruption in Africa* (Aldershot, Hampshire, England; Brookfield, Vt., USA: Gower, 1987).

activity.”¹⁸⁰ On this basis, many scholars and financial institutions like the World Bank have started to realize that the governance of institutions matters.

Since the 1990s, the World Bank has placed increasing importance on institutional development and has invested in a number of researches and projects in transitional and emerging economies and has spent around 2.9 billion dollars in the promotion of the rule of law.¹⁸¹

Douglas North defines institutions as:

[T]he rules of the game of a society, or, more formally, are the humanly devised constraints that structure human interactions. They are composed of formal rules (statute law, common law, regulation), informal constraints (conventions, norms of behavior, and self-imposed codes of conduct), and the enforcement characteristics of both. Organizations are the players: groups of individuals bound by a common purpose to achieve objectives. They include political bodies (political parties, the senate, a city council, a regulatory agency); economic bodies (firms, trade unions, family farms, cooperatives); social bodies (churches, clubs, athletic associations); and educational bodies (schools, colleges, Vocational training centers).¹⁸²

This definition is widely adopted by economists. Therefore, the institutions are the formal and informal bodies that are responsible for the enforcement of laws and rules in a society.

Trebilock also defined institutions as “those bodies (formal and informal) charged by a society with making, administering, enforcing, or adjudicating its laws and policies.”¹⁸³

In evaluating the validity of the hypothesis that the quality of institutions is relevant, an important empirical cross country study called “Governance Matters” was conducted by a group

¹⁸⁰ Douglass Cecil North, *Institutions, institutional change and economic performance* (Cambridge [etc.: Cambridge university press, 1990) at 110.

¹⁸¹ David Trubek, “The ‘Rule of Law’ in Development Assistance: Past, Present, and Future” (2006) *Int Inst Univ Wis-Madison* 74.

¹⁸² John Harriss et al, *The New Institutional Economics and Third World Development* (Psychology Press, 1995) at 23.

¹⁸³ Mariana Prado & Michael Trebilcock, “Path dependence, development, and the dynamics of institutional reform” (2009) *59:3 Univ Tor Law J* 341 at 350.

of researchers¹⁸⁴ affiliated to the World Bank and claimed some important findings. They measured the quality of institutions based on six indexes: “voice and accountability”, “political stability”, “government effectiveness”, “regulatory quality”, “rule of law” and “control of corruption” and a complex concept “governance index” to evaluate the overall quality of governance. They related the six indexes to three measures of development: Per capita GDP, infant mortality, and adult literacy on these indices. The study found a strong positive correlation between the quality of the institution, the composite of governance and the measures of development.¹⁸⁵

Based on these results and other studies, many development projects were implemented in developing countries and have been found to improve the quality of the institutions. They mainly focused on consolidating the rule of law and the protection of property rights in these countries despite the fact that they did not always yield the expected results.

The quality of the institutions can be both a cause and a consequence of corruption. When we talk about institutions as a cause of corruption, one cannot point to any specific institution. Prado and Carson ascertain that “[...] corruption is a systemic problem that cannot be solved by a single governmental agency or unit, no matter how powerful.”¹⁸⁶ Institutions are usually interdependent on each other for their functioning. Therefore, dysfunctional institutions are a characteristic of countries with high levels of corruption and are a barrier for change.

To sum up, low quality institutions directly relate to high levels of corruption in emerging countries. Thus, any policy reform should target institutional development as one of its main objectives.

¹⁸⁴ Daniel Kaufmann, Aart Kraay & Pablo Zoido, *Governance Matters II: Updated Indicators for 2000-01*, SSRN Scholarly Paper ID 297497 (Rochester, NY: Social Science Research Network, 2002).

¹⁸⁵ *Ibid.*

¹⁸⁶ Mariana Mota Prado & Lindsey Carson, “BRAZILIAN ANTI-CORRUPTION LEGISLATION AND ITS ENFORCEMENT: POTENTIAL LESSONS FOR INSTITUTIONAL DESIGN.” (2016) 4:1 J Self-Gov Manag Econ at 7.

A.9- Importance of Creating Ethical Culture

Corruption is usually a result of an interaction between two parties, usually from the public and private sectors. Sometimes corruption becomes systemic and so embedded into society that people hardly define it as unethical.

In their study Bazeman and Moore quote a folk wisdom which says that,

If you throw a frog in boiling water, it will jump out. But if you put a frog in nice warm water and slowly raise the temperature, by the time the frog realizes the water has become too hot, it will already be cooked.¹⁸⁷

This is exactly what happens when unethical and corrupt acts become widespread in an institution. It becomes hard to distinguish between one corrupt act and another. When a culture of corruption is created, people become desensitized to the point of convincing themselves that it matches the institutional context.

Enacting more laws will not solve this problem. Gilmore maintains that, “The worse the society, the more laws there will be.”¹⁸⁸ Trying to regulate everything in society is an indication of a bigger problem that the people do not understand the limitations of laws and regulations. Laws have the power to make people aware of the consequences of their actions, but individuals ultimately have the choice whether or not to abide by them.

According to Langevoort, researchers agree that “ethics is an essential building block for both legal compliance and enterprise risk management”¹⁸⁹ Therefore, operating in an unethical environment with unethical leaders becomes one of the main causes of widespread corruption in the workplace. Søreide and Rose-Ackerman also argue that: “countries with low levels of corruption may have a culture and a political environment that are conducive to the promotion of

¹⁸⁷ Max Bazerman & Don Moore, *Judgment in managerial decision making* (New York: Wiley, 2002) at 48.

¹⁸⁸ Grant Gilmore, *The ages of American law* (New Haven: Yale University Press, 1977) at 111.

¹⁸⁹ Donald C Langevoort, *Behavioral Ethics, Behavioral Compliance*, SSRN Scholarly Paper ID 2651101 (Rochester, NY: Social Science Research Network, 2015).

integrity through many routes besides implementation of penalties.”¹⁹⁰ People behave ethically not only because of the likelihood of being caught and punished but also because of the significance of integrity imposed by society.

Hope and Chikulo argue that one of the main causes of the widespread corruption in some African countries is the absence of ethical political leaders and public officials.¹⁹¹ who value their personal interests over those of their country and its people. ¹⁹²When leaders and high level public officials do not set the standard for ethical behavior and morality, employees can hardly be expected to behave any differently.¹⁹³ However, as mentioned previously, it should be noted that what is defined as nepotism or favouritism in some western communities is not only considered ethical but is an expected, standard practice reflective of family loyalty. ¹⁹⁴In some African, Asian, and Eastern European countries, denying family obligations is considered unethical. In such cases, officials are faced with the dilemma of honouring their obligations towards family versus their obligation to act ethically and impartially in a professional context.

The presence of compliance rules is not enough to curb corruption. One of the main causes of the persistence of corruption, despite the presence of clear compliance rules, is that sometimes employees think that these rules only serve as “window dressing” to escape penalty and protect the image of the company.

¹⁹⁰ Soreide & Rose-Ackerman, *supra* note 6 at 12.

¹⁹¹ Kempe Ronald Hope & Bornwell Chikulo, *Corruption and Development in Africa: Lessons from Country Case-studies* (Macmillan, 2000).

¹⁹² *Ibid.*

¹⁹³ Vito Tanzi, “Corruption Around the World: Causes, Consequences, Scope, and Cures” (1998) 45:4 Staff Pap Int Monet Fund 559 at 593.

¹⁹⁴ David Apter, *Ghana in Transition* (Princeton University Press, 1972).

An interesting study was conducted in a financial service firm where managers were concerned about the insurance brokers' actions aimed at generating greater profits.¹⁹⁵ The managers of this firm discovered that employees encouraged their clients to substitute old insurance policies with new ones for the sole purpose of generating greater revenues. Regulators warned managers that compliance rules were being violated. Managers reacted by issuing strict rules against insurance policy substitutions within 90 days of each other and set strict compliance monitoring rules. Regulators later discovered that the agents continued to increase policy substitutions in spite of warnings, however, the substitutions were now being implemented after 91 days. Since insurance agent compensation was based on performance and productivity, agents believed that managers were not serious about the compliance measures implemented and that these only served as window dressing.¹⁹⁶ Thus, sometimes corruption occurs when employees find it difficult to distinguish between company requirements to maximize profits and demands to operate ethically and to abide by compliance rules.

Undermining the importance of establishing an ethical culture, and not merely one of compliance invites the initiation of a culture of corruption. Generally, most people are naturally self-interested unless they are reminded or required to behave differently. Therefore, one of the main causes of corruption is denying the importance of creating an ethical culture within an organization and being content with the compliance and ethical rules. Ethical and compliance rules remain words written on paper until they are activated and implemented to form an ethical culture.

A.10- Excessive Regulations

When regulations are excessive, unclear, and unconcise, the monopoly and bargaining power of government officials increases, which fosters the existence of a corrupt environment. Usually, excessive regulations are a common aspect of governmental institutions in developing countries.

¹⁹⁵ Tammy MacLEAN & Michael Behnam, "The Dangers of Decoupling: The Relationship Between Compliance Programs, Legitimacy Perceptions, and Institutionalized Misconduct" (2010) 53:6 Acad Manage J 1499.

¹⁹⁶ *Ibid.*

According to Tanzi:

In many countries, especially developing countries, the role of the state is often carried through the use of numerous rules and regulations. In these countries, licenses, permits, and authorizations of various sorts are required to engage in many activities. ...The existence of these regulations and authorizations gives a kind of monopoly power to the officials who must authorize or inspect the activities...Thus, they can use their public power to extract bribes from those who need the authorizations or permits.¹⁹⁷

Therefore, the more regulations imposed by the government, the more discretion officials will have, and accordingly, the more opportunities officials will have to extract bribes. Excessive unexplained regulations result in delays. To save time, and to avoid going through long procedures, people either seek the assistance of agents, which creates a new opportunity for corruption because middlemen usually share the money with officials, or they directly pay the civil servants or officials to get the job done. In Mexico for example, the abundance of regulations in governmental services to issue permits and licenses makes it common for government officials to demand bribes.¹⁹⁸ Environmental regulations in Pakistan have also enabled officials to extract bribes.¹⁹⁹

Excessive and unclear regulations can encourage officials to extract bribes even when people's lives are at stake since the main concern of officials is to achieve private gain. In 1995, a scandal was revealed in Seoul when a large department store collapsed because contractors used poor quality construction materials. It was discovered that officials granted an inspection certificate in exchange for bribes.²⁰⁰ Hence excessive regulations make it easier for bureaucrats to protect their own interests and to forgo the common interest.

¹⁹⁷ Tanzi, *supra* note 193 at 566.

¹⁹⁸ Stephen D Morris, *Corruption & Politics in Contemporary Mexico* (University of Alabama Press, 1991) at 51.

¹⁹⁹ Sajid Anwar & Ahmed Khalid, "Corruption, Governance and Economic Development in Pakistan" (2018) *Bus Pap* at 16–17.

²⁰⁰ "Seoul department store collapses - Jun 29, 1995", online: *HISTORY.com* <<http://www.history.com/this-day-in-history/seoul-department-store-collapses>>.

According to Murphy et al, regulations can also distort competition by creating a barrier to entry for many small enterprises which are faced with complex regulations to complete their registration procedures, which may exist to give government officials an opportunity to extract bribes.²⁰¹ Creating a barrier of entry to small enterprises through complex regulations result in creating a monopoly of power for existing companies, which distorts competition and encourages a more corrupt environment. Thus, excessive regulations may be a hidden license to engage in corrupt deals.

Hence, one of the main causes of corruption is the absence of clear, concise, and easy to understand rules. Regulations in themselves are not the main cause for corruption, it is rather the way they are used and managed.

A.11- Absence of Clear Procurement Regulations

When mismanaged, procurements are one the most important sources of corruption, especially large-scale corruption. When the laws and regulations governing the procurement process are not clear, concise, and measurable it opens the door for government officials to extract bribes and to engage in corrupt deals. When the system imposes lengthy, complex procedures upon candidates before they can present their offer, and these steps are not easily monitored, then this too facilitates corruption.

Procurement is usually associated with large, long term projects such as infrastructure, roads, hospitals etc. In their study, Klitgaard et al, analyze possible corruption opportunities and explain that procurement usually encompasses four steps.²⁰² The first step is when the government

²⁰¹ Kevin M Murphy, Andrei Shleifer & Robert W Vishny, “Why Is Rent-Seeking So Costly to Growth?” (1993) 83:2 Am Econ Rev 409 at 409–14.

²⁰² Robert Klitgaard, Ronald MacLean-Abaroa & H Lindsey Parris, *Corrupt cities: a practical guide to cure and prevention* (Oakland, Calif.; Washington, D.C.: ICS Press ; World Bank Institute, 2000) at 120.

announces a “request for proposal”.²⁰³ The second step is when the suppliers present their bids.²⁰⁴ The third step is when the government evaluates, selects and negotiates the contract.²⁰⁵ The fourth step is when the selected vendor executes the contract.²⁰⁶ Klitgaard explains that each step in this process can create corruption opportunities.²⁰⁷

In the “request for proposal” stage, the vendor and the public official can exchange information that can have the effect of announcing a custom made offer that suits a specific vendor and excludes others. This usually happens when government officials do not hold enough knowledge about the products that they want to purchase, especially in offers related to the high technology field.²⁰⁸

In the second step, the vendors can illegally collude or form a cartel to ensure that the desired vendor will win the bid, thus distorting competition. In some cases they may even bribe officials.²⁰⁹ This occurs when there are subjective measures of quality and when officials have discretionary power and are not held accountable. These conditions create a perfect environment for corruption to thrive.²¹⁰ Vendors may also agree with public officials to present prices that are lower than market price and later claim the real costs in the execution process.²¹¹

In the third step, which includes the selection, evaluation and negotiation of the contracts, government officials can accept bribes to favour a certain bid or to favour the vendor who supports

²⁰³ *Ibid.*

²⁰⁴ *Ibid.*

²⁰⁵ *Ibid.*

²⁰⁶ *Ibid.*

²⁰⁷ *Ibid.*

²⁰⁸ *Ibid* at 123.

²⁰⁹ *Ibid* at 122.

²¹⁰ *Ibid* at 123.

²¹¹ Klitgaard, MacLean-Abaroa & Parris, *supra* note 202.

specific politicians.²¹²The selection always requires discretion, but granting the right amount of discretion becomes a challenge. It involves a tradeoff between giving government officials a degree of discretion that allows them to evaluate vague specification but this may open the door for corruption, and attempting to cover every step of the selection and evaluation process with strict rules and regulations. However, this may be very restraining to the government official and can lead to inefficiencies.²¹³

In the fourth step - the execution process - the vendors can report inflated costs, or increased overhead expenses. They can also provide lower qualities than agreed upon.²¹⁴In this stage, the vendors can cross substitute and pay bribes to the regulators if the specifications are vague and if there are no rules to hold them accountable.

Hence, if procurement rules and procedures are not well managed and the conditions that lead to corruption are not anticipated, this sector will always become a source of corruption as it encompasses long term, high value projects. The reason being that anticipation is the first step for prevention and reforms. Thus, unclear procurement laws and poorly monitored processes can be one of the most important causes of corruption in a country.

A.11- Ignoring the Role of Agents

Bribery as a form of corruption is not always a simple relation or a game that involves two parties. When we think of bribery, the image that usually comes to mind is a relationship involving two parties; the bribe giver and the bribe taker. However, this relationship is sometimes more complex and can also involve intermediaries or agents. When studying the causes of corruption, policy makers must take into account all parties involved in the corrupt deal. Many scholars have

²¹² *Ibid.*

²¹³ *Ibid.*

²¹⁴ *Ibid.*

pointed out the important role intermediaries play in guaranteeing the success of the scheme.²¹⁵ Ignoring or undermining the presence and the impact of the agents involved does not help in understanding the rules of the game. Lambsdorff concluded that fighting corruption has to focus on destabilizing those types of relationships rather than on morals and penalties.²¹⁶

The availability of an agent facilitates cheating. Pahlia et al concluded that people tend to cheat more when agents interfere to cause the harm.²¹⁷ According to Hasker and Okten, intermediaries or agents have serious negative effects on corruption.²¹⁸ They explain that the reason why clients call for the services of intermediaries is that being part of the game adds certainty to both parties in the accomplishment of the corrupt deal.²¹⁹ From the client side, the middleman is more knowledgeable about the ability of the public official to perform the corrupt deal based on his experience dealing with similar cases. From the public official side, he feels more secured dealing with the middleman. Besides, public officials tend to keep their promises when dealing with the middleman more than they do when dealing directly with the clients or citizens because of the continuity, and repetitiveness of the relationship they have and seek to maintain.²²⁰ Thus agents play an important role in securing corrupt deals.

A study was conducted in India to evaluate the process of granting driver's licenses to different groups of citizens, by the government. Through this experiment, researchers aimed to understand how corruption occurs in this institution.²²¹ One of the most important results of this

²¹⁵ Güzin Bayar, "The role of intermediaries in corruption" (2005) 122:3-4 Public Choice 277; Johann Graf Lambsdorff, "Making corrupt deals: contracting in the shadow of the law" (2002) 48:3 J Econ Behav Organ 221.

²¹⁶ Lambsdorff, *supra* note 215.

²¹⁷ Neeru Pahlia et al, "Dirty work, clean hands: The moral psychology of indirect agency" (2009) 109:2 Organ Behav Hum Decis Process 134.

²¹⁸ Kevin Hasker & Cagla Okten, "Intermediaries and corruption" (2008) 67:1 J Econ Behav Organ 103.

²¹⁹ *Ibid.*

²²⁰ *Ibid.*

²²¹ Marianne Bertrand et al, "Obtaining a Driver's License in India: An Experimental Approach to Studying Corruption" (2007) 122:4 Q J Econ 1639.

research was the discovery that candidates did not pay bribes directly to the bureaucrats.²²² Instead, another important actor surfaced in the game, namely, “the agent”. This experiment revealed that agents played many important roles.

First, they acted as facilitators, in the sense that they helped speed up the process and more importantly, they were able to informally exempt the candidate from passing the driving test. The purpose of requiring candidates to pass a driving test is obviously to make sure that licensed drivers are qualified to drive.²²³ Thus, the agents helped in circumventing the most important regulation, which likely endangered the population and undoubtedly had significant adverse social implications. Findings also indicated that bureaucrats tended to create obstacles in the process of obtaining a driving license in order to oblige candidates to use the services of an agent.²²⁴ This demonstrates that bureaucrats care more about protecting the interests of the agents because the continuity of the relationship matters to them. Ignoring the role of intermediaries can result in not being aware of the root causes of some social problems such as the increasing rate of accidents for example.

Intermediaries and their relation to corruption cannot only be attributed to the long-standing relationship they have with the public officials. Fjeldstad explains that, in an attempt to reduce corruption, the Tanzanian government fired all corrupt tax agents.²²⁵ These individuals were subsequently hired by private businesses for their knowledge of the process and the secrets of the procedures. By applying this measure, instead of controlling corruption, the government worsened the problem by creating a market for intermediaries. Instead of deterring corruption, this measure enabled further corruption.²²⁶ Anti-corruption measures must be assessed carefully to determine their impact and potential to achieve the desired goal which they were designed to achieve. Ignoring

²²² *Ibid.*

²²³ *Ibid.*

²²⁴ *Ibid.*

²²⁵ Odd-Helge Fjeldstad, “Fighting fiscal corruption: lessons from the Tanzania Revenue Authority” (2003) 23:2 Public Adm Dev 165.

²²⁶ *Ibid.*

the possibility of creating a market for intermediaries, when trying to introduce measures to curb corruption, can result in the creation of additional unexpected forms of corruption. Therefore, intermediaries represent an important and often ignored cause of corruption.

A.12- Ineffective Justice Systems

An ineffective justice system can constitute a main cause of corruption. A corrupt judicial system threatens confidence in the rule of law. An efficient and effective judicial system is the backbone of any country with low levels of corruption.

In his lecture on Jurisprudence, Adam Smith explains that the element that “greatly retarded commerce was the imperfection of the law and the uncertainty in its application.”²²⁷ According to Susan Rose-Ackerman “Business deals may be structured inefficiently to avoid encounters with the judicial system, and ordinary people may be systemically taken advantage of because they lack access to an impartial system of dispute resolutions.”²²⁸ A country cannot attain its economic growth and development goals in the absence of predictable and well-established means of resolving commercial disputes when they arise.

If corruption attains the judiciary institution, it will not be able to perform its perceived role with regard to other authorities (executive and legislative) and to hold them accountable. According to Rose Ackerman, “An honest and well-respected judiciary has a special role to play in resisting corrupt governments and maintaining the rule of law.”²²⁹ Instead of acting as a shield to promote respect of the rule of law and protect citizens, it will expose them to fiercer forms of corruption.

Tyler explains that: “citizens who view legal authority as legitimate are generally more likely to comply with the law.”²³⁰ Corruption affects the government’s legitimacy, therefore in

²²⁷ Adam Smith, “Lectures on jurisprudence” (1978), online: <<https://philpapers.org/rec/SMILOJ>> at 528.

²²⁸ Rose-Ackerman, *supra* note 49 at 151.

²²⁹ Rose-Ackerman, *supra* note 49.

²³⁰ Tom R Tyler, *Why people obey the law* (New Haven: Yale University Press, 1990) at 62.

countries with high levels of corruption people tend not to comply with the law because they do not trust the government or believe in its legitimacy.

A study conducted by Edgardo Buscaglia for the United Nations Office for Drug Control and Crime Prevention, explained the problem of judicial corruption.²³¹For the purpose of the study, judicial corruption was defined as:“ The use of public authority for the private benefit of court personnel when this use undermines the rules and procedures to be applied in the provision of court services.”²³²The two types of judicial corruption identified were administrative and operational corruption. According to the study, administrative corruption occurs when “ court administrative employees violate formal or informal administrative procedures for their own private benefit.”²³³Whereas, operational corruption involves “ politically motivated court rulings and/or undue changes of venue where judges stand to gain economically and professionally as a result of their corrupt act.”²³⁴

The study was conducted over eight years (from 1991-1999) in 27 pilot courts in three countries; Argentina, Ecuador and Venezuela. The aim of the study was to identify the main factors that affect judicial corruption. The study showed that a number of factors created a fertile environment for corruption to thrive.²³⁵*First*, the structure of the institution and the way tasks are assigned determines the level of corruption in the courts. The absence of organizational frameworks and discretionary assignments of administrative functions without external supervision renders corruption more widespread. *Second*, the complexity of the court procedures and the absence of written guidelines to explain the required steps to be followed also create a fertile environment for corruption. *Third*, inconsistency in the time required to fulfill certain tasks increases the chance that administrative employees could extract rents in the form of speed money. *Fourth*, the old or defective courts information systems and the limited information technology knowledge makes it

²³¹ Edgardo Buscaglia, “An analysis of judicial corruption and its causes: An objective governing-based approach” (2001) 21:2 Int Rev Law Econ 233.

²³² *Ibid* at 4.

²³³ *Ibid*.

²³⁴ Buscaglia, *supra* note 231.

²³⁵ *Ibid*.

more difficult to gather information about the jurisprudence, doctrines and laws which hinder the predictability and transparency of these court systems. *Finally*, the absence of alternative dispute resolution systems makes it easier to extract rent. This study provided specific causes that lead to judicial corruption that, when dealt with, reduced the level of corruption in the courts.

Pepys also explains that when judges and prosecutors do not provide an example to follow by not respecting and applying the laws that they are supposed to respect and enforce, citizens also do not respect or abide by these laws.²³⁶ The problem becomes more pervasive when judicial decisions are based on the person's influence and contacts.²³⁷

Hence, assuming that the laws are well drafted, the underlying causes of corruption in the justice system may be summarized in two main points: First, the inefficiency in the administration of justice, as explained in the study conducted in the three courts in Argentina, Ecuador and Venezuela. Second, the inability of the judicial system to perform its role as a check on the executive and legislative branches and to provide the required balance of power. The judicial system must be established upon values of impartiality and independence in order to ensure respect of the rule of law.

A.13- Lack of Promotion and Recruitment Based on Meritocracy

The quality of institutions, which reflect the degree of development and the level of corruption in a country, is determined by the quality of the people working in those institutions. In countries where recruitment and promotions are not based on meritocracy and performance, corruption prevails. Olowu explains that the civil service derives its importance from the different roles it fulfills in governance, employment and policy making.²³⁸ These important roles require

²³⁶ Mary Noel Pepys, "Corruption within the judiciary: causes and remedies" (2007) *Glob Corrupt Rep* 2007 *Corrupt Judic Syst* 4.

²³⁷ *Ibid.*

²³⁸ Bamidele Olowu, "Redesigning African civil service reforms" (1999) *37:1 J Mod Afr Stud* 1.

investment in human resources, which drives many western developed countries to invest in recruiting skilled employees by designing competitive entry programs in addition to competitive salaries and pensions.²³⁹ This is very different from emerging countries where the civil service only attracts less skilled employees due to low salaries and poor working conditions, which do not motivate, and the potential for professional development.

Tanzi argues that bureaucracies in some countries are more corrupt than others because, in the absence of clear rules governing recruitment and hiring, recruitment and hiring policies are not based on meritocracy but on nepotism and patronage.²⁴⁰ Rauch and Evans conducted a study where they gathered data from 35 developing countries to measure the degree by which those countries recruit and promote bureaucrats according to meritocracy. They concluded that the less recruitment and promotion is based on merit, the higher the level of corruption.²⁴¹ When recruitment and promotion is not based on meritocracy, corruption prevails in the civil service.

When recruitments and promotions are not tied to performance but are based on seniority or connections, civil servants are not motivated to innovate or improve their performance. Klitgaard explains that in some countries there are no basic incentives to perform since neither is good performance rewarded nor is bad performance punished.²⁴² The absence of a clear system of reward and punishment makes it difficult for employees to predict the results of their behaviors. Furthermore, it gives the superiors a high discretionary power to evaluate employee behavior and invites favouritism and nepotism. When public servants do not find it rewarding to improve and are not penalized for underperforming or violating the rules, a system of corruption prevails.

²³⁹ *Ibid.*

²⁴⁰ Tanzi, *supra* note 193.

²⁴¹ James E Rauch & Peter B Evans, "Bureaucratic structure and bureaucratic performance in less developed countries" (2000) 75:1 J Public Econ 49.

²⁴² Klitgaard, *supra* note 116.

The problem becomes even more serious when the monetary incentive is not enough to motivate civil servants to perform better. Lazear explains that in some countries, even when achievement is rewarded through promotion to a higher rank, this promotion does not result in a significant increase in salary.²⁴³ In such cases, the promotion does not reflect an appreciation for achievement. In most of these cases, promotion is through seniority or nepotism. Berg conducted a study in Ghana and found that high-level civil servant salaries are only three times more than the lowest level unskilled civil servants.²⁴⁴ This negligible difference in salaries suggests that under normal circumstances, the public sector will not attract professionals or employees who can excel in their fields unless they are compensated through bribes. The reasons being that neither is recruitment based on merit nor is performance rewarded.

Hence, one of the important causes of corruption is when recruitment and promotion are not based on meritocracy but on nepotism and favouritism, which deprives the public sector from attracting the required skilled professionals in their fields. Another reason is that employees who might seek self-development and innovation will not be willing to work in an unrewarding and corrupt environment.

A.14- Absence of Political Will to Fight Corruption

A true political will on the part of the president, ministers, members of parliament and other top officials to fight corruption is the necessary starting point in any attempt to curb it. They must view corruption as an urgent problem and must be committed to eliminating it. This vision should not be limited to a speech in an election campaign or to the search for donors to introduce development programs. It should be translated through clear actions, increased transparency, monitoring, and accountability.

²⁴³ Edward P Lazear, *Personnel Economics* (MIT Press, 1995).

²⁴⁴ Elliot Berg, *Rethinking technical cooperation: reforms for capacity building in Africa*. (United Nations Development Programme, 1993).

In most developing countries it is not uncommon for top officials to express a desire to curb corruption while at the same time engaging in corrupt deals, patronage and nepotism. This is the main reason why most anti-corruption programs, whether international or local, fail. In 2009, a joint research was conducted by the World Bank, the United Nations Office on Drugs and Crimes (UNODC), the U.S Department and the European Commission, on how to measure the performance of anti-corruption agencies, and to uncover the reason why some of those agencies fail while others succeed.²⁴⁵ Recanatini explains that among other factors “strong political support from the country leadership emerges ... as the cornerstone of significant anti-corruption efforts and ACA effectiveness.”²⁴⁶ Therefore, the political will to fight corruption is not just one of the important factors in any anti-corruption effort, but is indeed the main factor for the success of any anti-corruption program. In its absence, all anti-corruption efforts will fail. The same study also showed that political will should not be limited to the leader or the president, but should also extend to include the support of middle management such as ministers and public sector managers.²⁴⁷

Hence, the absence of the political will to fight corruption hinders all efforts and reform programs to curb corruption. An important cause of widespread corruption in most emerging countries is the absence of the political will to fight it. Political will acts as the most important catalyst to initiate the required reforms, as evidenced by all the success stories on fighting corruption that will be discussed later, which all started with one common factor; the presence of a strong political will to end corruption.²⁴⁸

²⁴⁵ Francesca Recanatini, “Anti-Corruption Authorities: An Effective Tool to Curb Corruption?” in *Int Handb Econ Corrupt* (Edward Elgar Publishing, 2011).

²⁴⁶ *Ibid.*

²⁴⁷ *Ibid.*

²⁴⁸ The initiative to fight corruption started in all success stories like Hong Kong, Singapore, Colombia, Georgia, and Philippines among others with the real commitment of the presidents and their collaborators to curb corruption. The success stories will be discussed in details in this part.

A.15- Lack of Whistleblowers and Witnesses Protection Laws

Due to the secretive nature of this crime, most successful attempts to end corruption are initiated by whistleblowers before the crime is uncovered, or through witnesses who assist in providing evidence after the crime becomes publicly known.²⁴⁹ Therefore whistleblowers and witnesses can play a vital role in curbing corruption.

In most countries where the protection of witnesses and whistleblowers is guaranteed through active laws and regulations, more corruption cases are successfully prosecuted. In contrast, the absence of such laws enables corruption to remain hidden since few are willing to incur the risks involved in unveiling a corrupt deal.

Speville highlights the important role played by whistleblowers and the importance of guaranteeing their protection. This protection guaranteed the success of the Independent Commission Against Corruption (ICAC), in Hong Kong. Speville argues that:

A fifth major factor for success in controlling corruption is ensuring utmost confidentiality to those who report offences. Exposing corruption usually requires considerable courage. Those who report to the ICAC expect and are delivered maximum confidentiality. The commission takes the protection of sources very seriously. Its internal computer and filing systems are strictly monitored so that only officers who "need to know" may access information on anyone who has filed a report. Files are systematically culled and shredded to dispose of outdated information. Finally, the laws of Hong Kong, China, prohibit the disclosure of the identity of any of the ICAC's sources of information.²⁵⁰

This serious and strict protection reassures individuals who report bribery incidents and provides a sense of security.

²⁴⁹ Recanatini, *supra* note 245.

²⁵⁰ Bertrand De Speville, "The experience of Hong Kong, China, in combating corruption" (1999) *Curbing Corrupt Model Build Natl Integr Wash DC World Bank*, online: <<http://elibrary.worldbank.org/doi/pdf/10.1596/0-8213-4257-6#page=36>> at 137.

Pope also highlights the importance of ensuring effective channels for whistleblowers and citizens to report corrupt acts and to physically protect them whenever needed.²⁵¹ Countries like the U.S. have special laws to protect whistleblowers, and the law even gives them the right to obtain a portion of the money redeemed if their claims are proven true. This provides added incentive to report corruption since whistleblower know that they will be both protected and compensated.

Another important cause for the prevalence of corruption in many countries is that whistleblowing is not encouraged, and whistleblowers are at risk. Furthermore, witnesses are not protected under the law which makes it dangerous to unveil corruption cases.

Studying the causes of corruption is important to understanding the essence of the problem. Without proper assessment of the causes of corruption, policy reforms will not target the real problems which will only result in wasted time and effort.

Studying the effects of corruption will also help identify the real consequences of tolerating corruption. Except for a small group that benefit, corruption hinders all aspects of life for the vast majority of people. When people are aware of the effects of corruption, they become more supportive of reform programs, and less intolerant of the culture of corruption.

B- Effects of Corruption

This section will briefly discuss the effects of corruption. According to Susan Rose-Ackerman, “Corruption is a symptom that something has gone wrong in the management of the state”.²⁵² This problem in the management of the state results in serious economic, social, political, administrative and institutional repercussions that should be highlighted.

²⁵¹ Jeremy Pope, “Enhancing accountability and ethics in the public sector” (1999) *Curbing Corrupt Model Build Natl Integr* 105.

²⁵² Rose-Ackerman, *supra* note 51 at 9.

Identifying and studying the impacts of corruption is socially and scientifically beneficial. From a social point of view, it helps raise public awareness about the devastating effects of corruption, and changes the people's perspective on corruption from being viewed as a mere problem that all countries suffer from, to a threatening monster that can destroy all aspects of life. Learning about the negative impact of corruption can fuel the desire to take genuine steps against it on the part of the media, civil society, the general public, and the private sector when they realize that their interests are threatened. This in turn makes it easier to put pressure on governments to fight corruption in the absence of political will. Similarly, in the presence of the political will to fight corruption, when people are more aware of the negative effects of corruption, social and collective empowerment, will help counteract the effects of resistance of some interest groups.

From a research, or scientific, point of view, studying the effects of corruption motivates researchers to find more creative and effective ways to fight it. It is insufficient to say that corruption has harmful effects. Instead, researchers must dig deeper into those harmful effects. Just as, when we buy medication, we usually take the time to read about the side effects, recommended dosages and their interaction with other medications. Likewise, the effects of corruption must also be studied in order to comprehend the severity of the problem, its effects and its impact on the different stakeholders and to act accordingly.

In the next section, the research will explore the most impactful effects of corruption on emerging countries. It is true that corruption affects developed and emerging countries. However, the research will briefly discuss its effects on emerging countries since those effects are more devastating and are a major hinderance to all attempts of future development.

B.1- Economic Effects:

B.1.a- Effects of Corruption on Investment and Economic Growth

Corruption has an effect on investment and economic growth, but the question is: What kind of effect does it have and does it always have a negative effect on investment and economic growth?

B.1.b- Does Corruption “Grease” or “Sand” the Wheels?

Although there exists today a general consensus that corruption is harmful, two schools of thought and debates regarding corruption and its impact on investments have emerged.

Scholars such as Leff argue that in red tape economies corruption can grease the wheels.²⁵³ He explains that since some regulations result in administrative delays, corruption is not harmful because it allows people to avoid these complex regulations, especially in red tape government. In addition, it can compensate the low salaries paid to bureaucrats in some countries, thus, it becomes a source of income to those public servants. According to this point of view, public servants will be more motivated to work to earn bribes especially when those bribes are charged per transaction. Francis Lui also argues that, in some cases, corruption may create a kind of equilibrium when inefficiency in public administration is compensated by reducing the delays and waiting times where public servants accept bribes.²⁵⁴ Acemoglu and Verdier argue that corruption may be the price of correcting certain market failures since it is very costly to prevent all forms of corruption.²⁵⁵ Therefore, according to this school of thought, corruption does not always have negative effects on investment and economic growth.

²⁵³ Leff, *Supranote* 29.

²⁵⁴ Francis Lui, “An Equilibrium Queuing Model of Bribery” (1985) 93:4 *J Polit Econ* 760.

²⁵⁵ Daron Acemoglu & Thierry Verdier, “The Choice between Market Failures and Corruption” (2000) 90:1 *Am Econ Rev* 194.

On the other hand, empirical studies assert that corruption negatively affects investments and economic growth.²⁵⁶ Kaufman and Wei explain that bribes may encourage the issuance of more regulations and red tape to attract more bribes.²⁵⁷ Using empirical data from 67 countries from 1960-1985, and the Business Index (BI) that measured 56 risk factors, Mauro concluded that corruption has a negative effect on investments and growth.²⁵⁸ For example, he found that if Bangladesh improves the quality and integrity of its bureaucrats to the level of Uruguay (which represents only one standard deviation augment in the index) its investment rate is expected to rise by five percent and its GDP will rise by half a percent.²⁵⁹

Mauro also argues that corruption can be better measured by the “bureaucratic efficiency index” (BI) which combines the average of three BI indicators: the legal system and the judiciary, the amount of bureaucracy and red tape, and BI corruption index which is measured as “the degree to which business transactions involve corruption or questionable payments.” He finds that the composite index is negatively correlated to the investment.²⁶⁰ Conversely to what Leff claims, Mauro divides his sample into high and low red tape and finds that corruption negatively affects the level of investment regardless of the degree of red tape.²⁶¹

²⁵⁶ Paolo Mauro, “Corruption and growth.” (1995) 110:442 Q J Econ Camb 681; Shang-Jin Wei, *Why is Corruption So Much More Taxing Than Tax? Arbitrariness Kills*, Working Paper 6255 (National Bureau of Economic Research, 1997); Pierre-Daniel G Sarte, “Informality and rent-seeking bureaucracies in a model of long-run growth” (2000) 46:1 J Monet Econ 173; Stephen Knack & Philip Keefer, “Institutions and Economic Performance: Cross-Country Tests Using Alternative Institutional Measures” (1995) 7:3 Econ Polit 207; Shang-Jin Wei, “How taxing is corruption on international investors?” (2000) 82:1 Rev Econ Stat 1.

²⁵⁷ Daniel Kaufmann, *Does “Grease Money” Speed Up the Wheels of Commerce?* (1999).

²⁵⁸ Mauro, *supra* note 256.

²⁵⁹ *Ibid.*

²⁶⁰ *Ibid.*

²⁶¹ *Ibid.*

B.1.c-Effect of Corruption on the Allocation of Government Expenditures

According to Mauro, corruption will also affect the allocation of government expenditures.²⁶² Using cross-country evidence, he proves that corruption affects the composition of government expenditures, and particularly, sectors such as education are adversely affected.²⁶³ The reason is that it is more difficult for bureaucrats to extract bribes and rents from education projects than from other public projects.²⁶⁴ Tanzi and Davoodi support this view and argue that corruption increases public investment in unproductive projects while neglecting important ones like education.²⁶⁵ Elliot also concludes that corruption affects both the investment and the composition of government expenditure.²⁶⁶

Corruption not only affects the allocation of government expenditures but also the allocation of the skills of bureaucrats, which also affects the country's development and economic growth. Murphy, Sheifer and Vishny explain that corruption affects the allocation of talents where the more talented people concentrate their efforts on work that generates more rents than on productive work, which has a negative effective on the country's growth.²⁶⁷ Therefore corruption redirects the public expenditures towards the unproductive sectors of the economy and prevents the country from attaining any perceived economic growth. When sectors like education do not receive the proper amount of funding from the country's budget, any efforts for development will have very limited effects. Countries with high rates of development and economic growth are countries with high levels of education.

²⁶² Paolo Mauro, "Corruption and the composition of government expenditure" (1998) 69:2 J Public Econ 263.

²⁶³ *Ibid.*

²⁶⁴ *Ibid.*

²⁶⁵ Vito Tanzi & Hamid Davoodi, "Corruption, Public Investment, and Growth" in Hirofumi Shibata & Toshihiro Ihori, eds, *Welf State Public Invest Growth* (Springer Japan, 1998) 41.

²⁶⁶ Kimberly Elliott, *Corruption as an International Policy Problem : Overview and Recommendations* (1997) at 176.

²⁶⁷ Kevin M Murphy, Andrei Shleifer & Robert W Vishny, "The Allocation of Talent: Implications for Growth" (1991) 106:2 Q J Econ 503.

Based on an empirical study, Wei argues that corruption is negatively correlated with Foreign Direct Investment (FDI) levels.²⁶⁸ The studied sample in his research covers bilateral capital investment from 12 source countries to 45 host countries. He concludes that corruption, similar to taxes, has a significant negative impact on FDI.²⁶⁹ He finds that an increase in the level of corruption from Singapore to Mexico will have the same negative effects on FDI as raising taxes by over 50%.²⁷⁰ Similarly, Hakkala et al explains that corruption will decrease the probability that a firm will invest in a country.²⁷¹

Wei found that the unpredictability caused by corruption has significant quantitative and statistical effects on FDI. The reason for these significant effects is that contracts based on corrupt deals cannot be enforced. For example, he explains that the increase in the level of unpredictability between Singapore and Mexico, can explain an increase in the tax rate on foreign firms by 32%.²⁷²

The question that may arise is: if corruption has negative effects on investment and growth, why do some countries in East Asia like China with relatively high corruption levels, succeed in attracting high levels of investments?

Wei tried to solve the puzzle through empirical analysis.²⁷³ He found that when controlling other factors such as GDP per capita, the effect of corruption on foreign direct investments in East Asia is not as significant as it is in other developing countries.²⁷⁴ The study implies that there are factors in East Asia which deter the effects that corruption has on FDI. He explains that ethnic ties

²⁶⁸ Wei, *supra* note 256.

²⁶⁹ *Ibid.*

²⁷⁰ *Ibid.*

²⁷¹ Katariina Nilsson Hakkala, Pehr-Johan Norbäck & Helena Svaleryd, “Asymmetric Effects of Corruption on FDI: Evidence from Swedish Multinational Firms” (2008) 90:4 Rev Econ Stat 627–642, online: <<http://dx.doi.org/10.1162/rest.90.4.627>>.

²⁷² Wei *Supra* note 256.

²⁷³ *Ibid.*

²⁷⁴ *Ibid.*

may be a possible explanation and that most of the foreign investments especially in China comes from foreign Chinese companies which are supported by informal institutions.²⁷⁵

A study conducted by Campos et al. attempted to further explain this paradox. Researchers used data collected by the World Bank in a cross-section study of 69 countries to prepare the 1997 World Development Report, and concluded that different regimes of corruption have different impacts on investment.²⁷⁶ They argued that the nature of corruption matters. They stated that: “Corruption regimes that are more predictable—in the sense that those seeking favours from government do obtain the required favours—have less negative impact on investment than those that are less predictable.”²⁷⁷ However, they also noted that although predictability matters, corruption levels are also relevant. Hence, high levels of corruption also affect investment flow in spite of the predictability.²⁷⁸ Therefore, in the absence of corruption, the level of FDI would have been better.

According to Susan Rose-Ackerman “Even when corruption and growth coexist, payoffs introduce costs and distortions. Corrupt high-level officials support too much unproductive public investments.”²⁷⁹ She also explains that China is not an exception since the country could have attracted more FDI and could have applied better industrial policies if it had lower levels of corruption.²⁸⁰ Therefore, the anticipated results, if corruption levels were lower, would have been better than the actual results. Looking to some countries’ experiences or even more precisely to the Corruption Perception Index (CPI) developed by Transparency International, we can notice that there is not one country where corruption is obvious and yet fully developed.²⁸¹ Moreover, there exists no underdeveloped or poor countries that are not corrupt.

²⁷⁵ *Ibid.*

²⁷⁶ Edgardo Campos, Donald Lien & Sanjay Pradhan, “The Impact of Corruption on Investment: Predictability Matters” (1999) 27:6 World Dev 1059.

²⁷⁷ *Ibid* at 1065.

²⁷⁸ Campos, Lien & Pradhan, *supra* note 276.

²⁷⁹ Rose-Ackerman, *supra* note 51 at 3.

²⁸⁰ *Ibid.*

²⁸¹ Transparency International, *supra* note 3.

According to Wedeman, “Mauro treats corruption as an undifferentiated phenomena...the impact of corruption depends not solely on its amount but on its form.”²⁸²Therefore, Wedeman disagrees with Mauro²⁸³ in not differentiating types of corruption when seeking to study its effect on growth through the investment rate. Wedeman argues that although Zaire, the Philippines, and South Korea have nearly the same scores on the (CPI), the rate of economic growth of these countries is not the same.²⁸⁴ According to Wedeman, the difference in growth level is due to the difference in the type of corruption itself. In Zaire where the corruption undermines the value of contracts and property rights, its effects on growth becomes far more destructive than when it is on the form of taxation or “dividend-collecting” on productive activities, as in the case of South Korea. The type of corruption in Zaire and South Korea is different from that in the Philippines where corruption takes the form of regulations, which in turn takes the form of controls to achieve private gains.²⁸⁵

According to Wedeman:

In cases where governmental power is used to distort the economy in order to create rents that elites can then siphon off, it is also likely to result in structural inefficiencies and irrationalities that will in the long term undermine development [Philippines]. Yet, where corruption is linked to a strategy that consciously seeks to stimulate growth, the contradiction between high-speed growth and the use of public office for particularistic gain needs not be antagonistic [South Korea]. Thus, the impact of corruption on growth is likely to be a joint function of incidence and structure, not incidence alone as argued by Mauro²⁸⁶

²⁸² Andrew Wedeman, “Looters, Rent-Scrapers, and Dividend-Collectors: Corruption and Growth in Zaire, South Korea, and the Philippines” (1997) 31:4 J Dev Areas 457 at 457.

²⁸³ Mauro, *supra* note 250.

²⁸⁴ Wedeman, *supra* note 282.

²⁸⁵ *Ibid.*

²⁸⁶ *Ibid* at 475.

According to Wedeman, the type or the structure of corruption itself matters in growth. However, Wedeman also notes that there is a fine line between tax collection on productive activities and creating regulations to control entry and other activities for private purposes. He elaborates by arguing that:

[B]ecause the dividing line between dividend-collecting and rent-scraping is often a fine one, there is always a high probability that dividend-collecting will degenerate into rent-scraping. Thus, although it is possible to have both high corruption and high growth, the odds would seem to suggest that high levels of corruption will only coexist with high rates of growth in exceptional circumstances²⁸⁷

Hence, the negative relationship between corruption and growth is not denied, since Wedeman concludes that the existence of growth with high corruption is an exception. The general rule implies that corruption is negatively correlated with investment and economic growth.

Svensson argues that the effects of corruption vary when studied on the macroµ levels. He explicates that although studies on the micro levels concluded that corruption retarded development, when measured on a cross-country level (macro) it was not found to affect growth. He further explains that this variation may be the result of econometric problems when measuring the effects of corruption on growth using cross-country data.²⁸⁸

Corruption can affect the level of investment in a country in various ways. Lambsdorff explains that exporters will usually experience competitive disadvantages in countries of import if the latter are corrupt and the exporting country is less ready to offer bribes.²⁸⁹ Using cross sectional data from 41 countries, Al Marhubi explains that corruption affects the inflation rate in a country. The argument is that the higher the degree of corruption, the higher the inflation rate in a country will be.²⁹⁰ Bahmani-Oskooee and Nasir used cross sectional data from 65

²⁸⁷ *Ibid* at 474.

²⁸⁸ Svensson, *supra* note 106.

²⁸⁹ Johann Graf Lambsdorff, "An empirical investigation of bribery in international trade" (1998) 10:1 Eur J Dev Res 40.

²⁹⁰ Fahim A Al-Marhubi, "Corruption and inflation" (2000) 66:2 Econ Lett 199.

countries over 9 years (from 1982-1990) and concluded that countries which are plagued with high rates of corruption will experience a depreciation of their currency.²⁹¹ He explains that corrupt countries experience high inflation rate which will usually result in a depreciation of the currency.²⁹² Susan Rose-Ackerman explains that: “Those economists who look favourably upon corruption have a limited point of view, a narrow definition of goodness and an over simplified model of the corrupt market place.”²⁹³

Therefore, although the literature in some cases underlined some benefits of corruption, the overall results prove that the cost of corruption outweighs its benefits. In addition, Klitgaard has always noted that corruption benefits the rich to the detriment of the poor.²⁹⁴

A number of research studies about corruption were conducted by the university of Philippines in a number of countries like Singapore, Korea, Malaysia, Hong Kong, Nepal, and Philippines. They are quoted as saying:

Our conclusion then is: corruption is toxic, with very few exceptions. We wish we had more positive findings since we are faced with the problem of its strength and pervasiveness in most of the countries we studied.²⁹⁵

Therefore, to say that corruption can grease the wheels of an economy is actually a short sighted vision of its effects. In summary, corruption has negative effects on investment and economic growth. Measures of corruption which were discussed earlier also show that the higher the rate of corruption the lower the rate of growth and investment. Hence, an economic

²⁹¹ Mohsen Bahmani-Oskooee & Abm Nasir, “Corruption, Law and Order, Bureaucracy, and Real Exchange Rate” (2002) 50:4 Econ Dev Cult Change 1021.

²⁹² *Ibid.*

²⁹³ Susan Rose-Ackerman, *Corruption: A Study in Political Economy* (Academic Press, 2013) at 9.

²⁹⁴ Robert E Klitgaard, *Controlling corruption* (Berkeley, Calif.: University of California Press, 1988) at 41.

²⁹⁵ Ledivina Cariño, *Final Report for the Study of Graft and Corruption, Red Tape, and Inefficiency in Government* (Publications Office, College of Public Administration, University of the Philippines, 1986) at 194.

or development plan has to first target the elimination of corruption in order to achieve its intended goals.

B.1.d- Effects of Corruption on Public Sector Regulations

According to Klitgaard “Rules are not inherently good or bad for corruption.”²⁹⁶ The increased number of regulations is a cause and effect of corruption. Scholars argue that public officials and employees encourage excessive regulations since they are considered to be an important source of income given that people are generally willing to pay bribes to avoid them.²⁹⁷ Excessive regulations mean that people have to invest more time in order to get their job done. Public servants can create administrative barriers and delays and put a price tag for the time saved in the form of bribes. For example, Della Porta and Vannucci conducted a study in 2008 in Burundi which concluded that 90% of entrepreneurs get involved in paying bribes to obtain licenses or permissions or to have a better evaluation of their taxes because it is the perceived common practice to obtaining access to those services.²⁹⁸

Since excessive regulations represent a source of income, beneficiaries tend to resist all kinds of reforms that threaten this source of income, which makes the reform process more difficult. In Indonesia, tax officials resisted the reforms that were intended to make the procedures more transparent and clear since this had a negative effect on their illegal income from bribes.²⁹⁹

²⁹⁶ Klitgaard, *supra* note 294 at 88.

²⁹⁷ Rose-Ackerman, *supra* note 293; Tanzi, *supra* note 193.

²⁹⁸ Donatella della Porta & Alberto Vannucci, *The Hidden Order of Corruption: An Institutional Approach* (Routledge, 2016).

²⁹⁹ Jeffrey Alan Winters, *Power in Motion: Capital Mobility and the Indonesian State* (Cornell University Press, 1996).

Regulations in and of themselves are not harmful, especially if their purpose is to control corruption by limiting the discretionary power of public officials through the setting of clear and measurable criteria in the issuance of licenses or college acceptances for example. Regulations are not always intended to extract rents, however, corruption in the public sector usually invites more regulations. Thus, the more corruption in the public sector, the more regulations will be issued to extract rents.

B.2 – Social Effects of Corruption

Corruption undermines social trust since it affects the people's faith in the government to take adequate measures to attain social equality and economic growth. Consequently, attempts to initiate reforms become harder as people resist such programs because of failed past experiences. Rothstein and Uslaner explains that:

Since social trust is an important intrinsic value (personal happiness, optimism about the future) and also has a political value (support for fair institutions, minority rights, tolerance, etc) and an economic value (its positive relation to individual earnings, and aggregate economic growth), it may be that dysfunctional government institutions are the worst social ill of all.³⁰⁰

According to Susan Rose-Ackerman, corruption "...tend to delegitimize government in the eyes of its citizens."³⁰¹ This perception of illegitimacy affects the citizens' trust in their government. The problem is that in countries with high levels of corruption, citizens do not trust the government, and accordingly, reform policies tend to fail due to this lack of support.

According to Rothstein and Uslaner, countries like Canada, Nordic countries and the Netherlands which score highest in social trust, are countries which have worked hard to achieve

³⁰⁰ Bo Rothstein & Eric M Uslaner, "All for All: Equality, Corruption, and Social Trust" (2005) 58:1 World Polit 41 at 41.

³⁰¹ Rose-Ackerman, *supra* note 51 at 17.

economic equality and equal opportunity for all.³⁰² According to Rothstein and Uslaner, economic equality and equal opportunities are a pre requisite for achieving social trust.³⁰³ They explain that the problem is that many countries, where low levels of social trust and social capital prevail, will be confronted with what they call the “social trap”.³⁰⁴ The reason is that the level of social trust will not increase unless governmental institutions implement policies to remedy the problem of inequality. However, the government will not easily implement such policies because citizens lack trust in the institutions responsible to remedy the problem.³⁰⁵ Similarly, Susan Rose-Ackerman also argues that, “Ingrained corruption can also hold back state reform.”³⁰⁶ And “... a policy of active tolerance will undermine the prospects for long term reform.”³⁰⁷ Thus, the lack of social trust that results from corruption undermines legitimate opportunities to initiate reforms because of failed previous experiences, and thus, countries enter into a vicious cycle.

Corruption is the first enemy of equality and those who suffer the most from this inequality are the underprivileged. Corruption has always been correlated with poverty. Bardhan explains that corruption undermines impoverished people’s trust in the police and the public officials who demand bribes from them.³⁰⁸ In Nigeria for example, it is common, at some checkpoints, for the police to impose bribes on drivers.³⁰⁹ Corruption also diminishes all hopes of alleviating poverty since it redirects public expenditures to be invested in projects that will

³⁰² Rothstein & Uslaner, *supra* note 300.

³⁰³ *Ibid.*

³⁰⁴ *Ibid.*

³⁰⁵ *Ibid.*

³⁰⁶ Rose-Ackerman, *supra* note 51 at 17.

³⁰⁷ *Ibid.*

³⁰⁸ Pranab Bardhan, “Corruption and Development: A Review of Issues” (1997) 35:3 J Econ Lit 1320 at 1320–1346.

³⁰⁹ Daniel Jordan Smith, “Corruption, NGOs, and Development in Nigeria” (2010) 31:2 Third World Q 243 at 243–258.

generate private gains rather than public interest.³¹⁰ So with widespread corruption, the poor become poorer.

This type of investment resulting from corruption affects the ability of the government to create employment opportunities that would alleviate poverty since this creates more incentives to invest in capital intensive projects rather than in labor intensive projects that create more job opportunities for the poor.³¹¹

According to Tanzi, corruption feeds inequality since it adversely affects the distribution of income and the privileged, (those who hold wealth or power) take advantage of government investments and activities at the expense of other citizens.³¹² In addition, Johnston also argues that: “ Because corruption as a form of influence, requires scarce resources (money, access, expertise) it typically benefits the “haves” at the expense of “have nots” .”³¹³ Therefore, the poor who do not have access to those resources suffer the most. Myint argues that, in corrupt countries, the rich and well-connected “enjoy economic rent.”³¹⁴ He adds that the poor are less privileged because they are unable to pay bribes necessary to have access to and benefit from essential public services such as domestic water supplies, schooling, sanitation, and community waste disposal services.³¹⁵

³¹⁰ Susan Rose-Ackerman & Jacqueline Coolidge, *High-Level Rent-Seeking and Corruption in African Regimes: Theory and Cases*, SSRN Scholarly Paper ID 604988 (Rochester, NY: Social Science Research Network, 1995) at 33.

³¹¹ Ajay Chhibber et al, *World development report 1997 : the state in a changing world*, 17300 (The World Bank, 1997) at 52.

³¹² Tanzi, *supra* note 193.

³¹³ Michael Johnston, *Syndromes of corruption: wealth, power, and democracy* (Cambridge; New York; Melbourne: Cambridge University Press, 2010) at 29.

³¹⁴ U Myint, “Corruption: Causes, consequences and cures” (2000) 7:2 Asia Pac Dev J 33 at 47.

³¹⁵ *Ibid.*

Social trust is a product of good governance. Mauro argues that corruption and good governance are negatively correlated.³¹⁶ Bad governance causes corruption, and in the absence of good governance social trust and poverty alleviation cannot be achieved. According to Johnston, petty corruption that is also imposed on the poor to obtain basic public services becomes a pervasive syndrome that makes the poor countries poorer.³¹⁷ The United Nations Development Program Human Development report showed that “ Human poverty is more than income poverty, it is the denial of choices and opportunities for living a more tolerable life.”³¹⁸

Thus, corruption increases inequality and also increases the probability that the problem of poverty remain unsolved. Inequality redirects the government expenditures to benefit the rich. This inequality undermines social trust and the credibility of the government to implement effective reform policies.

B.3- Political Effects of Corruption

Corruption distorts and delays political development.³¹⁹ In addition, monopoly of political power renders civil freedoms and elections more vulnerable and at risk.³²⁰ It also creates an environment where people perceive corruption as being unavoidable, which weakens efforts of the opposition to undertake possible reforms and who ultimately end up joining these powerful and controlling groups rather than opposing them.³²¹Corruption can change the

³¹⁶ Mauro, *supra* note 256 at 83.

³¹⁷ Michael Johnston, “Fighting Systemic Corruption: Social Foundations for Institutional Reform” (1998) 10:1 Eur J Dev Res 85.

³¹⁸ Richard Jolly & UNDP team, *Human Development Report 1997* (New York, NY: United Nations Development Program, 1997) at 2.

³¹⁹ Michael Johnston, “Corruption and Distorted Development: Competition, Institutionalization and Strategies for Reform” (1997) Hamilt NY Colgate Univ Dep Polit Sci Unpubl Pap Sept.

³²⁰ *Ibid* at 90.

³²¹ Johnston, *supra* note 319.

structure of political life. Political parties other than the governing parties become weaker, rendering future reforms that aim at controlling corruption more difficult.

Although, it has been noticed that most rich countries are democratic, there exists no statistical relationship between democratic government and growth.³²² According to Przeworski & Fernando political regimes do not affect economic growth but political institutions do.³²³ Mbaku argues that the reason why some African leaders resist political institutional reforms is that it threatens the privileges they hold.³²⁴ Paldam explains that democracy limits corruption, however, the variables interact according to the level of transition.³²⁵ Thus, he concludes that the relationship between corruption and democracy remains uncertain.³²⁶ According to Susan Rose Ackerman, it is difficult to set the correlation between corruption and democracy because “democracy” is a general term that makes it difficult to capture the numerous forms of government that are derived from it.³²⁷ She argues that a government structure may be successful in one country but dysfunctional in another, however, widespread corruption is itself a dysfunction of the government.³²⁸ Ackerman argues that democracy can be regarded as an anti-corruption strategy for many reasons.³²⁹ The importance of democracy does not lie in itself as a political regime but in the tools it offers to achieve good governance. It helps limit politicians’ greed if they desire not to be voted out of office. Freedom of speech and the protection of civil freedoms that are related to democratic elections make governments more

³²² Evelyne Huber, Dietrich Rueschemeyer & John D Stephens, “The Impact of Economic Development on Democracy” (1993) 7:3 J Econ Perspect 71.

³²³ Adam Przeworski & Fernando Limongi, “Political Regimes and Economic Growth” (1993) 7:3 J Econ Perspect 51.

³²⁴ John Mukum Mbaku, *Corruption and the crisis of institutional reforms in Africa*. (Lewiston, N.Y: Mellen, 1998) at 10.

³²⁵ Martin Paldam, *The big pattern of corruption: economics, culture and the seesaw dynamics*. (Aarhus: University of Aarhus, 2004).

³²⁶ *Ibid.*

³²⁷ Rose-Ackerman, *supra* note 51 at 113.

³²⁸ *Ibid.*

³²⁹ *Ibid.*

transparent and open.³³⁰ Sandgren argues that corruption exists in all political systems whether democratic or one party states.³³¹ He explains that: “The introduction of democracy does not automatically reduce corruption.”³³² Thus, it is not about pursuing the title of democracy but the tools it offers.

Although there exists no clear cut relationship between democracy and the level of corruption, corruption hampers all attempts to set parameters to create a democratic environment. In a corrupt environment, elections will be rigged, the press will be controlled, political institutions will be dysfunctional making it more difficult for reformers to initiate changes. According to Susan Rose-Ackerman: “ Democracy can help limit corruption if it gives people alternative avenues of complaint and gives incumbents an incentive to be honest.”³³³ Therefore, democracy may become a means of controlling corruption when the tools that guarantee its success are provided.

After studying the devastating causes and effects of corruption, it becomes necessary to answer an important question: Can corruption be controlled?

C- Reforms to Curb Corruption

In the previous section, the research discussed the underlying causes and effects of corruption to show how important it is to deal with this devastating problem. However, presenting the problem can never be the end, it is just the beginning.

³³⁰ *Ibid.*

³³¹ Sandgren, *supra* note 120.

³³² *Ibid* at 724.

³³³ Rose-Ackerman, *supra* note 51 at 126.

Justin Trudeau, 23rd Prime Minister of Canada, when invited to speak at the St Matthew's Day Banquet in Hamburg, Germany said that, " People do not need leaders to tell them that they have problems, people need leaders that help them build solutions together." Inspired by Trudeau's wise words, this research will focus on finding solutions to the problem of corruption.

Finding solutions to curb corruption and conducting research to uncover effective reform measures has been of great concern for academics and international organizations the world over. The World Bank, the IMF, and the UNODC, have conducted many researches in this regard particularly over the last two decades.

Scholars, practitioners and policy makers from multiple disciplines have long tried to find tools and mechanisms to curb corruption. However, according to Lemay, it is important to ask the right question in order to find the right answer. Thus, the focus of this research, when exploring the inventory of solutions suggested by different disciplines to eliminate corruption will not be how to eliminate corruption entirely, but rather, how to draw closer to this ultimate goal, thus rendering it more attainable. In other words, this research will not focus on how to end or eliminate corruption completely, but will more realistically focus on how to draw closer to this goal by finding and successfully implementing effective tools to control or curb corruption.

Ronald Maclean-Abaroba, the mayor of La Paz, Bolivia, who integrated major changes and succeeded in fighting corruption in the municipality explains that " Many leaders may simply have believed that little can be done about corruption. How does one even get started on such a difficult set of issues."³³⁴ The question is: what are the reforms that a country must adopt in order to fight corruption? Volumes can be written about this topic, but there are important and high priority reforms which must be implemented. What does the literature offer in terms

³³⁴ Klitgaard, MacLean-Abaroa & Parris, *supra* note 202 at 8.

of solutions to the problem of corruption? If we assume that corruption is a disease and reforms are the medication, what are the active ingredients of these medications?

Sometimes we ask ourselves why the reforms have failed especially when consistently applied? This situation can be compared to a patient who decides to take part of the medications prescribed by the doctor and then attributes his persistent symptoms to the quality of the medicine or the competence of the doctor. It is a question of the combination of the reforms implemented in unison, not the importance of each reform on its own. It is the interaction and the combination of these reforms working together which accounts for the success of the reform.

Susan Rose-Ackerman explains that, “ The goal is not the elimination of corruption but an improvement in the overall efficiency, fairness, and legitimacy of the state.”³³⁵ According to Klitgaard “The optimal level of corruption is not zero” ³³⁶ This statement is very important in evaluating the success of the reforms and the standards set. All improvements can be seen as successes if there is a consensus that zero corruption is not the goal. Klitgaard explains that corruption entails social cost and fighting corruption is costly too.³³⁷ He concludes that “ the minimum cost solution overall will not have corruption equal to zero or anti corruption efforts equal to the maximum amount.”³³⁸ The goal of this research is to find tools that will help minimize and control corruption, not totally eradicate it.

According to Klitgaard et al, “ Corruption should not be conceived as a mere irregularity or the act of scandal. The secret of successful reform is changing policies and systems, rather than hunting for isolated culprits, adding new laws and regulations, or calling for moral renovation.” ³³⁹Therefore, successful reform systems do not rely on legal aspects alone, they

³³⁵ Rose-Ackerman, *supra* note 51 at 4.

³³⁶ Klitgaard, *supra* note 294 at 24.

³³⁷ *Ibid* at 25.

³³⁸ *Ibid*.

³³⁹ Klitgaard, MacLean-Abaroa & Parris, *supra* note 202 at 25.

also take into consideration the social, cultural, sociological, economical and political aspects to achieve the desired reforms goals. In other words, reforms cannot rely solely on changing the laws but on changing the rules of the game.

In this section, the research will explore different successful interdisciplinary policies to fight corruption. The research will not only study the legal reforms but also the other reform policies that are important catalysts to achieve the intended change to fight corruption. Different reform measures will be studied such as increasing the risk of detection by promulgating creative anti-corruption laws and introducing reforms to the civil service. When studying the ways by which legislators can create innovative and creative anti-corruption laws, the research examines different ideas such as the disruption of trust, tying the punishment to social harm, the importance of differentiating the sanctions according to the type of bribe and increasing the incentives to report corruption by granting amnesty.

C.1- Increasing the Risk of Detection by Promulgating a Creative Anti-Corruption Law

The law is not only reactive, it can also be proactive, helping to reduce the costs of prosecution and enforcement. According to Klitgaard et al “ [...] there are successful anticorruption initiatives from which we can learn. They teach us that a key to success is to have a strategy for preventing corruption.”³⁴⁰

The law possesses preventive and corrective tools to curb corruption. The preventive measures work when the law is enacted to warn citizens of the sanctions that will be imposed in

³⁴⁰ *Ibid* at 13.

case of violations of the law. The corrective power of the law is manifested in its application when people actually violate the law and are subject to imposed sanctions.

The questions are; how do people perceive a new law? How does the law work? How does this powerful tool operate? Why do anti-corruption laws remain unenforced?

Basu argues that the law and economics assume that individuals make rational choices according to the given preferences that they seek to maximize. Therefore a new law changes the game for people playing it, which in turn changes the outcome. He explains that a new law does not change people's behavior, it only changes the belief of how other people will react to the law. It is the individual's beliefs that change their behavior and the social outcome and not the new laws enacted.³⁴¹

Although the law holds special features and has the power to punish, it remains a set of beliefs that is influenced and shaped by the perception of how others react to it. Basu argues that

In the end, it is this that changes people's behavior and social outcomes. The might of the law, even though it may be backed up by handcuffs, jails, and guns, is, in the elemental form nothing but a structure of beliefs carried in the heads of all the people in society- from the ordinary citizenry to the police, politicians and judges-, intertwining and reinforcing one another, till they become as strong as concrete structures, and create the illusion of being made of bricks, mortar and steel. The most important ingredients of a republic, including its power and might, reside in nothing more than the beliefs and expectations of ordinary people going about their quotidian chores.³⁴²

The power of the law does not only lie in its authority to punish any violations but, in changing people's beliefs about what should be done. This change in beliefs cannot be attained unless there are clear changes in the structure of the system that provides a fertile opportunity for corruption.

³⁴¹ Kaushik Basu, "The Republic of Beliefs: A New Approach To Law and Economics" (2015) World Bank Group, online: <<http://papers.ssrn.com/abstract=2606453>>.

³⁴² *Ibid* at 15.

How understanding the law as a set of beliefs can help the legislators?

Basu asserts that it is not the law in itself that has the power to change the individual's behavior but rather, the perception of how others will react.³⁴³ According to Mackaay, the law does not directly change the behavior of the individual, instead it attaches consequence to the behavior. Ultimately however, it is the choice of the individual whether or not to obey the law.³⁴⁴ The law serves to inform and clarify acceptable actions and the consequence of noncompliance, but it is the choice of the individual to abide by the law or suffer the consequences. In other words, the power of the legal rule lies in its people's respect of and adherence to the law.

According to Klitgaard: " Many anti-corruption efforts fail because they take an exclusively legalistic approach or rely on appeals to morality."³⁴⁵ Cotterrell argues that: " Law must learn from experience and change, radically and rapidly, it is not to be left behind as irrelevant (avoided, not enforced, or rendered arbitrary and unpredictable) by technological, commercial, and other developments."³⁴⁶ Therefore, reforms solutions should take a broader approach beyond creating better laws and better integrity systems, and the law should also develop to comply with the surrounding changes.

This research studies how the law can be used as an effective tool in curbing corruption. A legal anti-corruption strategy does not necessarily lie solely on amending the law but also on attempting to control its surrounding context to guarantee the attainment of the expected results as set by the legislator.

Disrupting the trust

³⁴³ *Ibid* at 16.

³⁴⁴ Ejan Mackaay, *Law and Economics for Civil Law Systems* (Edward Elgar Publishing, 2013) at 3.

³⁴⁵ Klitgaard, MacLean-Abaroa & Parris, *supra* note 196 at 13.

³⁴⁶ Roger Cotterrell, "Why Must Legal Ideas Be Interpreted Sociologically" (1998) 25 *J Law Soc* 171.

Almost every country has anti-corruption/anti-bribery laws in its legal system. However, some of them are obsolete or they do not match with the nature and the secrecy of the crime. The key to the success of a corrupt deal and especially in the case of bribery is the trust built between the parties of the agreement. Corrupt deals cannot be enforced through legal channels, so the cornerstone in any corrupt agreement is trust, namely, the trust that the parties will not betray each other. They usually have common interest in hiding all evidence that may lead to the discovery of the crime to avoid punishment by state authorities.

The rational choice theory describes how a rational person makes decisions and explains that individuals make logical decisions that will provide them the greatest benefit or satisfaction. This theory can be applied to all decisions even in case of deciding to engage in a corrupt act.

People usually engage in corrupt agreements to incur certain benefits. As they make the decision, they calculate the possible risks and benefits. In other words, they conduct a cost benefit analysis. The benefit is usually the profit that the parties will realize from undertaking the corrupt act and the cost is usually the risk that the secret deal may be uncovered, either by the competent authorities, or by another party involved in the deal. If there are low probabilities that the other party will reveal the secret or that the authorities will discover the crime, then the benefits are higher than the cost and the deal is a successful one. Accordingly, policy makers and legislators need to find ways to increase the cost over the benefit of engaging in corruption.

Bribery and the secret conditions under which it thrives have always been an interesting topic of study. The more criminals become creative, the more policy makers and researchers are encouraged to fill the gaps and become more innovative since it is agreed upon that bribery is

illegal. In an innovative approach, Kaushik Basu suggested that one way to limit bribery as a form of corruption, is to legalize it.³⁴⁷

At first glance, this suggestion seems surprising, even shocking. However, Basu did not mean to suggest legalizing all forms of bribery or what he calls, “the harassment bribe”.³⁴⁸ He explains that in countries where bribery is widespread, bribe-giving must be legalized. He ascertains that the act of bribery itself will always remain illegal. He argues that in a cooperative crime like bribery, when the bribe giver and bribe taker are punished, both sides have an interest in keeping the act hidden to avoid punishment. In legalizing the bribe giving, perhaps the crime will be reported and sanctioned.

He differentiates between two types of bribes namely the harassment bribe and the non-harassment bribe. The former is one where the bribe giver is legally entitled to receive the service from the public official but is forced to pay a bribe to acquire it. He calls this type of bribe a “harassment bribe”.³⁴⁹ The latter is where the bribe giver is not legally entitled to receive the service but he pays a bribe to induce the public official to grant him an undue advantage.³⁵⁰

Basu argues that for “harassment bribes”, the bribe giver should be granted full immunity from punishment and he further claims that the bribe giver should be entitled to redeem the amount of the bribery he paid. The rationale behind his argument is that the bribe giver will have more incentive to report the bribe, knowing that he will be protected from punishment and will still redeem the amount of bribe he paid.

³⁴⁷ Kaushik Basu, “Why, for a Class of Bribes, the Act of Giving a Bribe should be Treated as Legal” (2011) Minist Finance Gov India Available [Httpmpra Ub Uni-Muenchen De50335](http://www.mof.gov.in/WorkingPaper/Act_Giving_Bribe_Legal.pdf), online: http://www.mof.gov.in/WorkingPaper/Act_Giving_Bribe_Legal.pdf.

³⁴⁸ *Ibid.*

³⁴⁹ *Ibid* at 4.

³⁵⁰ Basu, *supra* note 347.

In addition to the incentive to report harassment bribes, two other advantages exist: First, it will create a kind of distrust between the bribe giver and the bribe taker. It will also help the bribe giver to be conscious of the importance of proving that he paid a bribe to redeem his money. This will make uncovering the deal less costly both in terms of time and finances. Second, the bribe taker will not be encouraged to engage in such an act since the law will require him to pay a fine.

The problem that may arise with this type of model, as explained by the author, is false accusations or blackmail. However, Basu argues that setting severe punishments for this type of false accusation can settle the problem.³⁵¹

Basu explicates that this legalization of bribe giving will not result in a complete vanishing of the crime of bribery, because of the “serial bribe giver” who seeks to keep good relations with bureaucrats or public officials.³⁵² However, he asserts that in all cases it will create a kind of distrust which may also play a role in curbing corruption.

Basu argues that the second type of bribery, “non harassment bribes”, should be punished because the bribe giver was granted an advantage he was not legally entitled to receive. Basu believes that there should be an asymmetry in the punishment imposed on the public official and the other party. The reason is that the public official is more responsible to keep his integrity as part of the trust he was granted in the framework of his public profession.³⁵³ Thus, according to Basu, the key to changing the incentives and to making corruption more costly is to disrupt the trust.

³⁵¹ *Ibid.*

³⁵² *Ibid* at 9.

³⁵³ Basu, *supra* note 347.

To illustrate this case, in an anti-corruption campaign, the Tanzanian authorities decided to fire a large number of bureaucrats in the tax administration, the result was that they were hired by private businesses due to their knowledge of the secrets of the system.³⁵⁴ According to Fjeldstad, the challenge that the reformers faced was their inability to create a kind of distrust between the tax officers and the entrepreneurs.³⁵⁵ Hence, creating a kind of distrust is a measure that policy makers should intentionally apply.

Mandar Oak³⁵⁶ suggests the introduction of some changes to the idea of legalizing bribes presented by Basu³⁵⁷. He examines the applicability of the idea of legalizing bribe giving for harassment bribes in an environment where harassment and non-harassment bribes are endogenously determined. He explains that the main reason for the prevalence of bribery is that bureaucrats have a monopoly of power over granting permits or approvals. He explains that Basu's idea, if applied without bringing legal adjustment to the institution, will not achieve its aim in controlling bribes.

In his view, since bureaucrats have a monopoly of power over granting permits, they will have a more vested interest in granting permits to non-compliant projects since both parties of the corrupt deal have an interest in concealing the crime. This case can negatively impact social welfare, since more non compliant projects will be encouraged and will not contribute in the reduction of bribes.³⁵⁸

He argues that to successfully apply the idea of legalizing bribes to reduce "harassment bribes", institutional reforms must be applied to control the bureaucrats discretionary power to

³⁵⁴ Fjeldstad, *supra* note 225.

³⁵⁵ *Ibid.*

³⁵⁶ Mandar Oak, "Legalization of Bribe Giving when Bribe Type Is Endogenous" (2015) 17:4 J Public Econ Theory 580.

³⁵⁷ Basu, *supra* note 347.

³⁵⁸ Oak, *supra* note 356.

issue permits complemented by legal channels to enable the entrepreneur, who could not otherwise receive a permit for a compliance project, to appeal the bureaucrats' decisions while taking into consideration transaction costs.³⁵⁹

He explains that if the cost of reporting the bribe, in terms of time, effort, procedures and money, is bigger than the refund, in case of compliant projects, the bribe giver will have no interest in reporting the bribe. Thus, policy makers must make sure to increase the refund amount to encourage bribe-givers to report bribes while ensuring that the bureaucrat will be punished.³⁶⁰

He also recommends that the law punishes bureaucrats in the case of blocking the issuance of permits for compliant projects while increasing the sanctions in the case of permitting non-compliant projects.³⁶¹ Therefore, ensuring the change in the system structure by enacting new laws or regulations to limit the monopoly of power and discretion bureaucrats have is the key to disrupting the trust between the parties of the corrupt deal.

Increasing benefits and granting amnesty

Robert D. Cooter and Nuno Groupa have highlighted the importance of creating an environment of distrust between the parties engaged in corrupt deals as a measure to curb corruption.³⁶² They highlight the importance of trust in cooperative crimes, like corruption in general and bribes in particular. They argue that the role of the law should be to find creative ways to disrupt this trust. In their view, “ Instead of merely bargaining with criminals after they

³⁵⁹ *Ibid.*

³⁶⁰ *Ibid.*

³⁶¹ *Ibid.*

³⁶² Robert Cooter & Nuno Garoupa, “A disruption mechanism for bribes” (2014) 10:3 Rev Law Econ Rev Law Econ 241–263.

are arrested, the state should make positive commitments in advance.”³⁶³ In other words, they believe that law has to be proactive rather than reactive.

In the model they developed, Cooter and Groupa suggest to grant amnesty and bounty to the first party taking the initiative and confessing that he committed the crime.³⁶⁴ By following this model, they believe that neither the public official nor the citizen will have an interest in concealing the crime. The reason is that the first party (whether the public official or the citizen) to confess bribery will be granted an amnesty and also a bounty that should exceed the amount of the bribe. The extra money paid to the first party for confessing, in the form of bounty, will be charged to the other party in the form of a fine. Therefore, in this cooperative crime both parties will have more interest to confess than to conceal, since it will be more profitable to confess.³⁶⁵

Cooter and Garoupa argue that deterrence, as a measure used to curb corruption is not always effective especially in countries where corruption is widespread because it needs honest officials to implement the law.³⁶⁶ In this case, building distrust between the parties of the corrupt act will be a more effective and feasible measure.

Cooter and Garoupa’s suggested model is an extension of three successful models:³⁶⁷ the *qui tam* (which was amended by the false claim act in 1863), the benefits granted by the Internal revenue services in the United States of America and the Trafficking Victims Protection Act of 2000.

³⁶³ *Ibid* at 242.

³⁶⁴ Cooter & Garoupa , *supra* note362.

³⁶⁵ *Ibid*.

³⁶⁶ *Ibid*.

³⁶⁷ *Ibid* at 246–252.

The *qui tam*, which was amended by the False Claim Act in 1863 (the further amendments introduced to the law in 1986), allows citizens to initiate lawsuits in place of the public prosecutors to recover money owed to the state. The false claims act model has succeeded in recovering large amounts of money to the U.S treasury by uncovering health care and defense fraud cases by citizens. The reason behind this success is that citizens are entitled to earn a percentage of the money recovered by the state (this amount increased gradually to be 30%). This makes it attractive and profitable for citizens to help the state to recover the money earned or saved by fraudulent means. Similarly, the U.S. internal revenue service applied the false claims act model, which allows the treasury to grant citizens who provide information on tax fraud a fraction of the money recovered by the state as a compensation for their assistance.

Cooter and Groupa also use the Trafficking Victims Protection Act of 2000 (TVPA) as a successful example of building distrust between parties in a corrupt deal. In the Trafficking Victims Protection Act, victims of labour trafficking can benefit from U.S. government protection if they report to the authority about their employer's illegal practices.³⁶⁸

The success of the above discussed models is based on disrupting the trust between the parties, in addition to the benefits incurred by the party who takes the initiative and confesses. Applying a model where amnesty and bounty is granted to the party who first confesses is a powerful tool to use to curb corruption and increase deterrence. The key to disrupting the trust is offering more benefits to the person who confesses first.

Tying the punishment to the social harm

Understanding the incentives that drive officials to engage in corrupt deals or accept bribes is an important step in fighting corruption. Rose-Ackerman explains the economic analysis can help identify the conditions that initiate public officials to seek rents. It can help in

³⁶⁸ Cooter & Garoupa, *supra* note 362.

analyzing and proposing effective methods to design anti corruption laws to fight bribery and extortion as a form of corruption.³⁶⁹

Rose-Ackerman argues that law in the books is not compatible with law and economics' perspective when dealing with the deterrence effect of the law.³⁷⁰ Bribery as a cooperative crime is criminalized in all national legal systems. However, the way punishment is designed does not cultivate the ultimate effect of the deterrence of the law. In Ackerman's view, to deter bribery, punishment must be tied with the benefits that the party of the deal will incur and the social harm it causes regardless of whether it is in the public or private sector.³⁷¹ Sanctions cannot only be a function of the size of the bribe. This is because the benefit incurred from paying the bribe and the social harm may be higher than the amount of bribe paid.

Tying the punishment with the size of the bribe is problematic because sometimes the social harm is not comparable to the size of the bribe. For example, Wade explains that because of corruption in a South Indian irrigation system, the topsoil eroded and it took hundreds of years to solve the problem.³⁷²

Criminalizing the private to private bribe

Rose-Ackerman explains that the private-to-private bribe is not criminalized in all legal systems because criminal sanctions are not imposed on private institutions. According to Ackerman, it has to be equally criminalized because its harm goes beyond the boundaries of the firms engaged in corruption.³⁷³ She argues that: "The threat of criminal penalties may provide a more effective deterrent than civil penalties or a firm's internal disciplinary procedures. Bribes may be paid not just to get business but also to dilute product quality, enforce cartels, and limit

³⁶⁹ Susan Rose-Ackerman, "The Law and Economics of Bribery and Extortion" (2010) 6:1 Annu Rev Law Soc Sci 217.

³⁷⁰ *Ibid.*

³⁷¹ *Ibid* at 223.

³⁷² Wade, *supra* note 178.

³⁷³ Rose-Ackerman, *supra* note 369 at 224.

entry”³⁷⁴ Private to private bribes may result in cartels and monopolies, which has a negative impact on the economy. This explains the reason why criminal sanctions have to be imposed on corporations engaged in bribery even if the public sector is not involved since it results in market disruption.

Differentiating sanctions according to the different kinds of bribes

Three different cases deserve different treatment:

- The first case is when the bribe giver fails to receive a service that is legally recognized without a need to pay a bribe to the public official. In this case, Ackerman proposes leniency in the sanction imposed on the bribe giver to encourage the bribe giver to uncover the deal.
- The second case is if the service the bribe giver is seeking is legally recognized but scarce. In this case, these services are allocated mostly to people who do not deserve them. It is neither in the interest of the bribe giver nor the bribe taker to report the crime. Therefore, to help in revealing this crime, the legal system has to reward those who would have been qualified to receive the service under an honest system. The reason behind this is that they are the only group who have interest in revealing the crimes and they could easily help in gathering the information.

Rose-Ackerman explains that in the economics of crime, the probability of detection depends on the incentive the victims have to report. However, these incentives are sometimes criticized for being inconsistent with the goals of the criminal law.

- The third and most difficult case, is when the bribe giver pays the receiver for an illegal service. In this case neither the bribe giver nor the bribe taker has an interest in reporting the crime. In such cases Ackerman suggests following the model of the laws that govern cartels that restrain trade. The United States and Europe provide more lenient sentences for the first firm to report this type of agreement, and in Ackerman’s view, this model must be followed to encourage the reporting of illegal

³⁷⁴ *Ibid* at 227.

bribe agreements. . This suggestion agrees with Cooper and Garoupa’s suggestion to provide amnesty and bounty for the first party to confess and disrupt the trust.³⁷⁵

The research concludes that economic analysis of the law can help in better understanding how people make decisions according to their perceived outcomes. When human interaction and reaction with the law is clearer this can help legislators to create more effective laws. Changing the structure of the institutions can also help reduce the opportunities of corruption. To sum up, disrupting the trust, increasing the benefits and amnesty to the first party that unveils the deal and tying punishments to the degree of social harm can be effective tools to consider when trying to assess the effectiveness of the laws that prohibit corruption in a country.

C.2- Civil Service Reforms for a Successful Reform Strategy

Civil service reform is paramount to any successful reform strategy. According to Susan Rose-Ackerman, “ Civil service reform is a pressing issue in many parts of the world.”³⁷⁶ It is important due to its influence on the trust of citizens in government performance. Direct interaction between citizens and the government occurs when people demand governmental services such as licensing, permits, issuance of certificates etc. Corruption in the civil service diminishes the trust of the people in the legitimacy of the government

A successful anti-corruption reform strategy will work to identify opportunities to engage in corruption and eliminate them. According to Gantz: “ Corruption is like adultery: ninety percent of it is a matter of opportunity. If you eliminate the opportunities, you eliminate

³⁷⁵ Cooter & Garoupa, *supra* note 362.

³⁷⁶ Rose-Ackerman, *supra* note 51 at 70.

the crime.”³⁷⁷In this part, the research will identify some strategies that can help eliminate the opportunities to engage in corrupt deals.

To build an effective anti-corruption strategy, all parties must be taken into consideration and given their proper weight. Although it is agreed upon that it takes more than one person to engage in a corrupt deal, most studies focus on the bribe taker and the bribe payer but ignore the role played by the agent who is usually an important part of the transaction.

This section of the research emphasizes the importance of studying and/or analyzing the role of “the agent” in corruption deals within the civil service system. The following three main points will be extensively discussed:

First, the importance of the role of the agent for the two parties of the corrupt deal. Second, the reasons why the two parties find themselves in need of the services of an agent. Third, the reasons why the bribe later does not conclude the deal and pay the public servant directly.

The role of intermediaries as facilitators for corruption deals:

Middlemen have good connections with the people working in the civil service. They know how the system works and how to facilitate procedures. Most legal systems have laws that criminalize agents’ work, yet the problem persists. Hasker & Okten argue that despite the existence of anti-corruption laws that deal with the problem of bribery in the business world, the problem of the intermediaries remains a serious and unexplored one.³⁷⁸Hasker & Okten explain that ignoring the presence, and the impact of intermediaries, as part of the game will lead to “misguided policies.”³⁷⁹

³⁷⁷ David A Gantz, *Globalizing sanctions against foreign bribery: the emergence of a new international legal consensus* ([Chicago, Ill.]: Northwestern University, School of Law, 1998) at 480.

³⁷⁸ Hasker & Okten, *supra* note 218.

³⁷⁹ *Ibid* at 114.

The previously mentioned research conducted in India to study the process through which drivers licenses were issued, showed that middlemen were an important part of the corrupt deal. The study revealed that the group of people who used an agent to finish the procedures were able to obtain a driver's license more quickly and easily than those who did not. However, it was found later that the former achieved the highest failure rates on drivers' tests designed by the researchers, whereas, individuals from the latter group, who took driving lessons and the same test, achieved higher success rates.³⁸⁰

Bertrand et al argue that intermediaries played an important role in this process as they acted as facilitators in helping speed up the process and most importantly, by informally exempting candidates who paid the bribe from taking the test.³⁸¹ Accordingly, the consequent harm inflicted by their corrupt actions extended outside the limits of the parties involved in the corrupt deal, since their actions resulted in social harm as represented by an increased rate of road accidents.

Hasker & Okten argue that using traditional techniques to fight corruption such as intensive monitoring or imposing sanctions can worsen the effects of corruption. Moreover, a system of rotation among employees to avoid the consolidation of their power may also worsen the effects of corruption. In cases of rotation, citizens will not have an interest in reporting incidents of bribery due to the lack of continuity.³⁸² Therefore, the reform system has to be designed according to the organizational structure.

A study was conducted to evaluate the measures taken by the Tanzanian Revenues Authority to fight corruption, which depended on hiring and firing as one of its main

³⁸⁰ Bertrand et al, *supra* note 221.

³⁸¹ *Ibid.*

³⁸² Fjeldstad, *supra* note 225.

strategies.³⁸³ The author explains that the firing of some corrupted officials was not an effective strategy to curb corruption because tax officers had strong internal and external networks. Therefore, when they were fired, they were subsequently recruited by some business entrepreneurs as experts due to their knowledge of the procedures, and secrets of the system.³⁸⁴ Thus, this hiring and firing measure unintentionally created a market for intermediaries.

This leads to the question of how to control corruption in the presence of intermediaries?

According to Hasker & Okten, corruption can be controlled in the presence of intermediaries by simplifying the regulations, limiting the application of the rotation method of employees and creating a regulation that requires intermediaries to obtain a license to perform their jobs. These procedures may be beneficial in helping to monitor their accounts and performance, and in holding citizens or businesses accountable in the case of bribery.³⁸⁵ Hence, ignoring the problem of intermediaries will ultimately decrease the probability of success of any anti-corruption programs initiated by the government.³⁸⁶

Susan Rose Ackerman argues that allowing the citizens different channels to post their complaints reduces the effects of corruption caused by the presence of intermediaries since citizens will have those resources at their disposal.³⁸⁷

Thus, it can be concluded that a successful reform strategy must be aware of the role of intermediaries in facilitating corruption. Usually, intermediaries are needed when government regulations and procedures are complicated, lengthy, and unclear. Therefore, simplifying the

³⁸³ *Ibid.*

³⁸⁴ *Ibid.*

³⁸⁵ Hasker & Okten, *supra* note 218.

³⁸⁶ *Ibid.*

³⁸⁷ Rose-Ackerman, *supra* note 363.

procedures and making them clearer by providing visual support like video streaming, for example, may be of great advantage.

Consumer feedback as a measure to curb corruption:

Knowing that the absence of accountability can create a fertile environment for corruption to thrive, scholars have stressed the importance of enhancing accountability. However, the question remains, to whom shall the public official be accountable? If the answer is, only to their superiors, then what happens if corruption is so rampant and widespread in an institution that the superiors are also corrupt?

Schedler argues that the concept of accountability encompasses the notion of answerability, which means that when asked, public officials are expected to be able to justify their actions, and to be disciplined in cases of misconduct. ³⁸⁸

Amegashie explains that the culture of bribery increases in the absence of accountability. He addresses, in this context, a more effective type of accountability; ³⁸⁹namely, the importance of being held accountable to the citizens seeking services from governmental institutions.

According to Amegashie, the literature about corruption has given little importance to consumer complaints, contrary to the importance it gave to whistleblowers.³⁹⁰ Amegashie explains that taking into account consumer complaints effectively reduces the frequency of corruption incidents. In his model, he also explains that it is not enough to have conscientious

³⁸⁸ Andreas Schedler, Larry Jay Diamond & Marc F Plattner, *The Self-restraining State: Power and Accountability in New Democracies* (Lynne Rienner Publishers, 1999) at 14–15.

³⁸⁹ Amegashie, *supra* note 147.

³⁹⁰ According to the Thesaurus dictionary a whistleblower is an informant who exposes wrongdoing within an organization in the hope of stopping it.

supervisors to curb corruption but that consumer complaints can also be used as a primary means of bureaucratic oversight.³⁹¹

Amegashie argues that several successful experiences proved the importance of consumer reports. He explicates that in the Punjab Citizen Feedback model, developed in Pakistan, it is the government that establishes an audit system, takes the initiative and asks the citizen about the quality of services received, instead of waiting for them to file a complaint.³⁹² This proactive way of evaluating service helps improve the quality of services provided by the government and is an effective way of curbing corruption.

Kenya also launched an anti-corruption website which allowed citizens to report any incidents of corruption by writing their complaints directly to the government, or by uploading videos or photos. They also had the possibility of choosing from a list of government departments at which to file their complaints.³⁹³ However, creating a system for customers to file complaints is not an end in itself. What is paramount is the way in which the system handles those complaints.

Thus, the higher the probability that consumers will know that their complaints will be treated, the higher the probability that they will contribute and report incidents of bribery, which can enhance the government development plan.³⁹⁴ Models like Punjab Citizen Feedback and others should be implemented and measures should be taken to ensure that the system will react to the complaints of consumers .

³⁹¹ Amegashie, *supra* note 147 at 1.

³⁹² Amegashie, *supra* note 1417.

³⁹³ *Ibid.*

³⁹⁴ *Ibid.*

Klitgaard also explicates that civil service reforms can be undertaken by improving the performance measures through conducting client surveys, as well as ratings by colleagues and managers.³⁹⁵ The significance here is that employees can be evaluated and held accountable accordingly.

According to Peruzzotti, and Smulovitz “ societal accountability enables the government, through monitoring the public officials behavior, to reveal any irregularities whenever possible and to call on the horizontal accountability agencies for action whenever needed.³⁹⁶ Societal accountability is “activated on demand” by using non-institutional mechanisms in the form of media exposure and mobilizing the public, in addition to legal actions in order to reach this goal.³⁹⁷ Although societal accountability does not directly impose formal sanctions, it does impose ‘symbolic sanctions’ that affect the reputations of public officials thus activating their interests in putting the needs of the public on their agendas.³⁹⁸

Pande explains how the Right to Information Act (RTI), enacted in India in 1999, was used as an effective tool to enhance accountability and enforceability.³⁹⁹As mentioned previously, a group of activists called Parivartans, used the RTI act to access information on the public distribution system, which is a government program aiming to guarantee the distribution of food grains at an affordable price for the poor. Through gathering information, the Parivartan succeeded in disseminating information about the corrupt behaviors in the program through the media and mobilized the public to hold the government accountable.

³⁹⁵ Klitgaard, *supra* note 116.

³⁹⁶ Catalina Smulovitz & Enrique Peruzzotti, “Societal Accountability in Latin America” (2012) *J Democr*, online: <<https://www.journalofdemocracy.org/article/societal-accountability-latin-america>>.

³⁹⁷ *Ibid.*

³⁹⁸ *Ibid.*

³⁹⁹ Pande, *supra* note 135.

A study conducted in Argentina, Ecuador and Venezuela in 27 pilot commercial courts concluded that introducing an online system to allow citizens to provide online anonymous reports was one of the most effective measures that contributed to controlling corruption.⁴⁰⁰

Therefore, studies and experience have shown that possessing and introducing channels of complaints about programs or governmental decisions is an important tool to enhance accountability. However, it is sometimes difficult for citizens to organize themselves to take actions in cases of deviations. Only when the civil society is well organized and established can it use the information provided by citizens to take effective actions.

Raising salaries to improve the quality of civil service and civil servants:

A number of research studies uncovered a negative correlation between the level of wages and corruption in a country, as discussed when studying the causes of corruption in this research. If the budget of a country allows for it, would simply raising salaries be an effective measure in controlling corruption?

The problem with low wages is that it does not only increase the level of corruption but it also makes the public sector less attractive to qualified employees. Rijckeghem and Weder empirically tested the relationship between the level of salaries and corruption, and concluded that there is a negative relationship between corruption and the level of salaries in a country.⁴⁰¹ They found that although an increase in the level of salaries may improve the level of corruption, a substantial increase in salaries is required to reduce corruption to the minimum level. A reform strategy that depends solely on increasing salaries may be very difficult for the budget to sustain and may also not yield the desired results. Therefore, it is important to introduce other measures like increased monitoring, in addition to increased salaries, to ensure that such measures to curb corruption, would yield the desired results.

⁴⁰⁰ Buscaglia, *supra* note 231.

⁴⁰¹ Rijckeghem, Caroline & Weder, *supra* note 169.

Tanzi explains that while increasing wages may reduce the frequency of bribes, it may also increase intensity, or the amounts that bribe takers demand, by those officials who will continue to be corrupt.⁴⁰² He argues that while high salaries increase the opportunity cost of losing the job, greed will continue to exist.⁴⁰³ Hence, this may reduce the frequency of corrupt acts but not necessarily the amount that bribe takers demand.

Susan Rose Ackerman recognizes the importance of increasing salaries as one of the tools in fighting corruption. However, she notes that it is better to start with creating an honest tax collection system.⁴⁰⁴ Increasing salaries is an important reform, but does not demonstrate effectiveness when used as an independent measure.

Di Tella & Schargrotsky studied the effects of monitoring and wages on the variation of prices of some basic items and hospital supplies purchased in Buenos Aires.⁴⁰⁵ After allegations of widespread corruption in hospital purchases of supplies through procurement, the newly elected government in Argentina decided to take strict measures to monitor corruption. During the study, researchers monitored the prices of some specific basic supplies to these hospitals and concluded that high salaries in the presence of monitoring measures helped deter corruption. However, in the absence of monitoring, high salaries would not contribute to controlling corruption.

A research was conducted in Russia, to study the effects of increasing salaries on the corruption levels in 79 Russian regions from 2004-2013. They concluded that increases in salary

⁴⁰² Tanzi, *supra* note 193.

⁴⁰³ *Ibid.*

⁴⁰⁴ Rose-Ackerman, *supra* note 51 at 74.

⁴⁰⁵ Tella & Schargrotsky, *supra* note 140.

levels reduced corruption, especially low and middle level salaries.⁴⁰⁶ They also found that a slight increase in press freedom also reduced the level of corruption.

The study revealed that, “ While increasing public salaries may be an integral part of an anti-corruption reform , it is no silver bullet. Salary adjustments need to be carefully designed with the proper salary reference identified, to achieve the efficient level. Increasing salaries is costly, and the gains in terms of reducing corruption may increasingly dwindle if not disappear.”⁴⁰⁷

Therefore, increasing salaries alone, as a measure to curbing corruption, does not yield the desired results. Thus, this should not be viewed as the only effective measure. Increasing salaries has to be taken in consideration as an important tool in fighting against corruption, in tandem with other measures such as; increasing the level of press freedoms and increasing monitoring and/or accountability measures in order to attain the desired results.

C.3- Reforms in the Judicial System:

A weak judicial system is one of the biggest causes of corruption. An honest and reliable legal system is a fundamental pillar for achieving development and economic growth. To implement an anticorruption strategy, a functional legal system is paramount in bringing about real changes.⁴⁰⁸ According to Cooter and Garoupa, “A necessary element when approaching

⁴⁰⁶ Günther G Schulze, Bambang Suharnoko Sjahrir & Nikita Zakharov, “Corruption in Russia” (2016) 59:1 J Law Econ 135.

⁴⁰⁷ *Ibid* at 162.

⁴⁰⁸ *Ibid*.

deterrence and elimination of corruption is the institutional design. The structure of institutions and decision process are important determinants of the level of corruption.”⁴⁰⁹

The independence of the judiciary from legislative and executive authority is critical to its effective functioning.⁴¹⁰ Okella stressed the importance of guaranteeing the independence of the judiciary because when judges are not independent, executives can abuse their power by appointing those who support their system, or can affect the benefits granted.⁴¹¹ Johnston argues that reforms should guarantee the independence of the courts and the independence of judges through a carefully designed system of appointments and promotions, as well as a well-designed system for the administration of justice.⁴¹²

When a system of administration of justice is well designed and judges are granted discretionary power, more productive and prompt justice can be attained. A study was conducted in Senegal in 2013-2014 under the framework of the Economic governance project.⁴¹³ The aim of the project was to improve the investment environment by speeding up the civil and commercial adjunction. The reform was introduced through the issuance of a decree in 2013 that gave judges “the duty and power” to conclude pre trial proceedings in four months, instead of 157 days. To attain this goal, the decree gave the judges the authority to “desk-reject” cases in the first hearing, if the parties failed to provide enough evidence.⁴¹⁴ Judges were able to fast track well-documented cases straight to deliberations, and. “ Judges were more likely to apply

⁴⁰⁹ Robert Cooter & Nuno Garoupa, “A vicious circle of distrust: a mechanism to deter bribes” (2000) Eur Law Econ Assoc Ghent.

⁴¹⁰ *Ibid.*

⁴¹¹ Duncan Okello & Konrad-Adenauer-Stiftung, *Towards sustainable regional integration in East Africa: voices and visions* (Konrad-Adenauer-Stiftung, 1999).

⁴¹² Michael Johnston, *What can be done about entrenched corruption?* (World Bank Washington DC, 1998).

⁴¹³ Florence Kondylis & Mattea Stein, “The Speed of Justice” (2018) World Bank Group 56.

⁴¹⁴ *Ibid.*

pressure on parties by issuing strict deadlines for adjournments.”⁴¹⁵The study did not measure the quality of the judges’ performance. However, when businesses owners were interviewed about whether the quality of performance was negatively affected by speeding up the process, firms confirmed that they saw a positive effect in the faster proceedings.⁴¹⁶Therefore, according to this research, when judges are given discretionary power, their performance can improve and people have more trust in the system.

A separate and independent budget managed by the judicial authority is important in guaranteeing judicial independence.⁴¹⁷ Periodical asset declaration is also essential in early detection of any corrupt conduct. In addition, reforms should ensure granting judges personal immunity against any claims within the framework of executing their jobs.⁴¹⁸ A carefully designed code of ethics must be implemented to guarantee the integrity of the judges and other court officials.⁴¹⁹ The aim of this code of ethics should be to ensure creating a culture of integrity, given the important role judges play in requiring people to respect and abide by the rule of law.

Due to the importance of the role played by the judicial sector, Tanzi argues that prosecutors, investigators, and those dealing with corruption cases, should be carefully selected and should be characterized as having high moral standards. They should comply with consistent reviews of their work, and the system itself should allow for the processing of

⁴¹⁵ Florence Kondylis & Laurent Corthay, “What gets measured gets done: Evidence from court | Let’s Talk Development”, online: <<http://blogs.worldbank.org/developmenttalk/what-gets-measured-gets-done-evidence-court>>.

⁴¹⁶ *Ibid.*

⁴¹⁷ Alan Doig & Stephanie McIvor, “Feature review Corruption and its control in the developmental context: An analysis and selective review of the literature” (1999) 20:3 Third World Q, online: <<https://www.tandfonline.com/doi/abs/10.1080/01436599913749>>.

⁴¹⁸ *Ibid.*

⁴¹⁹ *Ibid* at 668.

complaints about their work or behavior.⁴²⁰ The careful selection of investigators in the independent anti-corruption authority in Hong Kong, along with ensuring a high level of integrity were the pillars and reasons behind the success of the anti corruption authority and the country's fight against corruption in general.

Independence of the judicial system does not contradict accountability in cases of violations of their code of ethics. According to Coolidge and Susan Rose-Ackerman, the judiciary system should be held accountable to the public and to the government, to safeguard against corruption in the courts.⁴²¹ In countries where corruption is widespread within the legal system, a commission of enquiry, especially created for this purpose, should address judicial misconduct.⁴²²

A study was conducted over an eight year period from 1991-1999 in 27 commercial pilot courts, in three countries; Argentina, Ecuador and Venezuela, to assess the causes of judicial corruption and to find effective reform measures.⁴²³ The main causes of corruption, as identified by the study were; the structures of the institutions themselves, which negatively impacted the organizational framework, and the assignment of administrative functions, the complexity of the judicial procedures, a defective information system and inconsistencies in the time required to fulfill some tasks. The study showed that the level of corruption decreased when the causes of corruption were dealt with, which were mainly represented in the organizational structure and in complex procedures.⁴²⁴

⁴²⁰ Tanzi & Davoodi *Supra* note 35at 9.

⁴²¹ Jacqueline Coolidge & Susan Rose-Ackerman, "Kleptocracy and reform in African regimes: Theory and examples" in *Corrupt Dev Afr* (Springer, 2000) 57.

⁴²² Petter Langseth, Rick Stapenhurst & Jeremy Pope, "The role of a national integrity system in fighting corruption" (1997) 23:1-2 *Commonw Law Bull* 499.

⁴²³ Buscaglia, *supra* note 231.

⁴²⁴ *Ibid.*

The problem of discretion in the organizational structure was dealt with by creating an administrative support office (ASO) as part of the reform program. The role of the ASO was to take over administrative tasks such as service related money transactions, and budgetary responsibilities, from a number of different commercial courts and centralize them into one place. This allowed judges and law clerks to concentrate on judicial and technical matters, and reduced the probabilities for corruption.⁴²⁵

The complexity of the procedures was addressed through the introduction of less complex, oral procedures that were mainstreamed and subjected to external control to reduce inconsistencies in the time required for these procedures.⁴²⁶

An online system was introduced to reduce the effects of discretionary power and to build a system to allow anonymous reports of corruption, thus creating a new generation of whistleblowers which empowered citizens to provide online, anonymous reports.⁴²⁷ The study concluded that dealing with the above mentioned problems resulted in decreased levels of judicial corruption in the studied courts. It can be concluded, from this study, that when judges concentrate on their professional work and the administrative work is separately and effectively managed, they perform better and the probabilities of corruption are better controlled.

Schwenke identifies important components of a judicial reforms system.⁴²⁸ He argues that the success of anticorruption efforts depends on the presence of an objective and independent judicial authority who is able to identify corruption and to take the necessary corrective actions. He also stresses the importance of ensuring the appointment of competent judges, where the promotion system is based on merit, while improving working conditions and

⁴²⁵ *Ibid.*

⁴²⁶ *Ibid.*

⁴²⁷ *Ibid.*

⁴²⁸ Stephen Schwenke, "Sectoral Synthesis" in *Fight Corrupt Dev Ctries*, bertam i. spector ed (2005).

increasing salaries as well as ensuring the integrity of the judges by enforcing the code of ethics and requiring them to declare their and their family's assets . On a professional level, judges must be carefully appointed, well informed and qualified to fulfil their duties, by improving the quality of education and providing continuous training programs in order to develop their competency.

On the operational level, according to Schwenke, it is important to randomly assign cases. On the procedural level, transparency can be promoted by computerizing, keeping records and encouraging the publication of judicial decisions. The media may also play a role in ensuring the success of the reforms in the judicial institution by improving their quality of coverage and ensure the accessibility of the public to court files. ⁴²⁹

Ensuring an independent and honest legal system is one of the most important pillars in any anticorruption strategy. Making sure that anti-corruption laws are clear and functional is of equal importance, since an important part of the judges' work relies on applying the law. Therefore, an important step in the reforms targeting the judicial system is to `review and assess the legal framework in order to detect any weaknesses or lack of clarity, and, if the laws are out-dated and cannot cope with the new reforms, to remove them entirely from the civil or criminal codes.⁴³⁰

In countries where corruption is widespread, anti-corruption laws play an important role in prosecuting the violators, applying the law and disseminating justice, thus giving a sense of hope to those countries where corruption has made justice scarce. ⁴³¹Anti-corruption laws should include laws that are consistent with the public standards of behavior, and that are applied

⁴²⁹ *Ibid.*

⁴³⁰ *Ibid.*

⁴³¹ Alan Doig & Stephen Riley, "Corruption and anti-corruption strategies: Issues and case studies from developing countries" (1998) 45 *Corrupt Integr Improv Initiat Dev Ctries* 62.

through prosecution and enforcement. ⁴³²Anti-corruption laws are not expected to work in isolation, they are expected to consolidate the existing rules, regulations and codes of conduct that govern the civil service by adding to their effectiveness and ensuring their application.⁴³³

Therefore, we can conclude that tackling judicial corruption is paramount to any anti-corruption reform strategy. The procedural, administrative, and operational procedures have to be carefully reviewed, to detect any deficiencies in the system. Promoting integrity and independence is an important part of the reform. The anti-corruption legal framework must be carefully designed to reach the desired goals. To ensure that anti-corruption goals will fulfill the intention of the legislators, and will yield the expected results which they were stipulated for, other important laws like the transparency and right of information laws, as well as witnesses protection laws, declaration of assets laws, and procurement laws must be activated.

C.4- Institutional Reforms

The quality of an institution is one of the most important determinants of corruption. When institutions are weak, corruption prevails. Increasing importance has been given to improving the quality of institutions as part of the anti-corruption reform programs. The institutional sources of corruption encompass weak transparency, monitoring and accountability. This problem affects the financial management of the government.

Kpundah explains that to guarantee sustainable and effective institutional reforms, an all-encompassing approach must be considered. He argues that:

Effective and sustainable reform strategies are complex measures that draw upon the manpower and resources of all institutions. Investigation, prosecution, research and prevention must be integral elements of a single, efficiently coordinated, strategy that has strong support from the leadership and the public. Systematic and systemic changes are central to the development of a government that is accountable and transparent. It employs, trains, and adequately pays workers to serve the public and carry out the duties

⁴³² Johnston, *Supra note 69*.

⁴³³ *Ibid.*

and responsibilities of the government as legislated by the democratically elected Parliament. Most important, the public through the parliament must create and support an independent entity, free from all extraneous and political pressures, that oversees prevention, investigation and penalties.⁴³⁴

Therefore, according to Kpundah, effective institutional reforms include a strong political will, bureaucratic and administrative reforms such as well-paid civil servants, a transparent and accountable government which implies free press and media to attain the desired transparency, strong judicial and legislative institutions and the presence of an anti corruption authority for preventive and corrective measures. He also stresses the importance of an independent entity, or civil society, that can monitor the effectiveness of transparency, prevention, and sanctioning measures.

When dealing with a reform strategy, Susan Rose-Ackerman suggests that:

Limits on the power of politicians and political institutions combined with independent monitoring and enforcement can be potent anticorruption strategies. In a democracy, these limits include the separation of powers between legislative and executive branches. An independent judicial and prosecutorial system and a federal structure can limit the power of public leaders [.....] Independent sources of prosecutorial and judicial power are less problematic, although of course, these institutions must themselves be largely free of corruption and patronage. Independence is necessary but not sufficient. Another group of reforms increases the openness and accountability of government. Government collects and provides information; both the media, and the citizens groups operate freely; and groups and individuals have effective avenues for challenging official actions. Although such policies are likely to be more acceptable to democratically elected leaders, these reforms can also have an effect in undemocratic systems whose leaders need public support to retain power.⁴³⁵

According to Rose-Ackerman, effective institutional reforms should ensure the separation of powers between the different authorities. They should also guarantee and promote

⁴³⁴ Sahr Kpundeh, "The fight against corruption in Sierra Leone" (1999) *Curbing Corrupt Model Build Natl Integr World Bank Wash C* 207 at 217.

⁴³⁵ Rose-Ackerman, *supra* note 51 at 143–144.

principles of openness, where information is accessible to the media and to citizens. The principle of openness will entail the principle of accountability, whereby citizens and civil societies can challenge officials through different channels.

De Speville attributed the success of the CAC in Hong Kong to political will, transparency, confidentiality, resources, the role of civil society, a strong legal framework and independence.⁴³⁶

Reformers, economists and institutionalists have recognized the importance of institutional reforms as a means for development. They realized that emerging economies struggle because of the existing institutional structures that provide incentives to engage in corrupt deals, and represent an obstacle for economic growth. North explains that: “ Third World countries are poor because the institutional constraints define a set of payoffs to political/economic activity that do not encourage productive activity.”⁴³⁷ Thus, emerging economies that are mostly corrupt nations need to initiate changes and develop their existing institutions in order to be able to prevent and prosecute corruption.

Knowing the proven and increasing importance of institutions, the World Bank has, as discussed previously, when investigating the poor quality of institutions as a major cause of corruption, initiated the “institutions matter” campaign. . All success stories in the fight against corruption either started with countries that had quality institutions like Hong Kong and Singapore, or countries that had worked on improving the quality of their institutions, such as Georgia and Colombia, among others.

The most common problem that reformers face when tackling corruption is the fear of failure, whether the reforms initiated are national or international strategies. The problem becomes more serious when those reforms target institutions, because the progresses and

⁴³⁶ De Speville, *supra* note 250.

⁴³⁷ North, *supra* note 180 at 110.

failures are easily noticed by a large sector of the population. Whatever the results, whether successes or failures, they become more tangible, and thus, more easily criticized in cases of failure. So what is the solution? Should reformers refrain from introducing major changes in the institution to avoid failure, or, should they choose to target only the areas where the risk of failure is low, and where the changes are not obviously seen and noticed by the vast majority of the population and the media? Which is the better incremental or all encompassing change?

Throughout the history of anti-corruption efforts, reformers have tried to solve this important problem because tackling institutional corruption is paramount to a country's effective and sustainable fight against corruption.

In the next section, the research will consider the success of alternative solutions, the importance of accountability, and understanding the problems associated with the path dependence theory, outsourcing, automation of public services, increasing women's participation and designing better enforcement mechanisms to resolve the problem of institutional corruption.

The success of alternative and not substitute institutions and pilot projects

According to Mariana Prado, there are three important problems that most reformers face when tackling institutional corruption: lack of resources, historical-cultural problems, and political economy.⁴³⁸ Identifying the most important problems becomes crucial when initiating institutional reforms, to work on avoiding them.

⁴³⁸ Mariana Mota Prado, *Institutional Bypass: An Alternative for Development Reform*, SSRN Scholarly Paper ID 1815442 (Rochester, NY: Social Science Research Network, 2011).

After studying the “Paupatempo”⁴³⁹ institution experience in Brazil, which is a one stop shop for bureaucratic services, created by the government in Sao Paulo in 1997, Prado argues that institutional reforms, which include reorganization or restructuring, did not prove to be successful because of the lack of resources, historical-cultural problems and the political economy.

In her view, the solution is to introduce the idea of “Institutional Bypass”, which can overcome the problems of institutional reforms by deploying institutional restructuring.⁴⁴⁰ Prado compares the type of institutional reform she proposes to a “coronary bypass” surgery.⁴⁴¹ By Institutional Bypass, Prado means that the reforms are not intended to improve the dysfunctional institution, but to create a new and parallel one where, “efficiency and functionality” are the norm, to avoid four main obstacles.⁴⁴² These obstacles are: social disruption, resistance, the burden of increased financial expenditure on the state and the unnoticed improvements.⁴⁴³

According to Prado, institutional Bypass can overcome the institution reforms problems for four reasons:⁴⁴⁴

- First, it does not necessitate the removal of the traditional institution, which does not produce any social disruption. It also results in cost saving because it is a pilot project which does not necessitate a high start-up cost, and the original institution is kept in place. Thus, if the project does not succeed, shifting to the original institution will not result in any social disorder.

⁴³⁹ “Paupatempo” means save time The institutional bypass reform experience will be studied in details as a solution to curb institutional corruption because it will help inspire institutional reforms in countries in similar context.

⁴⁴⁰ Prado, *supra* note 438.

⁴⁴¹ *Ibid.*

⁴⁴² *Ibid.*

⁴⁴³ *Ibid.*

⁴⁴⁴ *Ibid.*

- Second, it overcomes the social-cultural-historical problems because it is an alternative to the traditional institution and not a substitute. Therefore, it avoids the problem of resistance. Besides which, it offers citizens the possibility to use the services of the traditional institution. In addition, Institutional Bypass will positively affect the traditional institution by improving the quality of its services, as a result of competition; or negatively, as it may vanish if the quality does not develop. In both cases, it will result in improved social welfare.
- Third, Institutional Bypass seeks to realize services in a more effective and functional way. “Poupatempo,” reduced time and cost on the service seekers, and did not represent a financial burden on the state.
- Fourth, unlike institutional reforms, Institutional Bypass is more focused, as it targets only specific dysfunctional areas and not the entire system, which makes the improvement more tangible.

In all cases, institutional bypass targets only some areas of reform.

Accountability matters in institutional reforms:

One of the key issues that must be addressed in institutional reforms is accountability. Reformers and policy makers have to make sure that effective systems are in place to guarantee that civil servants and public officials will be held accountable, in case of violations of the laws and regulations. The question is how to apply accountability and in which areas?

According to Power and Taylor, the effectiveness of accountability, as a measure to curb corruption, depends on the “web” of institutions entitled to accomplish three main functions:

monitoring, investigation, and punishment, because of the inter-dependency of these functions.⁴⁴⁵ The success of each step depends on performance in the preceding step.⁴⁴⁶

Based on the interdependence claim developed by Taylor and Power,⁴⁴⁷ Prado and Lindsey Carson⁴⁴⁸ studied the effects of institutional multiplicity or, having more than one institution performing the same function in the accountability process, and whether this can improve efforts to combat corruption.

Institutional multiplicity is defined as: “The idea that more than one institution is charged with performing a certain function.”⁴⁴⁹ By reviewing the Brazilian efforts to fight corruption, by redesigning stronger institutions and by enhancing the accountability process, they concluded that while there was remarkable improvement in the monitoring and investigation phase, the punishment phase showed underperformance. They relate this phenomenon to the institutional multiplicity in the improved phases, and highlight the importance of the participation of non-state actors like the media and non-governmental institutions to improve anti-corruption efforts.⁴⁵⁰

According to Prado and Carson, studying the Brazilian case implies that institutional multiplicity can help in fighting corruption for several reasons:

⁴⁴⁵ Timothy Joseph Power & Matthew MacLeod Taylor, *Corruption and democracy in Brazil: the struggle for accountability* (University of Notre Dame Press, 2011) at 13.

⁴⁴⁶ *Ibid.*

⁴⁴⁷ *Ibid.*

⁴⁴⁸ Mota Prado & Carson, *supra* note 186.

⁴⁴⁹ *Ibid* at 8.

⁴⁵⁰ Mota Prado & Carson, *supra* note 186.

- First, it helps to encourage “competition”,⁴⁵¹ which contributes to improving performance,
- Second, it provides the opportunity for “collaboration”⁴⁵², which makes it possible to have more human resources and finances to perform the same task.
- Third, it provides a kind of “compensation”⁴⁵³ as it ensures that a defect in the functioning of a certain area in one institution can be compensated by the efficiency of another.
- Fourth, institutional multiplicity can help in the “complementarity” of the same task.⁴⁵⁴

Concerning the punishment phase, there exists no institutional multiplicity.⁴⁵⁵ Only the judicial is entitled to impose civil and criminal sanctions. Additionally, the judiciary has the right to overturn and overrule decisions imposed by other institutions entitled to issue administrative sanctions.⁴⁵⁶ Hence, accountability measures are fragile and opportunities of corruption increase.

According to the Brazilian experience, multiplicity in the investigation, and monitoring phase, which allowed better accountability, ensured better performance, when compared to

⁴⁵¹ *Ibid.*

⁴⁵² *Ibid.*

⁴⁵³ *Ibid.*

⁴⁵⁴ The authors illustrate an example to show the importance of compensation, and collaboration In the *investigation phase*, the Federal prosecutor office ability to investigate complex cases, have compensated the deficiency in the Federal police. Besides, the Federal Public prosecutor office and the Federal Police collaboration contributed in an increase in the number of criminal convictions and investigations

⁴⁵⁵ Mota Prado & Carson, *supra* note 186.

⁴⁵⁶ *Ibid.*

punishment, which was an exclusive responsibility of the judicial sector. Thus, policy makers should consider the success of this experience when choosing among alternative policy reforms.

Path dependence as a reason for reform failure:

The problem with institutional development and reforms is not that reformers are not aware of the types of reforms that need to be implemented. The real problem lies in not understanding why the reforms fail and how to correct the problems that cause those failures.⁴⁵⁷ Thus, knowing how to fix dysfunctional institutions and identifying the problems that delay this process is paramount to initiating successful institutional reforms.

In trying to reach an answer to the main question of how dysfunctional institutions can work better, Prado and Tebilcok refer to Path Dependence, in the evolution of institutions.⁴⁵⁸ According to Douglas, Path Dependence explains the importance for reformers to consider the historical incidents in structuring the institution to create more reform strategies in the future, while understanding the context in which the institution operates.

The question to be asked is what do reformers need to take into consideration according to the Path Dependency Theory?

This theory is based on important and relevant concepts which are: self-reinforcing mechanisms, switching costs, and critical junctures. Despite their importance for institutional development, reformers ignored these concepts. According to the authors, self-reinforcing mechanisms⁴⁵⁹ such as belief systems, formal institutional interconnections, and the interaction between formal and informal institutions. There are different types of switching costs⁴⁶⁰, such as learning costs, network effects, lack of financial and technical resources, cultural or religious

⁴⁵⁷ Douglas North argued that “ To put it bluntly, we may know a lot about politics, but not how to fix them.”w
Douglass C North, *Understanding the process of economic change* (Academic foundation, 2006) at 67.

⁴⁵⁸ Prado & Trebilcock, *supra* note 181.

⁴⁵⁹ *Ibid.*

⁴⁶⁰ *Ibid.*

beliefs and the status quo. The critical junctures ⁴⁶¹are defined by political science scholars as: “interaction effects between distinct casual sequences that become joined at particular point in time.” ⁴⁶²The importance of junctures lie in their ability to create paths that are difficult to change. This can explain the transitions to democracy in many countries.

How can reformers benefit from the path dependence theory to create better reform strategies?

According to the authors, in initiating major changes in an institution, reformers should consider some important recommendations that may help reduce undesired or unexpected results:⁴⁶³

1. Reformers can start by initiating changes in detached institutions⁴⁶⁴ , such as pilot projects or decentralized institutions, to avoid self- reinforcing mechanisms, such as institutional interconnections.

The advantage of this strategy is that it also avoids the switching costs, which includes participants who are unwilling to learn new techniques or to change their entrenched beliefs. It also helps in effectuating a cost-benefit analysis. Detached institutions are easily reversible, thus reducing the risk to their introduction and the cost of any social disruption in case of failure.

Nevertheless, overtime, these detached institutions will have to build interconnections with other institutions, which makes it essential to start initializing reforms with other interconnected institutions, to guarantee the success of the institutional reforms projects.

2. Targeting the judicial institution alone will not serve the targeted rule of law reforms.

The reason is that reformers ignore the interconnection between the judicial

⁴⁶¹ *Ibid.*

⁴⁶² Orfeo Fioretos, Tulia G Falleti & Adam Sheingate, “Historical Institutionalism in Political Science” (2016) Oxf Handb Hist Institutionalism, online: <<http://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199662814.001.0001/oxfordhb-9780199662814-e-1>>; Prado & Trebilcock, *supra* note 181.

⁴⁶³ *Ibid.*

⁴⁶⁴ *Ibid.*

institution with other institutions such as prosecutors, police and other correctional systems, which do not always constitute part of the judicial reforms.

3. It is important to incorporate reforms in interconnected and mutually reinforcing institutions in a time sensitive manner. Reforms have to be progressive rather than all encompassing. Priorities should be chosen according to the context of the country. There are no blue prints for the right sequence.
4. The sequencing of the reforms is important, as inceptive reforms can set paths that may be difficult to change due to self-reinforcing mechanisms.
5. The switching cost has to be taken into considerations to avoid unrealistic expectations. For example, the status quo problem can be resolved by strengthening the opposing political groups that can benefit from the reforms, to avoid the interest groups resistance to change.

The learning cost may hinder the reforms. This can be avoided by introducing state sponsored education programs to help employees adapt to the new reforms. Limited financial or human resources can be solved by requiring financial or expert assistance to apply the reforms.

6. Timing is important in introducing reforms. Political and economic crisis can provide an opportunity to introduce radical and encompassing reforms.

Therefore, when reformers understand the path dependence theories, and the problems they may create, they become conscious of the ways to overcome them, and can better select the sequencing process.

Using outsourcing in the private sector to fill the gap and reduce corruption

Corruption impairs the quality of service delivery in public institutions. According to Ronald Maclean-Abaroba: “Whenever I found problems in service delivery or the prompt completion of public works or the collection of revenues, they happened not just to be with

inefficient organization but almost always with corruption”.⁴⁶⁵ Corruption is an important reason for institution inefficiency.

The problem of corruption and inefficiency becomes more serious when civil servants are aware that they are the sole service providers and have discretionary power over the decision. This entails a situation of monopoly. After identifying the problem, the role of the reformers should be to find effective ways to break the cycle and increase competition, to improve the quality of the services provided. This does not necessitate finding the solution within the public sector without recourse to the private sector. To overcome this problem in the municipality of La Paz, specifically in the granting of construction permits, the mayor adopted a successful strategy to deal with the problem of corruption and inefficiency.⁴⁶⁶ First, he identified the problem that every minor change in construction required a permit from the Urban Development Department. Accordingly, he revised the regulations by omitting the unnecessary ones, and deregulating, simplifying, and publicizing procedures for the remaining regulations, to avoid citizen confusion.⁴⁶⁷ Publicizing the procedures implied breaking the monopoly of power civil servants had over the information. Thus, civil servants could no longer “sell” the information.

Maclean-Abaroba created a competitive environment in granting permits without adding extra costs to the municipality. The mayor found that there was a surplus of architects in La Paz, but delays in the granting of construction permits due to shortages of the civil servants responsible for providing this service.⁴⁶⁸ He adopted a strategy whereby he complemented the shortage in the department that was responsible for granting construction permits in the municipality, by the surplus of architects in the private sector. In this manner, he targeted three

⁴⁶⁵ Klitgaard, Maclean-Abaroba &Parris, *supra* note 202 at 32. Emphasis added

⁴⁶⁶ *Ibid* at 33.

⁴⁶⁷ *Ibid.*

⁴⁶⁸ *Ibid.*

problems: delays, inefficiency, and extra costs on the municipality. Hence he increased the competition and the competence of the service providers by reducing the bureaucracy.

This strategy needed important parameters to regulate it so that it would not turn into a new source of corruption. Temptations to engage in corrupt acts by those responsible for granting licenses from civil servants to private architects had to be controlled. According to Klittgard et al, "...It is crucial for fighting corruption to recognize that as temptation rises so do levels of corruption."⁴⁶⁹ The service, intended to be provided by the private sector, needed to be carefully regulated organized and structured to avoid any pitfalls. The mayor decided to seek the cooperation of the professional association of architects, by making it possible for them to grant construction permits, after complying with city norms and regulations.⁴⁷⁰ This required that the architects pass a certain test to make sure they complied with the city's rules and regulations for granting licenses. After this reform was initialized, the procedure for granting license was simplified, the delays were managed and the monopoly in this sector was broken. To complete the strategy, the mayor required some measures to be taken in case of violations of city rules and regulations, by the private architects, in granting licenses. Monitoring was the selected solution. He delegated a group of well paid urban development officials to choose a sample test to ensure that the rules and regulations were respected, and to take action in case of violations, along with the professional association of architects.

This experience implies that for reformers to introduce effective changes, especially when they are given limited financial resources, they can compensate those resources in one sector, by using the surplus in another. Outsourcing can be an important tool used to implement reforms while applying measures to control corruption in the private sector. Instead of complaining about shortages of financial and human resources, reformers should first exploit what they have.

⁴⁶⁹ Klitgaard, Maclean-Abaroba & Parris *supra* note 202 at 35.

⁴⁷⁰ *Ibid* at 34.

*Decreasing human interference and interaction as a means to decrease corruption i.e. .
automation of some public services*

Any corrupt deals always include two or more parties. However, the less the human interaction, the less the chances and opportunities to engage in corrupt acts. In an attempt to reduce corruption, especially in governmental services, some national governments decided to reduce human interference and interaction by introducing an automated system.

The experience of Seoul,⁴⁷¹ which was launched in 1999, and allowed to implement a number of anti-corruption measures as part of the system structure reform, is worth studying. A key for the success of this innovative system was the political will to fight corruption, manifested by the mayor. The system was called, “OPEN”, Online procedure Enhancement for civil applications.⁴⁷² The main aim of the system was to increase transparency as a measure to reduce corruption.

The OPEN system structure and goals:

The OPEN initiative covered 54 government services which were identified as mostly corrupt. The system reduced the direct interaction between government officials and the citizens. It enabled the citizens to access, online, the status of their application and the relevant departments treating their demand and to check delays. It required the officials to justify those delays to enhance the accountability measures, in order to fight corruption.

To attain its goal, the government identified four important objectives:

⁴⁷¹ Yong Hyo Cho & Byung-Dae Choi, “E-Government to Combat Corruption: The Case of Seoul Metropolitan Government” (2004) 27:10 Int J Public Adm 719.

⁴⁷² *Ibid.*

(1) to remove the factors causing corruption, (2) to punish the corrupt officials, (3) to enhance transparency in administrative process, and (4) to secure the citizen-government cooperation to drive out corruption.

To achieve its goal to monitor the success of measures taken, the government developed an index called Anti-Corruption Index or ACI. ACI allowed citizens to compare the levels of corruption in 25 districts and also the changes throughout the years in levels of corruption in these same districts.

To complement measures to fight corruption, the government adopted the Corruption Report Card (CRC) system. The aim of the CRC was to provide citizens who have undergone civil application service, with possibility of reporting any misbehavior or wrongdoing. The mayor reviewed those report cards personally and transferred cases for investigation, and when the misconduct was proven, officials were punished.

The system started by recruiting audit and technology experts, and training employees to use the new system. It is worth noting that one of the main reasons of the success of the system was the training provided to the employee, to avoid their resistance.⁴⁷³ The main characteristic of OPEN was its ability to prevent corruption by enhancing principles of transparency and not only punishing misconduct.

According to Cho and Choi, although the E-government experience requires high start-up costs, it saves a lot of time and reduces corruption.⁴⁷⁴ A problem with the computerized system is one of equity.⁴⁷⁵ People who do not have knowledge of technology will not be able to

⁴⁷³ Prado & Trebilcock, *supra* note 181.

⁴⁷⁴ Cho & Choi *supra* note, 471.

⁴⁷⁵ *Ibid*

access the services provided. One way to solve this problem, is to provide assistance to the people who lack computer skills in the already existing public internet rooms in the district offices.

Thus, it can be concluded that E-government can improve the quality of public services, and enhance principles of transparency, monitoring, and accountability, by providing accessible online services to the public. The system becomes even more efficient when supported with a built in evaluation system to track the progress and correct any system deficiency.

In addition to the importance of the quality of the public services offered by the national government as it shapes people's perception about the level of corruption in the country, and the government's commitment to providing timely and quality services to the public, it is also important to improve the quality of law enforcement institutions, to ensure that the rule of law is respected and to guarantee that problems and complaints of the people will be dealt with and decisions enforced. Sometimes the real problem does not lie in applying the law, but in its enforcement; lack of enforcement makes people less confident in the ability of law enforcement institutions to protect their legally acquired rights. The problem becomes more serious when people try to enforce the law and their rights through illegal channels, to compensate for the deficiency in law enforcement institutions. Thus, the question becomes, how to improve the quality of law enforcement.

Designing better enforcement mechanisms

Gary S Becker & George J Stigler explain that punishing enforcers who fail to follow through on their duties does not always improve the level of enforcement. Instead, law enforcement can be improved by raising the salaries of the enforcers to a level that is:

Inversely related to the probability of detection, and directly related to the size of the bribes and other benefits from malfeasance. A difference in salaries imposes a cost of dismissal equal to the present value of the difference between the future earnings stream

in enforcement and other occupations. This cost can more than offset the gain from malfeasance.⁴⁷⁶

Becker and Stigler explain that even when the probabilities of detection is low, enforcement can be enhanced without being forced to pay the enforcers' lifetime payments more than they can get elsewhere.

The appropriate pay structure has three components. The three-component formula treats enforcers as investors who post a bond equal to the temptation of malfeasance, where they receive the income on the bond as long as they are employed, and have the bond returned if they consistently demonstrate ethical practices until retirement.

The aim of increasing salaries and applying the suggested strategy is not to attract better enforcers, but to impose a cost on the violation of trust. Hence, to improve the quality of the services provided by the law enforcement institutions, and to ensure a better enforcement and respect of the rule of law, it is important to tie the salaries of enforcers to their professional integrity.

The presence of women in various institutions does not only serve to enhance principles of equality but also improves the quality of those institutions by decreasing corruption. Some studies have shown that hiring more women can contribute to reducing corruption because, statistically speaking, women are far less likely to engage in corruption than are men due to some special traits in their personality.

Increasing the participation of women as a means of curbing institutional corruption

⁴⁷⁶ Gary S Becker & George J Stigler, "Law Enforcement, Malfeasance, and Compensation of Enforcers" (1974) 3:1 J Leg Stud 1 at 6.

Many countries have tried to increase female participation and empowerment on the basis of equality. The trend continues and even expands. However, researchers have found yet another important reason to encourage female participation. Recent studies have shown that a greater female representation results in less corruption. Researchers used micro-data and showed that women are less likely to accept bribes and to engage in bribery deals.⁴⁷⁷ They used cross-country data and showed that the rate of corruption decreases where women hold a greater share of parliamentary positions, ministerial duties, and high bureaucratic decision-making roles, and when they represent a larger percentage of the labor force.⁴⁷⁸

A cross-section study of 100 countries concluded that the greater the representation of women in parliament and government, the lower the level of corruption in that country. To measure the relationship between the representation of women in the government and corruption levels, researchers used various indexes. German Exporter Corruption Index (GCI), the World's Competitiveness Report Corruption Index (WCRCI) and the International Country Risk Guide's Corruption Index (CORRUPT) were used to measure corruption. Results showed that the participation of women in the government had a negative effect on the level of corruption.⁴⁷⁹

In an attempt to reduce corruption, Mexico followed the example of Peru⁴⁸⁰ by eliminating the authority of male police officers to issue tickets, and filled this role with female officers exclusively.⁴⁸¹

⁴⁷⁷ David Dollar, Raymond Fisman & Roberta Gatti, "Are women really the 'fairer' sex? Corruption and women in government" (2001) 46:4 J Econ Behav Organ 423.

⁴⁷⁸ Anand Swamy et al, "Gender and corruption" (2001) 64:1 J Dev Econ 25.

⁴⁷⁹ David Dollar, Raymond Fisman & Roberta Gatti, *Supra* note 477.

⁴⁸⁰ Simeon Tegel, "Peru's secret weapon against cop corruption: Policewomen | Public Radio International", *Glob Post* (7 June 2014), online: <<https://www.pri.org/stories/2014-06-07/peru-s-secret-weapon-against-cop-corruption-policewomen>>.

⁴⁸¹ Carrie Kahn, "Mexican State's Anti-Corruption Plan: Hire Female Traffic Cops", *NPR.org* (28 September 2013), online: <<https://www.npr.org/2013/09/28/226903227/mexican-state-s-anti-corruption-plan-hire-women-traffic-cops>>.

Hence, within the framework of institutional reform strategies to fight corruption, policymakers can work on increasing female participation to simultaneously enhance principles of gender equality and to fight corruption.

C.5- Creating a Culture of Ethics

Compliance programs and codes of conduct gain more importance and popularity among policy makers when introducing institutional reforms. Designing effective compliance programs is one of the effective tools of curbing corruption. However, such compliance programs should not merely serve as “window dressing”. They should not only aim to create a new set of rules and regulations to decrease the discretionary power of the public officials, but should also aim to enhance ethical behavior.

According to Osborne & Gabler :

Efforts to control what went on inside government, -to keep the politicians and bureaucrats from doing anything that might endanger the public interest or purse, [may have] cleaned up many of our governments, but in solving one set of problem of problems, it created another. In making it difficult to steal the public money, we made it virtually impossible to *manage* the public’s money ...In attempting to control virtually everything, we became so obsessed with dictating *how* things should be done that we ignored the outcomes, the results.⁴⁸²

The presence of codes of conducts, compliance rules, and mandatory training programs does not guarantee the creation of an ethical environment. It is more important to create an ethical culture, rather than a culture of compliance.

According to a survey conducted in 2005, the lack of proper ethical training was not the main reason for engaging in unethical conduct. Instead, it was ranked as the fifth reason.

⁴⁸² David Osborne & Ted Gaebler, *Reinventing government: how the entrepreneurial spirit is transforming the public sector* (Reading, Mass.: Addison-Wesley Pub. Co., 1992) at 14.

The four others were respectively as follows: the pressure to meet unrealistic goals, the desire for career promotion, the fear of job loss and working in a poorly enhanced ethical environment.⁴⁸³ Research has shown that a values-orientated culture provides better results than the best training techniques.⁴⁸⁴ This survey shows that the focus should not be to provide ethical training programs. Instead, it should be to train leaders to set realistic goals if they aim to create an ethical culture. They should align their ethical training programs with their requirements, in terms of goals setting. Shifting from a compliance based culture to a value oriented one requires a different mindset.⁴⁸⁵ Normally, public servants take ethics on a rules-based context and tend to look for compliance as a substitute for ethics. This mindset needs to be adapted.⁴⁸⁶

It is also crucial to design special ethics training programs according to the needs of different employees or civil servants. Ethics training programs should be carefully designed and should not be general. Mayer explains that in order to ensure the effectiveness of the training programs, they should be designed to satisfy the specific needs of each group.⁴⁸⁷ For example, ethical leadership programs should clearly define the meaning of an “ethical leader”. For employees, those programs should stress the importance of their role in

⁴⁸³ American Management Association, *The Ethical Enterprise: A global study of business ethics 2005-2015* (New York, 2015).

⁴⁸⁴ Liisa Myyry & Klaus Helkama, “The Role of Value Priorities and Professional Ethics Training in Moral Sensitivity” (2002) 31:1 *J Moral Educ*, online:
<<https://www.tandfonline.com/doi/abs/10.1080/03057240120111427>>.

⁴⁸⁵ Lager, *supra* note 113.

⁴⁸⁶ *Ibid.*

⁴⁸⁷ David M Mayer et al, “Encouraging employees to report unethical conduct internally: It takes a village” (2013) 121:1 *Organ Behav Hum Decis Process* 89.

supporting each other to maintain an ethical environment that matches the organizational culture.⁴⁸⁸

Ethical decision-making can be learned. According to Lager, training employees to take ethical decisions is very important in setting a value based organizational culture.⁴⁸⁹ Governmental institutions should always demonstrate that ethics are not merely window dressing to satisfy authorities, but a valuable attribute that is highly appreciated and duly rewarded. This can be achieved by rewarding employees who succeeded in overcoming ethical financial and moral challenges.⁴⁹⁰

It is important to demonstrate that not only violations will be punished but that integrity and morality will be rewarded. This should encourage employees to strive to behave ethically, and would also demonstrate to the general public that an integrity based culture can prevail. Programs like “Integrity Idols ” introduced by the integrity lab in Liberia, Nigeria and South Africa should be encouraged since they also encourage public participation in choosing the public servants who will be recognized; this helps restore the trust of the people in the public institutions and the general attitude towards public servants .

The difficulties that arise when making ethical decisions:

The real problem is that people will not always find it easy to make ethical decisions. According to Darley, people are not constantly ethical. Whether people will act ethically or not depends on, “Whether events in the past or the present trigger the reasoning system to generate a checking ethical perspective on courses of action that are generated from other

⁴⁸⁸ *Ibid.*

⁴⁸⁹ Lager, supra note 113.

⁴⁹⁰ *Ibid.*

more intuitive perspective.”⁴⁹¹ Therefore, if this reasoning system is not triggered, people will tend to make unethical decisions, especially when they are under pressure to make quick decisions.

Darley explains that initial corrupt decisions create a slippery slope.⁴⁹² For example, companies are required to keep a steady increase in quarterly profits. When the CEO of one such company allowed quarterly sales to be reported as revenues for previous quarters, employees forged signatures that they predicted customers would buy in the following quarter, in an attempt to adhere to the required steady increase, and to compensate for sales that were supposed to count in the present quarter, but were deducted from the previous quarter.⁴⁹³ Therefore, compliance based training should be substituted by ethical decision making programs to avoid such slippery slope problems.⁴⁹⁴

It is important to design training programs to help employees learn to make ethical decisions. Governmental institutions should not only focus on having codes of ethics and compliance programs, but should also train their employees in the skill of problem solving and of making ethically sound decisions. It is not only important to require public servants to act with integrity, but also, to train them in the way of reasoning, and to explain to them the psychological and sometimes even social pressures (i.e., family ties) they might face and how to overcome them. Programs to reward ethical behavior should be integrated to encourage public servants to understand that their decision will be appreciated not only by their superiors, but also by the general public.

⁴⁹¹ John M Darley, “Cognitive and social psychology of contagious organizational corruption, the” (2004) 70 Brook Rev 1177.

⁴⁹² *Ibid.*

⁴⁹³ *Ibid.*

⁴⁹⁴ *Ibid.*

C.6- The Role of the Media in Curbing Corruption

Media, in general, and social media in particular, play an important role in curbing corruption. In an era where information is easily and quickly disseminated, the media can be one of the most powerful tools to control corruption. Ayittey finds that one of the most important requirements for a successful anti-corruption reform program is free press.⁴⁹⁵

Media has the power to expose information and facts which render people more vigilant in their acts, and more cautious when calculating the cost and benefits of these actions. In the absence of free press, corruption becomes less costly and less likely to be revealed. Such conditions are more conducive to a corrupt environment. Brunetti and Wedder explained that there is a significant negative relationship between corruption and free press.⁴⁹⁶

A number of cross sectional studies have identified the effect of the media in curbing corruption. Lederman et al conducted a study where they statistically evaluated the CPI. They concluded that free press is an important factor in lowering corruption rates.⁴⁹⁷ Therefore, the role of the media in fighting corruption must be upheld as an important tool in a national strategy to fight corruption. The types of journalism that help expose corruption, such as investigative journalism, should be encouraged.

Finding and designing anti-corruption solutions is an important step towards designing a successful anti-corruption strategy. However, after applying the solutions, policy

⁴⁹⁵ George B N Ayittey, "Combating Corruption in Africa: Analysis and Context" in Kempe Ronald Hope & Bornwell C Chikulo, eds, *Corrupt Dev Afr Lessons Ctry Case Stud* (London: Palgrave Macmillan UK, 2000) 104 at 116.

⁴⁹⁶ Aymo Brunetti & Beatrice Weder, "A free press is bad news for corruption" (2003) 87:7 *J Public Econ* 1801.

⁴⁹⁷ Daniel Lederman, Norman Loayza & Soares Rodrigo, *Accountability and Corruption: Political Institutions Matter*, Policy Research Working Papers (The World Bank, 2001).

makers should reevaluate how successful and effective those measures have been in attaining the desired goals and in curbing corruption. It is important to evaluate the performance according to pre-set and agreed upon measures. In the next section, the different tools to measure corruption will be studied.

D- Measuring Corruption: The importance of Performance Evaluation to Track Progress

In spite of the secretive nature of corruption and the difficulty to gather enough information about it, we cannot deny the importance of measuring this phenomenon. If we are unable to measure corruption in a given country, we cannot change it because, as simple as it may seem, we cannot change what we do not know.

Kaufman, Kray, and Mastruzzi emphasized the importance of measuring corruption as a starting point in fighting it and measuring progress. They explained that one common myth is that, “corruption cannot be measured”.⁴⁹⁸ They argued that: “Progress in fighting corruption on all fronts requires a measurement of the corruption itself, in order to diagnose problems and monitor results.” Therefore, an important step in fighting corruption is to measure it in order to evaluate the effectiveness of different strategies. They explained that despite the common myth that “ Corruption cannot be measured”, corruption proved to be possibly measured using three main strategies :

- (1) By gathering the informed views of relevant stakeholders,”
- (2) “By tracking countries institutional features ” (although this does not directly measure corruption, it gives some idea about existent corruption opportunities and incentives),
- (3) “By careful

⁴⁹⁸ Daniel Kaufmann, Aart Kraay & Massimo Mastruzzi, “Measuring Corruption: Myths and Realities” (2007) Glob Corrupt Rep 2007 Glob Corrupt Rep 2007 Transpar Int ISBN 9780521700702 318.

audits of specific products, either purely financial audits, or more detailed comparisons of some spending with the physical output of projects.⁴⁹⁹

Corruption, sustainability, among other variables in social sciences, cannot be measured in absolutes. Thus, perceptions must be relied upon. Although those measures are known not to be 100% accurate, they can be useful in putting pressure on countries to improve their performance on the national and international levels. On the national level, raising public awareness about the degree of corruption in their country helps activists and pressure groups to require the government to improve their performance in this regard. On the international level, this helps the international world put pressure on countries that appear to have high levels of corruption, to improve their performance, if they want to attract more aids, or if they seek to attract more direct foreign investments. Kaufmann et al explain that due to the covert nature of corruption, it is in the interest of the parties involved to hide all evidence of their corrupt behavior. Therefore, in the absence of documentation, individual responses about their personal experiences become an important and sometimes the only resource available to measure corruption.⁵⁰⁰ Despite the numerous attempts to make survey questions more clear, concise, and specific, one cannot expect that the results, and accordingly, the measures will be 100% accurate. However, they remain an important source of information.

Given the undercover nature of corruption, the perception of the people may be the only available measure for corruption. This does not undermine its importance as a means to measure corruption, because perception of the people has proven to be an important catalyst in a variety of ways. A number of organizations were interested in measuring corruption to promote research and to encourage the cross-national statistical work on the causes and consequences of corruption. The measures do not only predict many developmental and

⁴⁹⁹ *Ibid* at 319–320.

⁵⁰⁰ Daniel Kaufmann, Aart Kraay & Massimo Mastruzzi, *Governance matters V: aggregate and individual governance indicators for 1996-2005* (Washington, D.C.: World Bank, Development Research Group, Macroeconomics and Growth Team, and the World Bank Institute, 2006).

economic outcomes but also, changes in measures result in changes in the degree of happiness and wellbeing.

In the following section the research will present some important measures of corruption, which use single sources or composite indexes to measure corruption.

Business International

It measures corruption as, “the degree to which business transactions involve corruption or questionable payments” was used by Mauro in his popular article, “Corruption and Growth”⁵⁰¹ wherein he concluded that corruption reduces private investment and negatively affects growth. However, when using the Business International index, one should be aware that it specifically measures the degree of corruption in business transactions. Therefore, the results cannot be generalized to draw conclusions about the level of bureaucratic corruption in general.

The International Country Risk Guide (ICRG):

The Political Risk Services group designed the ICRG in the 1980s using 22 variables in more than 140 countries to measure three kinds of risks: financial, economic, political risks. The data provided are updated monthly and used by the World’s Development Banks, multinational firms, non governmental institutions, and private equity groups to determine how the assessed risks can affect their business in the countries they deal with.

The Global Competitiveness Report index (GCR):

⁵⁰¹ Mauro, supra note 256.

The GCR was designed by the Harvard institute for International development and was produced by the World Economic Forum. It uses a survey that targets business executives and asks them to evaluate a number of aspects of national competitiveness in the countries where they invest. The GCR is calculated using the average that a particular country scored from all the respondents. The way GCR measures corruption in a particular country is based on the extent to which irregular and additional payment prevails in the public sphere. Ades and DiTella used the GCR and concluded that lower levels of corruption were related to trade openness and increased levels of competition.⁵⁰²

The Worldwide Governance indicators (WGI) :

The Worldwide Governance Indicator, is a long-term research program of the World Bank that started in 1996. It defines governance as, “ the set of traditions and institutions by which authority in a country is exercised . This includes: (1) the process by which the governments are selected, monitored and replaced, (2) the capacity of the government to effectively formulate and implement sound policies, and (3) the respect of citizens and the state for the institutions that govern economic and social interactions among them.⁵⁰³

It uses surveys from 30 sources and covers over 200 countries to measure 6 dimensions. The surveys cover the governance perception of different firms, households, commercial businesses, non governmental organizations, multilateral organizations, and public sector bodies. The surveys were used to produce 6 composite indicators:⁵⁰⁴

⁵⁰² Alberto F Ades et al, Competition and corruption (Oxford: Institute of Economics and Statistics, University of Oxford, 1995).

⁵⁰³ “Worldwide Governance Indicators | DataBank”, online:

<<http://databank.worldbank.org/data/reports.aspx?source=Worldwide-Governance-Indicators>>.

⁵⁰⁴ Daniel Kaufmann, Aart Kraay & Massimo Mastruzzi, “The Worldwide Governance Indicators: Methodology and Analytical Issues” (2011) 3:02 Hague J Rule Law 220.

- (a) Voice and Accountability
- (b) Political stability and Absence of Violence
- (c) Government effectiveness
- (d) Regulatory quality
- (e) Rule of Law
- (f) Control of corruption

These six composite indicators are not measured independently but are positively correlated across countries.⁵⁰⁵

Governance indicators are constantly updated to reduce the margin of error. The WGI is used to produce cross-country comparisons and to evaluate overtime changes in governance over time. This tool is used by policy makers and reformers to design and initiate anti-corruption policies.

Ibrahim Index of African Governance:

The Mo Ibrahim foundation (MIF) was launched in 2000. It provides an assessment of the quality of governance, and the overall governance performance in each of the 54 countries in the African continent. The MIF defines governance as, “the provision of the political, social and economic public goods and services that every citizen has the right to expect from their state, and that a state has the responsibility to deliver to its citizens”.⁵⁰⁶

It consists of 100 indicators divided into four categories:

Safety and Rule of Law

Participation and human rights

⁵⁰⁵ *Ibid.*

⁵⁰⁶ Mo Ibrahim Foundation, “Ibrahim Index of African Governance (IIAG) Data Portal”, online: <<http://iiag.online>>.

Sustainable economic opportunity, and

Human development

It is a composite index that uses four types of data: qualitative assessment, opinion survey, official data and public attitude surveys from 36 sources.

C-Transparency International (TI)

TI was established in Berlin 1993. It is a non-profit, non-governmental institution devoted to combatting corruption. It defines corruption as, “ the abuse of public office for private gain”.⁵⁰⁷ The corruption perception Index is an important measure developed by Transparency International. Its data sources come from internal public perceptions like surveys of business people and expert assessments, as well as external sources of different types.

It does not measure corruption in general, it measures administrative and political corruption. It is a composite index that uses different indicators based on a combination of assessments and surveys collected by well-known institutions to measure the perceived levels of public sector corruption worldwide⁵⁰⁸. It formed an Index Advisory Committee (IAC) in 1996, to evaluate and advise on its global measurement tools and to suggest ways to improve the used methodology to measure corruption. The committee consisted of economists, statisticians, and political and social scientists.

⁵⁰⁷ Transparency International, “Transparency International - What is Corruption?”, online: What Corrupt <<https://www.transparency.org/what-is-corruption>>.

⁵⁰⁸ Transparency International, “How corrupt is your country?”, online: Corrupt Percept Index 2014 Detail <<http://www.transparency.org/cpi2014/infographic>>.

The 12 data sources used to construct the Corruption Perceptions Index 2014 were: ⁵⁰⁹

African Development Bank Governance Ratings 2013

Bertelsmann Foundation Sustainable Governance Indicators 2014

Bertelsmann Foundation Transformation Index 2014

Economist Intelligence Unit Country Risk Ratings 2014

Freedom House Nations in Transit 2013

Global Insight Country Risk Ratings 2014

IMD World Competitiveness Yearbook 2014

Political and Economic Risk Consultancy Asian Intelligence 2014

Political Risk Services International Country Risk Guide 2014

World Bank - Country Policy and Institutional Assessment 2013

World Economic Forum Executive Opinion Survey (EOS) 2014

World Justice Project Rule of Law Index 2014

While it is preferable to have an absolute measure of corruption, the CPI is widely used and sufficiently reliable, although, for many reasons, it only measures perception.⁵¹⁰ First, The illegal nature and secrecy of corruption makes it impossible to have accurate empirical numbers. It is not expected to reflect accurate data about corruption in any country. The number of prosecuted cases of corruption in a given country cannot be used as a definitive measure of corruption because it only reflects the effectiveness of measures used by the media, prosecutors and courts to expose corruption.

⁵⁰⁹ *Ibid.*

⁵¹⁰ *Ibid.*

Second, Some evidence shows that the perception of corruption reflects actual levels.⁵¹¹ Third, Transparency International constantly reviews its methodology to seek more accuracy. Therefore, while it was impossible to compare the scores of a country from one year to another, since 2012 Transparency International has introduced important updates to its method, and it is now possible to compare these scores throughout the year.

Fourth, Transparency International CPI measures rely on multiple sources of surveys and assessments from foreign experts, foreign businesspeople, local citizens, foreign residents in a country which provides a kind of diversity and balance, and gives more trustworthiness to the methods.⁵¹² This diversity widens its scope to provide information and measures of corruption on the domestic and international level. This makes it possible to compare the corruption scores from one year to another and to compare them to the scores of other countries.

Fifth, Lamsdorff also explains that the data correlate well, and allegations that Transparency International seeks to provide self-reinforcing data by encouraging respondents to give bad scores if TI does, for example, were unfounded, based on statistical examination.⁵¹³

Sixth, the CPI was used in a number of important researches. Robertson and Watson⁵¹⁴ as well as Habib and Zurawicki⁵¹⁵ who used the CPI to assess the relationship between the FDI

⁵¹¹ Damaris Canache & Michael E Allison, "Perceptions of Political Corruption in Latin American Democracies" (2005) 47:3 Lat Am Polit Soc 91 at 91–111.

⁵¹² Johann Graf Lambsdorff, "Ten years of the CPI: Determining trends", in Transparency International, Global corruption report 2006 (London; Ann Arbor, MI: Pluto Press/Transparency International, 2006) at 6.

⁵¹³ *ibid*

⁵¹⁴ Christopher J Robertson & Andrew Watson, "Corruption and Change: The Impact of Foreign Direct Investment" (2004) 25:4 Strateg Manag J 385 at 385–396.

⁵¹⁵ Mohsin Habib & Leon Zurawicki, "Corruption and Foreign Direct Investment" (2002) 33:2 J Int Bus Stud 291 at 291–308.

and corruption. It was also used by Hisamatsu to measure the relation between foreign demand and corruption.⁵¹⁶

Seventh, according to Lambsdorff, the validity of the method is tested since it uses multiple surveys in a given country and all sources rely on a unified definition of corruption, which is the “abuse of public power for private benefit”. Furthermore, all sources measure the ‘extent of corruption’ which reflects the amount of the bribes paid and its frequency.⁵¹⁷

Other measures developed by TI:

Since CPI is not a comprehensive measure of corruption, Transparency International complemented it with a number of indexes like the Global Corruption Barometer (GCB) which is a public opinion survey that measures perceptions of the people and experiences of corruption in their daily lives.

The Bribe Payer Index (BPI) assesses the supply side of corruption in international business transactions. It ranks leading exporting and wealthiest countries, according to the likelihood of their enterprises to bribe foreign officials when doing business abroad.⁵¹⁸

The Global Corruption Report (GCR) undertakes detailed studies of corruption based on certain themes or sectors to provide reports on research matters.⁵¹⁹

⁵¹⁶ Y Hisamatsu, “Does foreign demand affect corruption?” (2003) 10:1 Appl Econ Lett 1 at 1–2.

⁵¹⁷ Lambsdorff, *Supra note 512* at 6.

⁵¹⁸ Transparency International, “Bribe Payers Index”, online:
<<https://www.transparency.org/research/bpi/overview>>.

⁵¹⁹ Transparency International, *supra note 501*.

The National Integrity System assessment (NIS) helps assess the performance of key institutions that are responsible for ensuring good governance and the prevention of corruption. It assesses both their internal corruption risks and their contributions to fighting corruption in general.⁵²⁰

Studies show that corruption is an important governance problem, and that there is a malfunction in the management of the state.⁵²¹ The aim of this assessment is to put civic pressure, and to direct political will to take important reform initiatives.⁵²²

This variety of complementing measures that the TI provides to measure corruption, together with the homogeneous definition it uses for all its sources when measuring corruption, makes it a reliable and widely used measure of corruption. It constantly reviews its methodology of assessment and continuously becomes sounder. This is proven by the increased number of surveys conducted and reports filed in each country. Although this does not ensure 100% accuracy, it does play a significant role in providing information about the performance of the country, which can create a kind of pressure by the civil society to introduce reforms, by comparing different countries performance and their improved scores. Moreover, countries can benefit from each others experiences and the policies adopted to implement them according to the country's own context. The interdisciplinary approach it adopts in assessing and measuring corruption gives a more global idea and overview of how corruption is perceived by different sectors in a society.

⁵²⁰ Transparency International, "National integrity system assessments", online:
<<https://www.transparency.org/whatwedo/nis>>.

⁵²¹ Alberto Ades & Rafael Di Tella, "The Causes and Consequences of Corruption: A Review of Recent Empirical Contributions" (1996) 27:2 IDS Bull 6.

⁵²² Transparency International, supra note 508.

An assessment of the corruption measures:

There exists no agreed upon definition of corruption, which makes it difficult to create a common measure. Additionally, the illegal nature of corruption makes it impossible to have an objective measure of corruption. However, corruption perception helps in measuring corruption and monitoring the success of reforms programs.

Even if the perception of corruption depends on subjective measures, there still exists a correlation between the indices.⁵²³ For instance, Lambsdorf argues that the correlation between BI and GCR is 0.77 and the correlation between BI and TI is 0.88. This high similarity between the different indices that rely on different surveys proves that the statistical results on the causes and consequences of corruption do not depend on the choice of corruption index. He further argues that the data collected through surveys in TI of different indices correlates well together. It was statistically proven that the CPI is not self-reinforcing, in the sense that the bad scores do not encourage respondents to give similar bad ratings.⁵²⁴ Moreover, the fact that (TI) diversifies the sources of its surveys, (it relies on locals and foreigners) and collects data from a variety of organizations, protects its results from many possible biases. Lambsdorff argues that, "...It seems that residents tend to have a consistent ethical standard with regard to assessments of corruption, while expatriates do not tend to impose an inappropriate ethical standard or to lack cultural insights. Our approach clearly suggests that the perceptions gathered are a helpful contribution to the understanding of real

⁵²³ Naved Ahmad & Daniyal Aziz, "Corruption Perception Indices: A Comparative Analysis" 40:4 Pak Inst Dev Econ at 813–830.

⁵²⁴ Johann Graf Lambsdorff " the validity and precisions of subjective indicators CPI, in Arthur Shacklock & Fredrik Galtung, *Measuring Corruption* (Routledge, 2016).

levels of corruption.”⁵²⁵Therefore, he concludes that despite the subjectivity of the measures, they tend to give a strong reflection of the actual levels of corruption.⁵²⁶

According to Lamsdorff, the CPI method of measuring corruption is well tested. He states that “ the validity of the sources is mutually confirmed and no hint is found for the existence of a bias in our data.”⁵²⁷ Moreover, according to the Political Risk Services Country Reports (PRS group) report in 2012, the CPI is 0.91 correlated with the International Country Risk Guide (ICRG).⁵²⁸

Dilyan et al. use the International Crime Victimization Survey to prove that corruption perception is not a good predictor of the real corruption experience.⁵²⁹ They also argue that corruption indices may be affected by the attitudes of the respondents, and that measuring corruption experiences necessitates more objective measures of corruption.⁵³⁰ However, they argue that this does not undermine the importance of corruption perception measures, even if they do not reflect the actual corruption experience. That is because corruption perception measures give an idea of the determinants of corruption and the political trust.⁵³¹

⁵²⁵ *Ibid* at 87.

⁵²⁶ *ibid*

⁵²⁷ *ibid*

⁵²⁸ The PRS Group, “Challenging Borders , Challenging Risk”, online: PRS Group <<https://www.prsgroup.com/>>.

⁵²⁹ Dilyan Donchev & Gergely Ujhelyi, What Do Corruption Indices Measure?, SSRN Scholarly Paper ID 1124066 (Rochester, NY: Social Science Research Network, 2009).

⁵³⁰ *Ibid*.

⁵³¹ *Ibid*.

Bo Rothstein and Jan Teorell developed a new measure of corruption called Impartiality.⁵³² “Impartiality” measures the quality of government based on the impartiality of institutions that exercise public authority. One of the main driving forces in developing this measure is their dissatisfaction with some existing measures of corruption like the CPI. However, the measure of impartiality showed a correlation of over 0.866 with CPI and of 0.874 with WGI control of corruption indicator.⁵³³

Finally, due to the difficulty of collecting actual measures of corruption, measuring corruption perception is a useful step in contributing to the methods of measuring corruption. Moreover, the constant update and review of the methodologies used to gather data and conduct surveys by different organizations such as Transparency International gives more reliability and trust to the results. For example, until 2012, the CPI did not allow its users to compare the countries rankings throughout the years, but it has since updated its methodology and it is now possible to compare countries rankings throughout the years. Moreover, with the use of internet and globalization measures, especially those generated by Transparency International, gained much popularity. This may be due to the existence of over 100 chapters in different countries to raise public awareness of their countries performance with regard to corruption. Accordingly, the civil society and the media can use this published information to put more pressure on the leaders of the country to fight against corruption. In the absence of such measures of corruption, corruption remains hidden and governments are not urged to react. Therefore, these measures can be a powerful tool to fight against corruption.⁵³⁴

⁵³² Jan Teorell & Bo Rothstein, “What is Quality of Government: A Theory of Impartial Institutions” (2009) 21:2 *Gov Int J Policy Adm Inst*, online: <<https://papers.ssrn.com/abstract=1328817>>.

⁵³³ Michael Johnston, “The Great Danes: Success and Subtleties of Corruption Control in Denmark” in Jon S T Quah, ed, *Differ Paths Curbing Corrupt Lessons Den Finl Hong Kong N Z Singap* (Emerald Group Publishing, 2013).

⁵³⁴http://www.transparency.org/files/content/pressrelease/2012_CPIUpdatedMethodology_EMBARGO_EN.pdf

Although, CPI measures corruption in a given country and compares its ranking to other countries, it does not provide surveys on perceptions about the possible causes of corruption or about the possible strategies to fight against it. Measuring corruption is an eye opener on the intensity of corruption and opens possible channels of discussion. However, it remains an important tool in assessing the level of corruption in the country. Moreover, measuring perceptions has proven to have many economical and development outcomes, and has been the driving force of many revolutions, as is the case in Tunisia, Egypt and Thailand.

Measuring corruption as an indicator of the level of wellbeing and happiness of the citizens of a country:

The importance of the perception of the people about the level of corruption in a country is not limited to economical or development outcomes. Research has shown that corruption and changes in its levels determine the degree of wellbeing and happiness of the citizens of that country.

A study conducted by Benjamin et al. showed the effects of corruption on the wellbeing of citizens. The data gathered from 136 different respondents studied wellbeing from a psychological, political and economic perspective. They asked respondents about their commutation among different pairs of those attributes. Among all the policy choices, respondents viewed “freedom from corruption, injustice, and abuse of power in one’s country.” as the most important contributor of personal wellbeing.”⁵³⁵

⁵³⁵ Daniel J Benjamin et al, “Beyond Happiness and Satisfaction: Toward Well-Being Indices Based on Stated Preference” (2014) 104:9 Am Econ Rev 2698 at 2715.

Changes in governance levels and their effect on the degree of happiness of citizens:

Another research conducted by Heliwell et al in the World Happiness report showed the relation between changes in governance levels and its effects on the degree of happiness. Using data from the Gallup World Poll, the researchers gathered data on 157 countries from 2005-2012. “ the Gallup World Poll life evaluation asked respondents to think of their lives as a ladder, with the worst possible life for them as 0, and the best possible life for them as 10.” To measure the quality of government over time, researchers used the Worldwide Governance Report measures developed by the World Bank. The aim of the research was to study the effect of changes in the level of happiness in relation to changes in the level of governance, assuming that all other factors were equal. The research concluded that the better the country scored in its effective measures of governance, the higher the level of satisfaction with life in general.

Heliwell et al. explain that:

The new results show not just that people are more satisfied with their lives in countries with better governance quality, but also that actual changes in governance quality since 2005 have led to large changes in the quality of life. For example, the ten-most improved countries in terms of delivery of quality changes between 2005 and 2012, when compared to the ten countries with most worsened delivery quality, are estimated to have thereby increased average life evaluations by as much as would be produced by a 40% increase in per capita incomes.

This provides much stronger evidence that governance quality can be changed, and that these changes have much larger effects than those flowing simply through a more productive economy.⁵³⁶

Therefore, measuring corruption is important to evaluate the different policy reforms, and to track progress. It is also important to take corrective measures at early stages as this also helps governments to set their priorities based on reforms evaluation results. Moreover, when the

⁵³⁶ John F Helliwell et al, Empirical Linkages between Good Government and National Well-being, Working Paper 20686 (National Bureau of Economic Research, 2014) at abstract.

general public is involved in the evaluation of the policy reforms, they have more confidence in the government's commitment to fight against corruption, which improves general wellbeing, as proven by Helliwell findings. It also restores trust in the government's ability to better execute its role effectively. When government reports on improvements in governance are supported by measurable criteria, they are more trusted.

The next question to arise is: can countries with high corruption levels improve both their governance levels and scores on measures of corruption?

There is a perception that once corruption becomes embedded in a society, it becomes almost impossible to control. Sandgren argues that this is not true.⁵³⁷ The evidence is in the success stories of England, and the U.S. dating back to the nineteenth century, and in recent years in Singapore, Hong Kong, and South Korea, which inspire hope in many countries.⁵³⁸ Furthermore, many countries are trying to get over the corruption problem in order to qualify to join the European Union.⁵³⁹ Therefore, success stories are not only a thing of the past, and reforms have helped to manage corruption, even if they do not fully meet expectations or plans. Success stories testify to the fact that corruption can be controlled through the implementation of comprehensive reforms strategies.

In the next chapter, -chapter three- the research will study successful international attempts to fight corruption. It studies successful and improved countries' experiences to fight corruption. The research also studies successful policy measures in some governmental sectors to curb corruption in some countries. Following this in-depth study,

⁵³⁷ Sandgren, *supra* note 120.

⁵³⁸ *Ibid.*

⁵³⁹ *Ibid.*

the research answers its main question: How can Egypt's legislative governance benefit from an interdisciplinary inventory of anti-corruption remedies? The research further issues recommendations according to Egypt's particular context to achieve a better implementation of the future national anti-corruption strategies.

Chapter 3:

Successful International Attempts to Fight Corruption: Lessons to Learn

A. Recognized Case Studies

Studying successful countries experiences in fighting corruption help to overcome cynicism by proving that corruption can be cured. In chapter three the research studies two types of countries experiences: the success stories of Hong Kong and Singapore and the in-progress countries experiences of countries like Colombia, Georgia and Philippines.

A.1- Success Stories

Both Hong Kong and Singapore represent developing world success stories in fighting corruption. Corruption was embedded in these societies to the point that a culture of corruption was widespread. In addition, institutional corruption was also an important challenge.

For many reformists, corruption in Hong Kong and Singapore was almost impossible to control, as it was completely embedded in the society, thus creating a whole culture of corruption.

A.1.a- Hong Kong Success Story:

Since Hong Kong is a remarkable success story, this research presents a detailed account of the process through which it achieved this success.

Klitgaard explains that: “ Many people believed that corruption was deeply ingrained in Hong Kong Chinese culture. Some drew fatalistic conclusions, saying that efforts to reduce corruption would be futile.”⁵⁴⁰ Today Hong Kong has become a model to follow.

High corruption level in the police department

One of the challenging issues faced by Hong Kong in its fight against corruption is that its police force was highly corrupt and was involved in many illegal activities such as drug trafficking, gambling, prostitution, and intentionally accepting traffic violations.⁵⁴¹ The police force in Hong Kong imposed bribes to disregard such violations. Klitgaard illustrates an example of such corrupt deals between the police and the violators saying that: “ Approximately HK \$10,000 a day was paid to the police officers in return for their silence or advance warnings of raids planned by higher echelons.”⁵⁴² Therefore, corruption was highly disseminated in the police sector, and all violations had a price tag to be disregarded.

Following some police scandals and the unveiling of corrupt deals with the gambling syndicates in 1897, harsher laws and regulations were passed and the criminal law continued to impose higher sanctions and wider privileges to detect and punish corruption.⁵⁴³ The big challenge was that the police force, which was corrupt, was conferred the mission to fight corruption through its Anti-corruption Branch (ACB). According to a police report in 1961, the ACB was ineffective for many reasons. First, it was corrupt itself. Second, it was not easy

⁵⁴⁰ Klitgaard, *supra* note 294 at 103.

⁵⁴¹ *Ibid* at 98–99.

⁵⁴² *Ibid* at 99.

⁵⁴³ *Ibid* at 98–99.

for police officers to condemn their colleagues, which bore the risk of burying the case. Third, the public feared reporting to the police, who were themselves corrupt, for fear of the unpredictable consequences of their complaints.⁵⁴⁴

The Hong Kong reform program main pillars : Investigation, prevention, and education

The Hong Kong reform program consisted of two main characteristics: The Prevention of Bribery Ordinance which passed in 1971, and the establishment of the Independent Commission Against Corruption ICAC in 1974, in response of the ACB in the police to fulfill its mission.

According to De Speville, the reason why Hong Kong achieved great success in its fight against corruption, and was able to mobilize the public to achieve this goal was due to several important factors.⁵⁴⁵

First, top government officials recognized the problem and were committed to solving it. The governor of Hong Kong took the initiative and established the ICAC. The main characteristic of the ICAC that contributed to its success, was its independence from political interference. It was no longer a branch of the police, neither was it part of the civil service. The government made it clear that it was willing to fight corruption and provided the ICAC with adequate resources to fulfill this mission. Moreover, the selection process of the staff working for the ICAC was very strict, making the integrity of its members paramount. In addition, they were well paid and after their recruitment, they were subject to internal monitoring to continue ensuring their integrity.

⁵⁴⁴ *Ibid*

⁵⁴⁵ The factors that follows are based on Robert E Klitgaard, *Controlling corruption* (Berkeley, Calif.: University of California Press, 1988) at 98–99.

Second, the fight against corruption was a long term strategy that was based on three pillars: “investigation, prevention, and education”⁵⁴⁶. The first pillar consisted of investigating the complaints received. The second pillar was that Corruption Prevention Department was responsible for finding ways to eradicate corruption opportunities in the private and the public sectors. The third pillar was education which consisted of the responsibility of the Community Relations Department to raising public awareness of the devastating effects of corruption in order to gain public support. Raising Public Awareness was a comprehensive program that was custom made to involve all the groups in society. The main mission of this department was to change the attitudes of the people and their perceptions towards corruption.⁵⁴⁷

According to De Speville, another major factor in the success of the ICAC was that all complaints and reports on corruption were taken seriously, investigated, and kept confidential.⁵⁴⁸ This feature helped in building more trust and confidence in the ICAC, and accordingly resulted in increasing the number of complaints.⁵⁴⁹ The law also protected confidentiality measures. Therefore, to encourage people to report corruption incidents, confidentiality measures were taken more seriously.

Although the independence of the ICAC was one of the main reasons behind its success, the commissioner and the deputy were appointed by the governor of Hong Kong and were to report to him directly, and were subjected to continuous checks and balances. In addition, to limit any possibilities of abuse of power, the ICAC’s work was guided by four

⁵⁴⁶ *Ibid* at 36.

⁵⁴⁷ This is very important to note usually raising public awareness of the destructive effects of corruption is conferred to the civil society, and when it s part of a national program the commitment is only nominal.

⁵⁴⁸ De Speville, *supra* note 250.

⁵⁴⁹ *Ibid*.

advisory committees whose members were selected from all sectors of the community and a fifth committee which included members of the Hong Kong executive and legislative councils. In order to guarantee its independence, the ICAC commissioner did not lead any of the above committees. Lastly, the mission of the ICAC was empowered by a strong anti-corruption legislative framework, which helped them execute their work. The legislative framework allowed the commissioner to take action against any civil servant who failed to prove their financial sources. This procedure guaranteed that civil servants would stay honest.

De Speville concluded that:

In addressing the social evil of corruption there are two universal truths. First, corruption, however defined, cannot be eradicated in any society. It will persist because it is motivated by two fundamental aspects of human nature—need and greed. But it can be reduced to and contained at a level where it no longer gnaws at the heart of society. Second, within any society corruption can be curbed only if the population at large perceives that the leadership is deadly earnest about attacking the problem, that leaders at the highest levels demonstrate integrity and ethical conduct, and that economic development is filtering down to benefit the lowest levels of society.⁵⁵⁰

Analysis of the Hong Kong success experience: long-term, comprehensive, and inclusive program

From the above, it is clear that the creation of the ICAC was not the reason behind Hong Kong's success in fighting corruption. Instead, its success was due to the way in which the ICAC was established. In analyzing the ICAC experience in Hong Kong, it is clear that the reason for its success was the multidisciplinary approach it adopted. In analyzing Hong Kong's successful experience in fighting corruption, it can be concluded that the pillars of success are:

⁵⁵⁰ *Ibid* at 39.

1-Political aspect: The presence of a strong political will which was manifested in the governors creation and establishment of the ICAC. By creating the ICAC, the governor demonstrated a strong and practical will to fight corruption.

2- Social aspect: Public and social empowerment is the key to the success of any policy. Making the public feel that they have a direct self-interest and an inherent right to fight corruption compels citizens to be more responsible in reporting cases. Creating custom made programs to fit the needs of each social class and age group to fight corruption, also helped the public feel that they had a common cause. Herbert Kelman explains the importance of the internal values to consolidate the values of governance. He argues that, “ It is essential for the effective functioning of the nation-state that its basic tenets of its ideology be widely accepted within the population.”

⁵⁵¹The most empowering characteristic of the ICAC to the public was that citizens were members of the advisory committee that was responsible for studying the complaints against ICAC.

3- Psychological aspect: The removal of fear by ensuring the confidentiality of the files, in addition to taking them more seriously, encouraged people to be part of the change without threatening their security.

4- The legal aspect: The ICAC’s mission was empowered with a legal framework that allowed its members to take action against violators without taking into consideration any interests.

5- The administrative aspect: The structure of the commission itself was paramount to its success, from its independence, to the way its commissioner and deputy were appointed, to the report system, all of which contributed to its success. The component that ensured the continuation of this success was the system of checks and balances that ensured the independence and accountability of the commission. The sufficiency

⁵⁵¹ Herbert Kelman, “Patterns of personal involvement in the national system: A social-psychological analysis of political legitimacy” in J Rosenau, ed, (International politics and foreign policy, 1969).

of resources provided, and the well paid employees who had high integrity, were also an important feature of this success.

6- Behavioral aspect: The ICAC mission targeted to change the behavior of the people. It did not confer this mission to the ministry of education, for example, or to the civil society, but it took responsibility to ensure the success of its mission.

7- Economic aspect: According to Klitgaard although Hong Kong did not possess any natural resources, by the 1970s, it had become a newly industrialized country whose citizens were able to enjoy one of the highest standard of living. .⁵⁵²

Thus the main characteristics of the Hong Kong reform program were that it was a long term, comprehensive, and inclusive program. It was able to overcome the culture of corruption by substituting it with an extensive culture of integrity. According to Andvig and Moene, corruption tends to feed on itself and increases in frequency if it is widespread.⁵⁵³ Thus, the more corrupt a system is without committed politicians to curb it, the more people will tend to engage in corrupt deals since they will neither be formally punished nor socially rejected.⁵⁵⁴

A.1.b- The Singapore Experience:

Singapore's experience in fighting corruption also serves as a role model to follow. Following a scandal which involved police officers in 1951, the Corrupt Practices Investigation Bureau (CPIB) was created.⁵⁵⁵ Until 1959, corruption continued to be

⁵⁵² Klitgaard, *supra* note 202 at 101.

⁵⁵³ Jens Chr Andvig & Karl Ove Moene, "How corruption may corrupt" (1990) 13:1 J Econ Behav Organ 63.

⁵⁵⁴ Rose-Ackerman & Truex, *supra* note 74.

⁵⁵⁵ Tan Ah Leak, "The experience of Singapore in combating corruption" (1999) *Curbing Corrupt* 59.

widespread, especially among enforcement officers, and the CPIB was not powerful enough to fulfill its mission in curbing corruption. Furthermore, the anti-corruption laws did not enable investigators to perform their duties in gathering information.⁵⁵⁶

Singapore attained its full independence in 1959 and the leaders of the People's Action Party decided that they had to curb corruption if they were to attain the country's development goals.⁵⁵⁷ The new strategy relied on changing the public perception towards corruption by increasing the risk associated with engaging in corrupt deals and decreasing its incentives.⁵⁵⁸ Moreover, the new political leaders became role models in their honesty and adopted new work ethics and high integrity. Quash explains that, "In 1960, a comprehensive anti-corruption strategy was introduced with the enactment of the Prevention of Corruption Act and the strengthening of the Corrupt Practices Investigation Bureau (CPIB)"⁵⁵⁹

The Prevention of Corruption Act (POCA) aimed at strengthening anti-corruption laws and sanctions.⁵⁶⁰ In addition, in 1973, an Anti-corruption Advisory Committee was created with the mandate to issue guidelines on how to deal with corruption cases, and to make sure that the corruptors and corrupt officials were punished. This committee was temporary and was dissolved in 1975, after the fulfillment of its mission.⁵⁶¹

⁵⁵⁶ *Ibid* at 60.

⁵⁵⁷ Jon S T Quah, "Corruption in Asian Countries: Can It Be Minimized?" (1999) 59:6 Public Adm Rev 483 at 490.

⁵⁵⁸ *Ibid*.

⁵⁵⁹ *Ibid* at 491.

⁵⁶⁰ Leak,*Supra note* 555.

⁵⁶¹ *Ibid*.

Another important advancement in the fight against corruption occurred in 1989, with the enactment of the Confiscation of Benefits Act. This Act stipulated that if the person accused of engaging in corruption cases, failed to prove the source of the benefit, it would be confiscated.⁵⁶² It even went so far as to stipulate that the money would be confiscated even if the person died before succeeding to prove the source of the benefit, or if the person was not found, or could not be extradited.⁵⁶³

The deterrent power of the law :

On the administrative level, the POCA not only punished the public employees engaged in the corrupt deals, but also punished their superiors for failure to effectively supervise their actions.⁵⁶⁴ This created a higher sense of accountability and increased the level of internal surveillance, in an effort to avoid possible extended sanctions. Moreover, the CPIB would collect information from the public and business to take the necessary corrective or preventive measures.⁵⁶⁵ The preventive measures were not only taken by the CPIB, but also the parliament, and a special secretary was responsible to make sure that all ministries were taking adequate measures to reduce opportunities of corruption. The parliament held a “meet-the-people-session” on a weekly basis, which helped in detecting incidents of corruption, and gave recourses outside the bureaucracy.⁵⁶⁶ The CPIB officers also gave regular sessions to civil servants on effective ways of reducing and avoiding corruption, besides making them

⁵⁶² *Ibid.*

⁵⁶³ *Ibid* at 62.

⁵⁶⁴ Klitgaard, *supra* note 294 at 128.

⁵⁶⁵ *Ibid* at 129.

⁵⁶⁶ *Ibid.*

constantly aware of the Prevention of Corruption Act.⁵⁶⁷ In addition, the CPIB officers were easily accessible to the public, which made reporting corruption incidents easier.⁵⁶⁸

In addition to CPIB measures to control corruption, the government departments were responsible for taking preventive measures to reduce corruption opportunities. Each ministry employed a permanent secretary whose responsibility was to ensure that all the departments under their jurisdiction took the required anti-corruption measures.⁵⁶⁹ Besides the preventive and corrective measures by the CPIB, sanctions which were enforced regardless of the size of the bribe. According to Klitgaard, “In highly publicized cases, the CPIB demonstrated many times that it had the political heft to punish both the “big fish” of corruption as well as those accepting even \$1 bribes.”⁵⁷⁰ The generalization of the rule and its application in all cases made the law more deterrent.

Increasing the civil servants pay to reduce corruption

Singapore did not possess enough economic resources to increase its civil servants’ salaries to protect their integrity at the beginning of the program, Thus, it relied on amending the anti-corruption laws and enforcing them.⁵⁷¹ However, as soon as it started to attain economic growth, it started to increase its civil servants’ salaries and revised them several times. This strategy aimed at avoiding the “brain drain” and kept qualified employees in the public sector, by making their salaries comparable to those in the private sector. ⁵⁷²The

⁵⁶⁷ Leak, *supra* note 555.

⁵⁶⁸ *Ibid.*

⁵⁶⁹ *Ibid* at 64.

⁵⁷⁰ Klitgaard, *supra* note 294 at 127.

⁵⁷¹ Quah, *supra* note 557.

⁵⁷² *Ibid.*

salaries were revised several times, and today, public servants in Singapore earn the highest salaries.⁵⁷³ This reform strategy and the fight against corruption made Singapore rank among the least corrupt countries in the world. This shows a willingness for civil servants to cooperate and to tolerate low salaries in the fight against corruption, if assured that they will increase with the control of corruption.

According to Klitgaard, The success stories in Hong Kong and Singapore show that endemic corruption can indeed be controlled, if never eradicated.”⁵⁷⁴

Analysis of the Singapore success experience: What were the main reasons of success?

1- The clear and manifested political will to eradicate corruption: .

After attaining self-government, the new political leaders immediately took it upon themselves to act as role models for public officials. They divested themselves of any financial and commercial ties; demonstrated a strong work ethic by coming to work earlier and practicing more meticulous work habits than their subordinates, they took no unnecessary official trips at the expense of taxpayers nor otherwise abused their office, and adopted a policy of zero tolerance for corruption. Thus, by personal example, they created a climate of honesty and integrity⁵⁷⁵

2-Diversified and interrelated legal and administrative measures:

As discussed above, the success of the Singapore experience was due to the collaborated efforts between the independent CPIB which held wide investigative powers, and the administrative measures taken in different government departments to ensure that anti-corruption measures were taken. In addition to frequent reminders to employees from CPIB

⁵⁷³ *Ibid.*

⁵⁷⁴ Klitgaard, *supra* note 294 at 133.

⁵⁷⁵ Leak, *supra* note 555 at 60.

officers of the importance of protecting their integrity, the laws were constantly being revised, making corruption more costly. The collective responsibility that superiors had in case their subordinates were convicted of corruption, contributed to a more effective internal monitoring system.

3- Including the public and the business in curbing corruption:

Citizens were able to transfer their voice and report corruption to various channels like the CPIB and the Parliament. The CPIB was also taking a proactive measure by seeking the information from the business and the public, and not only relying on complaints.

4- Increasing the public employees salaries:

According to Quash,

Singapore was a poor country in 1960,.....As such the PAP government could not afford to combat corruption by raising the salaries of its civil servants. It was left with the alternative of strengthening the existing legislation to reduce the opportunities for corruption and to increase the penalty for corrupt behavior.⁵⁷⁶

The Singapore government was aware of the importance of increasing public servants salaries to protect their integrity. However, it used other measures that contributed to the control of corruption, and accordingly, to its economic growth and development. As soon as the economic conditions improved, the Singapore government constantly revised and increased public servant salaries, making them “ perhaps the highest salaries in the world compared with their counterparts in other countries.”⁵⁷⁷

⁵⁷⁶ Quah, *supra* note 557 at 491.

⁵⁷⁷ *Ibid* at 492.

5-Effective sanctions were enforced:

The Singapore legal system succeeded to achieve the balance between the laws in the books and the laws in action. It succeeded in enacting enforceable sanctions. The increased probability of punishment contributed to a decline in incidents.

The experiences of Hong Kong and Singapore in curbing corruption are regarded as remarkable successes, but what made them unique? Why could their experiences not be replicated?

Their experiences are difficult to replicate in other countries, especially in most of the African countries, because both countries possessed a strong institutional foundation, which is not the case in most African countries. However, there are other “in progress success stories” that can be realistic and impressive for countries that suffer from systemic corruption, or for countries that do not possess strong institutions. Some countries have achieved improvements that are so impressive given the high level of corruption they were experiencing, that they can be viewed as “relative success stories”. Those improvements must be celebrated, and can serve as a source of inspiration. The aim should not be to copy the experience of another country, because each country has its own context. However, they do offer a sense of hope and a way of getting started. They provide a way to study the experiences of other countries to learn from their successes and failures during the reform process.

Studying in progress success stories, or improvements will help two types of audiences. The first are the policy makers who often aim for the perfect reform plan which tends to delay the implementation of the plan, especially when corruption is widespread. It is difficult to improve or change everything at once. Thus, aiming for incremental changes, - one step after the other, while targeting the whole system progressively, is better than delaying and waiting for the perfect reform plan.

According to Rick Warren, “A small step of progression is a thousand times better than a delayed step of perfection. Perfectionism procrastinates and paralyzes progress.”⁵⁷⁸ The second audience which may find this information useful are people who are very pessimistic and who believe that when widespread corruption infects a country, it can never be cured. Improvements in countries with similar contexts can provide a sense of hope. Nothing fights pessimism as much as realistic success and improvement stories.

B- In Progress Success Stories

In addition to studying success stories like Hong Kong, and Singapore, researchers have also explored some impressive “in progress success stories” that can provide policy makers in other countries with similar contexts and widespread corruption, the opportunity to answer the important question of where and how to begin. ?”

Colombia, the Philippines, and Thailand are example of countries which faced serious political, social, and economic barriers and the challenges of systemic corruption, yet were able to overcome these challenges and initiate major changes that impacted their international ratings.

B.1- Colombia

Colombia’s popular in progress success story started in 1998, under the presidency of Andrea Pastrena, who was elected that year. At that time, Colombia was facing two main challenges besides widespread corruption: internal conflicts and drug trafficking. As soon as Pastrana was elected president, he initiated his reform plan or, “Plan Colombia”. It is believed

⁵⁷⁸ Rick Warren Via twitter (@ Rick Warren) 2018-02-09, 1:50AM. Rick Warren is a pastor at Saddleback church, California, and author of best seller books by New York Times

that the main reason for the success of this plan was that the United States had a legitimate, direct interest in controlling drug trafficking.

The United States agreed to fund the program which was designed to “ combat drug trafficking and terrorism and strengthen public institutions”. Although, fighting corruption did not appear to be the main goal behind “Plan Colombia”, this plan could not have succeed without fighting corruption and strengthening the country’s institutions to control drug trafficking and organized crime.⁵⁷⁹ Other International organizations like the World Bank, the UN, and the Inter-America Bank also financially contributed to Colombia’s fight against corruption in different ways.⁵⁸⁰

According to Álvaro Camacho Guizado

The heart of the Plan was based on recognition of the need for economic development as the basis for achieving peace; for institutional strengthening; for human capital development through education; for the strengthening of social capital through the promotion of associative enterprises; defense of the environment; and the substitution of illicit crops.⁵⁸¹

Hence, controlling drug trafficking was perceived as the primary method by which to achieve the main goal of fighting corruption and bringing about institutional changes.

⁵⁷⁹ Stephen Johnson, “Helping Colombia Sustain Progress Toward Peace”, online: Herit Found </americas/report/helping-colombia-sustain-progress-toward-peace>.

⁵⁸⁰ Shiloh Hoggard, “Preventing Corruption in Colombia: The Need for an Enhanced State-Level Approach Note” (2004) 21 Ariz J Int Comp Law 577.

⁵⁸¹ Álvaro Camacho Guizado, *The Ups and Downs of a Policy* at 8.

According to Guizao, the plan, which was designed mainly to serve in reducing drug trafficking, focussed on the following objectives:

Strengthening the justice system and fighting corruption; (2) strengthening the institutions of the Attorney General's office, the courts, the Ombudsman's office, and especially, the human rights units (3) reinforcing and training technical investigations units; (4) supporting anti-corruption groups [...]; 5) reforming the incarceration system; (6) applying extradition laws; and (7) implementing a proposal to use verbal testimony in criminal cases [...] and elaborate rules for criminal procedures [...]⁵⁸²

Pastrana was aware that Plan Colombia would not succeed without a strong legal framework and a strengthening of respect for the rule of law in the country, which required adequate training and support to the existing judicial system to enable its members to fight against corruption.

This does not imply that every problem in a country is due to widespread corruption. However, in the case of Colombia, drug trafficking and organized crime could not be overcome without a concentrated effort to fight corruption.

According to Klitgaard, one of the key reasons for the success of "Plan Colombia" was that Pastrana granted his collaborators a wide range of authority to punish corrupt officials regardless of how important their position was.⁵⁸³ Pastrana did not show any preferential treatment to his political party but instead pursued a corruption case in congress and convicted a member of his own party.⁵⁸⁴ This kind of firm action restores the principle of sovereignty of the law, especially in countries suffering from systemic corruption for extended periods. . It also sends a vital message that corruption will no longer be tolerated.

⁵⁸² *Ibid* at 11.

⁵⁸³ Robert Klitgaard, "Fighting corruption" (2011) 9:2 DICE Rep 31 at 33.

⁵⁸⁴ *Ibid*.

Klitgaard also explains that transparency measures were enhanced, which enabled citizens to better understand procurement processes and other public service procedures. Partnerships between the government and civil society were created to better fight corruption.⁵⁸⁵

Hoggard explains that “Colombia may not be a model of government integrity but it is an example of a country making gains in the fight against corruption.”⁵⁸⁶ The success of the “Plan Colombia” program was reflected on the international level and manifested through the measurements of corruption. “By 2005, Colombia had moved from the 6th percentile in 1997 to 66th percentile (55th 158 countries, 4.0 on a 10 point scale)”⁵⁸⁷ This constituted a tangible improvement when compared to CPI measures in 1997, before the Plan Colombia program was initiated. According to Klitgaard, “ In 1997, Colombia was third to last on Transparency’s International Corruption Perception Index (50th of 52 countries, with a score of 2.23 on a 10-point scale).”⁵⁸⁸

Comparisons in measurements of corruption enabled a better tracking of the improvements and supported the effectiveness of the plan. Although improvements do not guarantee sustainability of progress, they do reflect that when the political will is present, improvements in fighting corruption are possible even in countries suffering from systemic corruption.

⁵⁸⁵ Robert Klitgaard, *Addressing Corruption Together* (OECD, 2015).

⁵⁸⁶ Hoggard, *supra* note 580.

⁵⁸⁷ Klitgaard, *supra* note 585. <https://www.oecd.org/dac/conflict-fragility-resilience/publications/FINAL%20Addressing%20corruption%20together.pdf> information also found in Transparency International (2005), *Corruption Perceptions Index 2005*, available at: https://www.transparency.org/research/cpi/cpi_2005/0

⁵⁸⁸ *Ibid.*

Finally, it is worth noting that despite Colombia's tangible success on the national and international levels, this does not count as a real success story compared to Hong Kong and Singapore. However, it does reflect two important implications: First, it shows that corruption is a curable problem, and that the sustainability of the cure depends on political will which can be mobilized through pressure from the public, the media and the civil society as well as by important transparency measures to detect any violations. This shows the importance of creating partnership programs between the government, the media and civil society along with any anti-corruption program to guarantee sustainability.

Second, improvements help in inspiring other countries with similar corruption levels and may be seen as a sort of international collaboration to fight against corruption.

B.2- Georgia

Another important in progress success story is Georgia. The fight against corruption in Georgia started in 2003, when Saakachvili, the head of the United National Movement, chose "Georgia without corruption" as its slogan and was elected president with 90% of the vote. His party occupied 68% of the seats in parliament.⁵⁸⁹ Saakachvili gained popularity due to his fight against corruption which started while he occupied the post of minister of justice in the former government, before he was elected president of the state.

Georgia was facing two main problems in the beginning of its war against corruption which were heavy financial constraints, and its status as a failed state.⁵⁹⁰ Saakachvili's administration and collaborators built their action plan and strategy to face these two main

⁵⁸⁹ World Bank, ed, *Fighting corruption in public services: chronicling Georgia's reforms*, Directions in development (Washington D.C: World Bank, 2012) at 5.

⁵⁹⁰ *Ibid* at 6.

problems and to fulfill their promise of “Georgia without corruption”. The new administration started by reforming the existing anti-corruption laws to develop a better system of checks and balances between the different branches of government.

The main reason for the success of this anti-corruption strategy was the dedication and collaboration of the new administration to attain their targeted goal. Its strategy consisted of initiating changes in many areas tainted with corruption, while focusing on two main goals: eradicating corruption and improving the quality of public services.⁵⁹¹ Due to the challenges the country was facing, it needed to ensure more revenues flowing into the treasury, while building trust and credibility, to create an environment more conducive to economic growth. The reforms plan gained credibility from international organizations like the UNDP and the World Bank, who agreed to provide financial support.

The reforms targeted traffic police, tax collection, customs, the electricity department, the public registries, municipalities, and university entrance exams. The research studied Georgia’s full experience in those sectors, as described by the World Bank.⁵⁹²

What’s in a uniform? Changes of image lead to reforms in the police department

The elimination of corruption among traffic police is one of the most popular success experiences in the reforms. Reformers took radical steps towards eliminating this avenue of corruption since it would produce immediate results as citizens were in constant contact with these officials. The reform included the firing of 16000 traffic police officers and introduced a monitoring system by installing cameras to detect corruption. University graduates were

⁵⁹¹ *Ibid* at 7.

⁵⁹² *Ibid*

recruited and most importantly, their uniforms were changed to alter their image in the eyes of the public in order to avoid possible resistance to change. Moreover, it empowered the newly recruited traffic police with learning courses, tools and codes of conduct to reflect the vision of the state and to facilitate changes.

Money talks: Taxes and customs reforms to guarantee an important source of revenue:

Tax reforms are vital in any reforms program. If managed efficiently, taxes and customs represent important sources of revenue in any country. In Georgia, the minister of finance insisted on a zero tolerance strategy against corruption. He simplified the taxes and customs procedures, and introduced electronic procedures to facilitate filing and tax payment processes.

He also simplified import procedures and reduced fees. Effective monitoring systems were introduced including the installation of cameras in tax agent offices to detect any violations or corrupt behavior. Moreover, accountability measures were strictly applied. The customs and tax reforms in this sector increased public revenues which allowed the state to increase salaries and incentives.

Quick wins: No more darkness-solving the electricity problems

Providing constant electricity represented another challenge. Electricity theft made it difficult to guarantee citizens a constant supply of electricity. The new administration promised to provide round the clock electricity by the end of 2005. To achieve this goal, it improved its bill collection strategies, cut the electricity of those who did not pay their bills, regardless of the vitality of the individuals or organizations including hospitals and schools

and ensure privatised the sector. Again, through effective planning, collaboration, and serious implementation, the new administration fulfilled its promise and ended power shortages.

Administrative reforms to improve the business environment:

Creating an attractive business environment was also one of the main goals of the new administration. To ensure sustainable economic growth, Georgia leaders worked on improving the business environment to attract and create more investment opportunities. To achieve its goal, the leaders decided to deregulate, fire many bureaucrats, simplify procedures, and to limit the number of permits and licenses required by businesses and citizens.⁵⁹³ It also accepted more outsourcing and recruited motivated young people on a limited contract basis, to study the effects of the new regulations and to get inspired by the experiences of other countries like Singapore and New Zealand. The applied reforms reduced the possibility of interaction between citizens and bureaucrats which reduced the opportunity of corruption. The positive results of these measures were reflected internationally. According to the 2012 World Bank report, Georgia dramatically improved in its “Doing Business” ranking, which mainly measures the ease of doing business in a country. Georgia jumped from 112th in 2005 to 16th in 2012.⁵⁹⁴

Protecting property rights by improving public registry procedures:

Protecting property rights by improving the public registry is paramount in a comprehensive anti-corruption strategy. These reforms started in 2003, when many employees lost their jobs and had to reapply and retake their exams in order to be accepted in

⁵⁹³ *Ibid* at 61.

⁵⁹⁴ *Ibid* at 60.

the newly reformed national public registry. Procedures were made clearer and simpler, and were mostly computerized and accessed online. Procurement processes also became more transparent, and less corrupt:

Registering property, which took 39 days in 2005, now takes just 2 days, and the cost of doing so fell from 2.5 percent of the property value to 0.1 percent. The number of procedures has been cut from 8 to 1. As a result, Georgia now ranks first in the world in terms of ease of registering property, according to the 2012 Doing business report.⁵⁹⁵

Although the cost of registering a property decreased, the new service-oriented mindset and the reforms brought in this sector increased the revenues generated from this service because corruption was eliminated. The results of the reforms were that the budget of the public registry agency jumped from about \$300,000 in 2004 to \$7 million dollars in 2006 and the increase continued to reach \$25million in 2011.⁵⁹⁶

Reforms in the university entrance exams:

Reforms also tackled university entrance exams. The procedures became more transparent and fairer. Entry to the desired faculties became based on merit and not bribery and connections. A large number of measures were taken to ensure the credibility and the integrity of entry exams. This included the possibility of accessing the graded exam papers scanned online and the ability to appeal decisions. The procedures and reforms were well communicated through the media to avoid confusion. According to a public opinion survey held by Transparency International in 2005 the parents, students, and administrators expressed their satisfaction with the new procedures.

⁵⁹⁵ *Ibid* at 71.

⁵⁹⁶ *Ibid* at 72.

Finally, Georgia's anti-corruption plan was comprehensive and effective due to the shared common vision of the leaders which they succeeded in communicating and promoting well through the media. This effective communication method made it easier to gain the support of the public, especially since the president was regularly updating citizens regarding the successes, and reforms that targeted public service domains particularly permits, registries, driving licenses, permits and so on, which the majority of citizens dealt with.

B.3- Philippines

The Philippines represents another inspiring improvement, and relative success story. Aquino iii was elected as president in 2010. The main message of his campaign was based on fighting corruption. His slogan was “ there are no poor if there is no corruption”. By this message he meant to tackle the two main problems in the Philippines; poverty and corruption. Philippines was called the “ sick man” of Asia, because of the widespread corruption which hindered its attempts at economic growth and poverty alleviation.

Aquino wanted to build a new culture of trust and respect of the rule of law, to replace the existing culture of corruption. The new administration proved that no one was above the law when the congress impeached the chief justice for betraying the people's trust. In addition, the president's predecessors and some senators were also convicted on corruption charges.

In 2010 when Aquino started his presidential term, the country's economic condition was dire, and the international measures were not encouraging for further investment to boost the economy. The average GDP was 4.6%, the inflation rate was 3.8% and the World bank ease of doing business report for 2010 rated Philippines 144th out of 183 countries.⁵⁹⁷

⁵⁹⁷ *Doing Business 2010: Reforming Through Difficult Times*, by The World Bank (Washington, DC: The World Bank, IFC and Palgrave MacMillan.).

It was ranked 134th out of 178 countries in the corruption perception index (CPI) as measured by Transparency International.⁵⁹⁸ It is not surprising to find that with these measures, the Net foreign direct investment from 2007-2010 was US \$2.06 Billion.

To face these problems, the new administration decided to tackle corruption fiercely. The government introduced the good governance and Anti-corruption action plan for 2012-2016. Through this plan, the government undertook reforms in a number of sectors to eradicate corruption and to build and increase the country's revenues. Principles of transparency, monitoring and accountability were restored through the government's reform plan.

The E-government to improve the quality of public services and the government performance:

The introduction of the E-government allowed citizens to access information on fund releases. By 2013, the national budget was also posted online. In 2014, they launched a program called "performance-informed budget" which allows citizens and civil society to be informed on the state agency's goals, commitments, and performance.⁵⁹⁹ Moreover, the government agencies and the local government units were committed to publishing bids, and projects' progress. In the aftermath of the super typhoon, the country country received a

⁵⁹⁸ *Corruption Perception Index 2010*, by Transparency International (Germany: Transparency International). http://files.transparency.org/content/download/132/531/file/2010_CPI_EN.pdf

⁵⁹⁹ Oxford Business Group, *The Report: Philippines 2015* (Oxford Business Group, 2015) at 15.

number of aids from other countries and inter-governmental organizations which were all posted on the Foreign Aid transparency Hub.⁶⁰⁰

More transparency brought more clarification and simplification of the business licenses and permits systems which was streamlined in 1,118 out of 1,634 cities to provide more accessible, and concise information to avoid bureaucratic abuse of power.

Involving citizens in the fight against corruption: The Citizen Participatory Audit program

The transparency initiatives and strategies launched by the government invited more civil society participation, to further foster the principles of accountability. The government, through its Commission on Audit department, invited the citizens and the civil society to monitor the allocation of funds and the progress of the infrastructure projects undertaken by the government. The program was called Citizen Participatory Audit (CPA).⁶⁰¹ This type of cooperation allowed a better participation and involvement by the citizens to tackle corruption. The CPA program succeeded in mobilizing public opinion and holding public officials accountable when they provided false information or in cases of corruption.

Since the Philippines, like many countries suffering from corruption, had inadequate financial resources, it had to tackle its two main sources of revenues which were not generating enough revenues because of corruption. In 2009 tax revenues were 1.09 trillion pesos. Tax officials had high discretionary power and there were many cases of tax evasion which were not dealt with due to widespread corruption in this sector. The department of

⁶⁰⁰ Matikas Santos, “Gov’t to launch updated Foreign Aid Transparency Hub”, (20 March 2014), online: <<http://technology.inquirer.net/34989/govt-to-launch-updated-foreign-aid-transparency-hub>>.

⁶⁰¹ ANSA-EAP, “Citizen Participatory Audit”, online: <<http://www.ansa-eap.net/projects/citizen-participatory-audit/>>.

Finance and the Bureau of Internal Revenues initiated a campaign called “TAX WATCH” , the goal of the campaign was to promote more transparency, trust, and to encourage tax payers to provide the required amounts. A number of programs were introduced to deal with the tax sectors which involved pursuing smugglers, and tax evaders in an effort to control corruption in this sector.

To increase its revenues, the government also undertook important reforms in the Bureau of Customs, to curb corruption and accordingly, to increase revenues. The president appointed a new customs commissioner.⁶⁰² The reforms also touched on the processes to change the culture of corruption. New employees were appointed and training and capacity buildings were erected to provide better services. ⁶⁰³

The new administration program was aimed at restoring the trust of the people in the government and in its ability to provide satisfactory services. For example, the Department of Public Works and Highways was known to be one of the most corrupt sectors in the Philippines. However, under the leadership of Ragelio Singson, and the implementation of the 4 Rs approach, which stands for the implementation of the right projects, right cost , right quality , and right on time project, it turned to be one of the best performing departments.⁶⁰⁴ Moreover, the simplification of procedures, which allowed bidders to present 5 documents instead of 20 , reduced the incidences of corruption. ⁶⁰⁵

⁶⁰² Official Gazette of the Republic of the Philippines, “Reforming the Bureau of Customs”, online: <<http://www.officialgazette.gov.ph/featured/customs-reform/>>.

⁶⁰³Oxford Business Group, *supra* note 599.

⁶⁰⁴ *Ibid* at 15.

⁶⁰⁵ Santos, *supra* note 600.

The reforms which were introduced in the Philippines during the presidency of Aquino iii, were appreciated on the national and international levels. On the national level, the citizens became more involved in monitoring the projects through the CPA programs. The transparency and monitoring initiatives by the government engendered more accountability. The culture of public service started to be incorporated. These changes translated into better numbers on the national and international level.

On the national level, the changes brought about in the taxes and customs department simplified procedures in the department of public works and highways, and improvements in the public service in general, by applying principles of transparency, monitoring, and accountability which helped restore public trust in the government and generated more revenues. By applying the reforms and reducing corruption, the department of public works and highways succeeded in saving 39.98 billion pesos from July, 2010 to October, 2014.⁶⁰⁶

Tax revenues increased from 1.09 trillion pesos in 2010 to 1.41 trillion pesos from January to October 2014.⁶⁰⁷

Since corruption is directly correlated with the inflation rate of a country, the newly adopted reforms helped in reducing corruption and the exchange rate accordingly. Therefore, inflation rates dropped from 3.8% in 2010 to 3.0% in 2013.⁶⁰⁸

The simplification of procedures and the clarification of requirements for the issuance of permits and licenses made things easier for citizens and investors. Accordingly, since the investment environment was more predictable and trustworthy, investment flourished in the

⁶⁰⁶ Group, *supra* note 597.

⁶⁰⁷ *Ibid.*

⁶⁰⁸ *Ibid.*

country. The net foreign direct investment went from US \$2.068 Billion in the period from 2007-to the second quarter of 2010 to reach US \$4.88 billion in the first three quarters of 2014.⁶⁰⁹ The unemployment rate also decreased. According to a labor force survey, the employment rate in October 2013 was at 93.5%⁶¹⁰

The significant change resulting from the anti-corruption campaign was recognized on the national and the international level. The Philippines corruption perception index as measured by Transparency International, decreased from 134 in 2010 to 85 in 2014.⁶¹¹

The improvement in the CPI ranking was remarkable. According to the Ease of Doing Business measure, the Philippines' ranking jumped from 144th in 2010 to 95th in 2015. Its ranking, according to the Global competitiveness report measures developed by the World Economic Forum, jumped from 114th in 2010-2011 to 87th in 2013-2014.

B.4- Assessment of the Success Stories:

Colombia, Georgia and the Philippines may not be impressive sustainable success stories like those of Hong Kong and Singapore, however, they remain an important source of inspiration. According to Klitgaard “ Like inflation, success by one government or central bank in halting it does not guarantee that another administration’s policies will rekindle it.”⁶¹² The improvements in those countries might not be sustainable, however their successes, failures, and even lack of sustainability remain an important source of information and study. Their successes may give an idea on how to reform proper strategies and where to begin. The failures can be beneficial in helping to avoid similar traps. Sustainability teaches that political

⁶⁰⁹ *Ibid.*

⁶¹⁰ <http://catalog.ihsn.org/index.php/catalog/6768>

⁶¹¹ <https://www.transparency.org/cpi2014/results>

⁶¹² Klitgaard, *supra* note 585 at 31.

will is a very important factor, which must always be considered and maintained at all levels during the reforms process, by strengthening the civil society and mobilizing the public view. Leaders, citizens and policy makers in countries suffering from widespread corruption like most African Countries (including Egypt) feel trapped in the idea that corruption needs a comprehensive action plan. Therefore, they either try to reform by doing everything all at once, or they lose hope of ever bringing about a change. Sometimes they initiate important long term plans to the point that makes it difficult for people and the media to see tangible changes. As a result, they do not get enough public support to continue. Some leaders think that it takes a generation to reduce corruption because of the engrained culture of corruption. Consequently, they fight the wrong cause and try unsuccessfully to change the culture, and eventually give up, claiming that it is impossible to eliminate corruption.

Eckardt et al. explain the reasons why it is difficult to get rid of corruption.

It is clear that corruption imposes large costs on the economy as a whole. It weakens tax collections and therefore results in fewer resources for investment in critical infrastructure and public services. It creates unfair and uneven treatment of firms, it limits competition and erodes the regulatory environment and enforcement. However, viewed from the perspective of individual firms and officials who are part of the system, bribes may be entirely rational transactions. These individual incentives are the reasons why it is so difficult to fight endemic corruption.⁶¹³

Therefore, when fighting corruption, the interests of all stakeholders must be taken into consideration when designing a strategy.

⁶¹³ Sebastian Eckardt, “Why More Corruption Created Fewer Problems for Companies?”, (27 October 2014), online: Future Dev <<http://blogs.worldbank.org/futuredevelopment/why-more-corruption-created-fewer-problems-companies>>.

Georgia, Colombia, and the Philippines proved that behind the reforms was the most common important ingredient, political will. When talking about designing and implementing a strategy to fight corruption on a national level, the political will must be manifested not only on the part of the president, but also on the part of ministers, mayors, and leaders in the public institutions. The Presidents of these countries declared war against corruption and prepared their armies. They surrounded themselves with new administrations that shared the same vision. They also shared this vision with the civil society, businesses, and citizens in general in an effort to win their support.

Leaders of the country selected ministers who were determined to fight corruption. There was cooperation between different institutions since ministers were supposed to meet to share their experiences and plans in their respective institutions and to present and discuss the progress being made. . In the Philippines, the tax department encouraged people to be more willing to pay the right amount of taxes because they were able to see the improvements in the government's projects and services and were consequently more willing to contribute.

To sum up, stories of improvements and successes credit reforms. However, there is no, one-size-fits-all, reform. Every country has to choose its necessary ingredients in order to reach the perfect formula for its reforms strategy, given the social, political, and economic challenges it faces.

So what are the ingredients of a successful reform strategy? This research will undertake to explore the different disciplines and experiences of these countries which helped to curb corruption.

C. International Partial Anti-Corruption Reform Successes in Distinct Fields:

Sometimes the real problem in fighting corruption is the concentration on the negative aspects and the hopelessness of the situation, especially in countries suffering from systemic corruption. Acknowledging, disseminating, and celebrating successes sometimes become one of the most effective tools to fight against corruption in a country. Celebrating successes in areas of improvement gives people a sense of hope and may be an effective tool to mobilize public opinion to fight corruption.

After presenting successes in the previous section, and improvement or progress stories in some studied countries in this section, the research will now present a different approach. It will show that in some cases, corruption may still remain systemic and widespread in the studied countries. However, some areas or sectors may succeed in fighting corruption, which provides inspiration for more success.

C.1- The Nepal Experience in Curbing Corruption in Education:

Focusing on the difficulty of fighting corruption, especially in a poor country with widespread corruption such as Nepal, will lead to nothing except despair. Also, dwelling on what is missing in terms of limited financial resources, when important reform strategies to fight corruption need large sum of money and financial aids from international organizations, will only lead to an acceptance of the status quo despite the suffering of the people. This is because people will feel helpless and incapable of initiating changes. On the other hand, when people in the position to initiate changes focus on the limited resources they do hold, and their real desire and ability to make a change, they can make a significant difference in the sector they are responsible for, regardless of the other sectors. In this case, success can be replicated and may surpass all expectations. This was the case with Gyran Mani, the appointed head of education in Panthar, a small area in Eastern Nepal, who succeeded in eradicating corruption

and improving the quality of education, despite the widespread corruption that was prevalent in the education sector in particular and in the country in general.

Gyran Mani, a former school teacher, was appointed as head of education in Panthar, Nepal in January, 2013. According to the democracy lab, the situation was not encouraging the initiation of changes or to trying to fight corruption to improve the quality of education.⁶¹⁴

According to Legatum Institute, Mani faced numerous challenges.⁶¹⁵ The district educational office was itself suffering from high corruption and inefficiency. The teachers' absenteeism rate was 90% and the educational environment in general was very poor due to the absence of basic supplies. The students, fourteen years of age, who were actually enrolled in the school, were unable to read and write to the point that the teachers themselves sent their own children to private schools.⁶¹⁶ Mani's courage, determination and willingness to improve this desperate situation, and to curb corruption, was his singular and most valuable asset.

He adopted a comprehensive and bold strategy to bring about the desired changes, given his limited, almost non-existent resources. To solve the teachers' high absenteeism rate, he decided to rely on a simple strategy which consisted of recruiting some students to monitor student and teacher attendance by introducing attendance logs in classrooms. He also adopted a strict strategy to improve the quality of education and fired teachers and staff members who refused to be part of the change. In response, one hundred teachers decided to resign, and two hundred received disciplinary warnings. He also posted the educational budget of the district making it available for interested parents and citizens to consult. He also sought the help of

⁶¹⁴ Blair Glencorse & Suman Parajuli, "Integrity Gets Great Ratings: How Nepalese People harnessed the Power of Reality TV Strike a blow Against Corruption" Democr Lab Legatum Inst.

⁶¹⁵ *Ibid.*

⁶¹⁶ *Ibid*

the media by encouraging them to write about the problems being faced. Adopting this simple yet effective strategy brought about remarkable changes and results.

According to CPI in 2015 Nepal ranked 26th out of 64 countries.⁶¹⁷ However, Mani managed to create a culture of integrity in the particular areas where he was able to bring about change. Panchthar subsequently rose from the bottom of district educational achievement, to the top. According to Glencorse and Parjuli “Panchthar, previously rock bottom of the list of districts for educational achievement as measured by student enrolment, pass rates, and final exam results- was headed for the top of the upcoming annual government ranking.”⁶¹⁸

This remarkable success remained of limited impact in Panchthar since there was no national predetermined way to measure, celebrate, or replicate this success. The situation remained the same until the accountability lab in Nepal decided to focus on the bright side, instead of the desperate situations. To achieve their goal, they decided to create a competition called “Name and Fame”, where they used a simple process to nominate a civil servant that was able to bring about positive changes, despite the existing widespread corruption. They spread the word and citizens were asked to nominate civil servant whom they viewed as role models based on their achievements. This campaign yielded 300 nominees. They conducted background checks and appointed respected national experts to choose the finalists. They sought the help of a local youth run production, to produce a show that targeted young people, where the five finalists elaborated on their achievements. They called the 30 minute episodes that were aired on national television everyday for one week “The Integrity Idols”. The public then had the opportunity to vote among the finalists and the winner was Mani. There was no monetary value attributed to the prize. It consisted solely of appreciation and recognition of

⁶¹⁷ *Ibid*

⁶¹⁸ *Ibid*

the winner's achievements. As a result of Mani's achievements and integrity being made known to the public through this program, his reform strategy expanded beyond the boundaries of Panchthar. Six model schools were later founded upon his reforms strategy. . Furthermore, the regional educational director decided to replicate Mani reform models not only in Eastern Nepal but throughout the country. Mani was invited to visit the United States to talk to policy makers about reforms efforts in emerging countries. Thus, the "integrity idol show" made public officials more committed to implementing reforms, introduce codes of conduct, and making school budgets transparent for 450 schools. A national educational reform system was drafted and handed to Mani for review and the registration rate in public schools increased tremendously. Therefore, success was contagious.

From a policy maker or reformer's standpoint, what were the main ingredients of this successful experience?

- 1- Mani focused more on the possibilities of change rather than the difficulties of bringing about change.
- 2- He used the three main ingredients of any attempt to curb corruption, namely, transparency, monitoring, and accountability. His transparency was reflected by the fact that he posted the budget and the expenditures publicly. His monitoring was manifested in the recruitment of students to monitor teacher attendance. Accountability was demonstrated when he fired the teachers who refused to embrace the reforms.
- 3- Mani focused on what he had, which was his tremendous will power, to bring change within the frame of his limited responsibility and authority and his refusal to focus on what he did not have. This included the absence of the political will to curb corruption and the absence of financial support.
- 4- The television show "integrity idol" was a linking point to making his initiated reforms and the strategy which he created to improve the education in his district, known and employed nationally. This brought about reforms to the education system throughout the entire country.

5- The voting which narrowed the scope down to five finalists showed that practically, the situation was not hopeless and that reforms are possible when people place more value on integrity and performing their jobs honestly in spite of the widespread corruption that may exist in their culture.

6- Celebrating and dramatizing successes must also be part of the reforms strategy. Since a successful anti- corruption reform strategy should target systems rather than individuals, successful reform systems should also be celebrated.

The reforms were acknowledged in the *Economists* and the *Guardian*.

C.2- The Creation of a Successful Anti-Corruption Agency in Indonesia Despite the Corrupt Environment

According to the CPI, Indonesia suffers from high rates of corruption. Surprisingly, in this corrupt environment, it still succeeded in creating a renowned and honest anti-corruption agency.

The history of the creation of this agency goes back to the end of the Suharto's dictatorship in 1998, and the increasing demand to curb corruption. The pressure to curb corruption rose from the national as well as the international levels. On the national level, the civil society put pressure on the government to create an anti-corruption agency to compensate for the ineffectiveness of the measures taken by the office of the attorney general and the police to curb corruption. On the International level, the IMF, and the World Bank put increasing pressures, and conditions to provide aids and loans to create the agency in an attempt to find more effective ways to curb corruption.

The exerted pressures yielded successful results and in 1999, the Parliament drafted an anti-corruption legislation that permitted the authorities to create an anti-corruption commission. In 2002, the law set the new agency responsibilities and privileges. The president nominated a list of ten names and asked the parliament to choose three of them for the top KPK posts. The KPK was given wide authority, even compared to one of the most successful agencies in the world, the Hong Kong anti-corruption commission. It was given investigative, prosecution, and prevention power. The anti- corruption commission in Hong Kong is entitled to investigate cases, but does not hold prosecution power. The KPK also had the power to initiate cases and to override the police and the attorney general's office even when they have already started to work on them, due to delays or inefficiency. In addition, it had the authority to audit the officials' wealth.⁶¹⁹ It was also given the right to record telecommunications of officials without taking prior permission from the judicial authority. The KPK is an independent entity from the legislative, judiciary, and executive power. However, it reports to the president and parliament and submits to a yearly audit from the parliament. Its budget is also approved by the parliament. In spite of its broad range of power, it has limited oversight over the parliament and the judiciary system.

The first commissioners were appointed in 2003 and their term was supposed to end in 2007. The KPK had to face many challenges. One of the most important challenges it faced was the people's limited hope that this agency would have a true impact because of previous failures of similar experiences. To counteract this feeling, the Chairman of the KPK adopted a policy of "zero tolerance of abuse of power" and made the integrity of the commissioners paramount to its functioning. To prove its commitment to integrity, the KPK initiated a plan in 2006, to create an online whistle-blower system that enabled citizens to report

⁶¹⁹ Gabriel Kuris, "Inviting a Tiger into Your Home": Indonesia Creates an Anti-Corruption Commission with Teeth, 2002-2007" (2014) Princet Univ, online: </publications/inviting-tiger-your-home-indonesia-creates-anti-corruption-commission-teeth-2002-2007>.

anonymously, if they notice any corrupt behavior from KPK commissioners. This plan was implemented in 2007.

Given the widespread corruption in Indonesia and the desire to avoid political resistance, the KPK commissioners had to choose their battles wisely. In the beginning of their first term, mostly low-level figures were targeted, to avoid confrontations with politicians. In 2005, the battle started to intensify and the KPK arrested one of the highest ranking election commissioners and a state auditor. There was little confrontation in this important case because the election commission did not have significant government support, and this type of commission did not rise to the ranking of a ministry. The success that KPK realized in this case, helped in gaining more public trust and support. The first term ended in 2007, with the realization of many great successes, which helped to enhance public trust and support for the agency. The commitment, integrity, and success of the KPK helped to consolidate its power.

The second term of the KPK commission started in 2007, which coincided with president's Yudhunyono's second term in 2010. Yudhunyono was a great support to the KPK's second term.⁶²⁰ Since the use technological advances was an important reason for the KPK's enhanced capabilities, it kept consolidating its power by referring to all technological tools that assisted its mission to curb corruption given the difficulty it faced due to the secret nature of corrupt deals. In 2010, it started to have access to the Financial Transaction Reports and Analysis center, an important money laundering agency. This access to important information resulted in fiercer and more important prosecution. It resulted in the prosecution of Ubranigram, the Democratic party chairman, and the former president of the oil and gas

⁶²⁰ Emil P Bolongaita, "An exception to the rule? Why Indonesia's Anti-Corruption Commission succeeds where others don't - a comparison with the Philippines' Ombudsman" (2010) 2010:4 U4 Issue, online: <<https://www.cmi.no/publications/3765-an-exception-to-the-rule>>.

regulatory body, which elevated KPK's prosecution power to a higher level in the ranking of the official it was seeking to prosecute.

In 2011, its prosecution level reached the central Bank governor and four deputy governors for misusing \$10 million of the public funds, where one of the deputy governors happened to be the father in law of the president's son. This courageous and efficient prosecution gave the KPK more trust and credibility in the eyes of the public.

The performance of KPK was remarkable. By 2011, it had recovered assets worth of \$100 million and realized 100% conviction rate from 2004-2011. People's trust in the agency continued to increase year after year. In 2008, a public survey showed that the public viewed the KPK as the most trustworthy public institution after the presidency, and in 2010, another public survey was conducted to compare the law enforcement agencies and it was shown that it outperformed the police and the office of the attorney general. This great performance, integrity and courage in prosecuting cases made the public more supportive of the agency. However, its power, popularity and increasing trust by the public, created some sources of conflict between the KPK, the police, and the judiciary system, in spite of the importance of the collaboration between these agencies. The relation between the KPK and the police became more complicated after it convicted the head of the National police criminal investigation Unit.

Why did the KPK succeed in a corrupt environment and what made the experience unique compared to similar agencies in other developing countries?

From this study, we can conclude that although the KPK suffered from weak financial resources, other important components contributed to its success. One of the main reasons of its success was the careful selection of the commissioners.

1-The support of president Susilo Bambang Yudhuyono.

2- The high integrity of its commissioners and their courage to successfully prosecute and convict high ranking officials. This integrity was evidenced by the fact that in 2012, the

Ministry of communication and information technology created an oversight committee to do a yearly audit on their records, and KPK procedures which did not reveal any discrepancies.

3- The capacity of its building and size of its staff and commissioners made them more competent and efficient in prosecuting cases.

4- The use of advanced information technology in agency operations helped them to achieve better performance.

5- The broad power and authority it held to convict and, prosecute cases, and conduct audits on public officials' wealth, gave it the ability to outperform other agencies.

6- It sought international assistance from the best experts in the field since SPEVILLE who served in the Hong Kong Anti-corruption agency which assisted it in the inception phase.

7- most importantly, it did not reduce the quality of its performance because of the limited financial resources compared to Hong Kong. Instead, it continued to outperform other law enforcement agencies which gave it added credibility, trust, and support from the public, which may in the future help in putting more pressure on the parliament to increase its budget.

The KPK experience shows the importance of the success and good performance of the members of such agencies in gaining public support, which may represent the most important shield in case of political confrontation. Therefore, good performance, and integrity pays off.

C.3- Making Citizens' Satisfaction Matter in the Public Sector: The Citizen Feedback Monitoring Program in Punjab:

The quality of delivery of public service in a country is important in building citizen satisfaction and trust in the government's performance. Every citizen will have to deal with a bureaucrat on occasion, whether to issue a drivers license, birth certificate or to register land. People usually build their perception about government performance according to their

experience when seeking these types of services. Therefore, delivering public service quality is an important pillar in any country's reform program.

Most emerging countries suffer from low quality public services, since the bureaucrats' working environment is usually poor and not conducive to change. Complaints about service delivery in the public sector are quite common as are paying bribes to execute such services which has become increasingly common and acceptable. Normally, if a citizen complains to a superior about being compelled to pay a bribe, the superior will ask the citizen to file a written complaint and the department responsible with such complaints will deal with it. However, if the process that the citizen must go through is overly complicated, citizens will lose interest in reporting any misbehavior. Thus, any actions by the superior are beyond the boundaries of his responsibility and this is a problem of deficiency within the system.

What really differentiates one public servant from another is the way they approach the problem. Some civil servants go above and beyond their responsibilities or, what they are paid to do. This is where the creation of real success stories begins; namely, the feeling of responsibility to fix a problem that may have been known and ignored by many others. Such civil servants do not seek their answers within the boundaries of their positions and tend to think outside of the box. This is typically what happened with Bhatti, the District Coordinator Officer in Punjab, a province in Pakistan. Bhatti's true understanding of his responsibilities as a civil servant made his story known not only in Punjab and Pakistan but by international organizations. The reforms that Bhatti started on his own, to improve the quality of civil service in Punjab, were registered by the Legatum institute as an example of a success story. and was recognized and supported by the World Bank.⁶²¹Bhatti's story and his reasons for

⁶²¹ Mohammad Omar Masud, "Calling Citizens, Improving the State: Pakistan's Citizen Feedback Monitoring Program, 2008 – 2014" (2015) Princet Univ, online: </publications/calling-citizens-improving-state-pakistan%E2%80%99s-citizen-feedback-monitoring-program-2008-%E2%80%93>.

initiating a new trend and an innovation in fighting corruption are summarized in the following lines, and the implications will be discussed in the following section:

Bhatti's reforms initiatives started in 2008, when a citizen complained about the attitude of a public servant, who asked him to pay a bribe when he was trying to register his property. Punjab has 36 District administrations that are responsible of providing public services such as property registrations, health, income, and education assistance programs. The District Coordinator Office (DCO) where Bhatti worked was responsible of making sure that the quality of service that the citizen receive was acceptable. However, the DCOs had neither the time nor the resources to properly monitor the work for the bureaucrats, given the high number of transactions that they had to execute.

Bhatti did not take the complaint lightly. Instead, he initiated an inquiry based on the citizen's complaint, since the DCO was entitled to do so. He also conducted a surprise inspection on the property registry before he initiated the investigation. Bhatti understood well the system's deficiencies and knew that the inquiry process was complicated and required the complainant to appear many times. This was the reason why many citizens avoided reporting any violations of the rules by the bureaucrats. He also knew that anti-corruption agencies were more concerned with cases that involved grand corruption. However, he decided to go beyond the boundaries of his "formal" responsibilities and to dig deeper to find a way to enhance the quality of the public service.

Bhatti asked the officials to note the cellular phone numbers of the citizens who recently approached the property registration office to seek a service. He collected those numbers and decided to call some of them randomly and asked the citizens about the quality of the service they received and if they were asked to pay a bribe. This independent and voluntary survey that he conducted made him realize many system deficiencies. He discovered that because the system was unclear, many citizens did not understand the

registration process, and the required fees. Accordingly, they sought the services of deed writers, who executed for them the required service in exchange for variable fees. In other words, a market for intermediaries was created which also colluded with the bureaucrats to extract bribes.

Bhatti decided to expand this experiment to the other district services in Jhang. This follow up had a positive impact on the citizens as well as on the bureaucrats. It sent a strong message to the citizens because it showed them that the officials cared about the quality of service they receive, and the bureaucrats saw that their work was being closely monitored by their superiors. This changed the whole concept of the public service. Instead of being reactive, it became proactive.

The Jhang initiative gained excessive popularity and drew the media attention and coverage, of the 'News International,' a publication with nation wide coverage, which documented the story. The chief minister of Punjab, Sharif, found it a good initiative to address the problem of petty corruption in the public service. In June 2010, the program called: "Citizen Feedback Monitoring Program" was transferred to the Chief Minister Secretariat office, and as the volume of work increased it began to receive support from the Punjab Information Technology Board.

As the number and the volume of work increased when more services in each district were submitted to this supervision, the collection of phone calls by bureaucrats became quite inefficient. Thus, the lack of funds to provide further technical support was a challenge. In January 2011, the program was one of the recipients of the Innovation Funds that the World Bank Group awarded in a competition from its innovation funds that supported pilot projects aimed at increasing transparency and access to information. The \$100,000 secured further technical assistance.

In 2011, the chief minister made it clear that he wanted the system to expand to reach all the districts in Punjab and that a committee supervised by the secretary of Implementation and Coordination would be responsible to execute the prescribed mission. By July 2011, a total of 15 districts joined the program. The program developed from collecting phone numbers manually to providing more technological support, to facilitate the collection of the citizens' phone numbers. Collecting information about the quality of services kept on developing from phone calls by the DCO officials, to text messages, to Robo calls recorded by the Chief Minister to convey the importance which the government gave to improved public services.

The system kept expanding and by the end of 2012, the province of Punjab reported that it sent 1.5 million text messages. The World Bank conducted a survey to measure the effectiveness of the CFMP and found that it was a real success and contributed to the improvement of the quality of public services.

C.4- Creating Follow up Tools to Monitor Progress in the Dominican Republic:

Delivering promises in presidential elections is quite common and easy, but fulfilling the promises is quite difficult and uncommon in emerging countries. The Dominican Republic's experience in, "practically, and honestly being committed" to finding ways and tools to deliver on promises and to turn goals into reality is quite uncommon in emerging countries. The next section of the research will give a debriefing about this unique and successful experience, as explained by Princeton University's innovations for successful

societies. The research will also summarize the important policy implications that can be drawn from this successful experience.⁶²²

President Danilo Medina was declared president of the Dominican Republic in August 2012. In his electoral campaign, he promised to carry out important reforms to achieve economic growth and to raise the standard of living. His particular reform goals focused on the health and education sectors. He promised to set into motion reforms that would help increase literacy and extend school days which, in most schools, were three hours per day, because the schools were condensed and had to operate in three shifts daily in order to meet the population's needs. Medina started working on his goals before even being elected president, during his presidential campaign. One of the most important strategies he used is that he formed a partnership between the private sector and the civil society to clearly outline the country's goals and priorities. Medina appointed a man known for his competency and high integrity as minister of presidency to help him achieve his goals. They had many structural, organizational, and cultural challenges to overcome in order to achieve the president's ambitious goals.

The Dominican Republic, like many other emerging countries, suffered from poor civil service structures and organizations, besides the lack of competent officials to execute these ambitious plans. "Lax management promoted corruption. Transparency International's corruption Perceptions Index 2011, ranked the Dominican Republic 129th out of 182 countries."⁶²³ Corruption made change more challenging. Nepotism resulted in hiring civil servants and managers who were not motivated and who did not have the required skills to

⁶²² Blair Cameron, "Delivering on Promises: The Presidential Goals System in the Dominican Republic, 2012–2016" (2016) *Deliv Promises Pres Goals Syst Dominic Repub 2012–2016*, online: </publications/delivering-promises-presidential-goals-system-dominican-republic-2012%E2%80%932016>.

⁶²³ *Ibid* at 3.

bring about the desired changes. The authoritarian regime resulted in the creation of a centralized government. Furthermore, the budget's decisions were usually issued from the president's office.

Another important problem was that the goals were not clear enough and there were no-preexisting systems to monitor and follow up on the progress and the achievement of goals. Collaboration between ministries to achieve interrelated goals was also problematic since there was neither a culture nor a system of collaboration between different agencies. In addition to those problems, citizens did not have trust in the government or in its ability to fulfill its promises.

The president who intended to deliver on his promises and who had the will to execute these changes started to find a way to bring about the desired reforms while taking into consideration the above discussed problems. He appointed, as mentioned above, a man of integrity and performance, Montvallo, who in turn also appointed Cuello as his vice minister, as well as other technocrats, to help him achieve the goals set by the president and to monitor the progress.

Finding measures to track and monitor the progress was one of the most challenging missions. To facilitate this, he used a management system developed by the United Nations Development Program's systems for Managing Governance (SIGOB). This program was successfully implemented in Colombia and yielded the desired result. The UNDP also helped in implementing the program and in training the managers to use it.

How these reforms were started and executed:

After appointing the minister of presidency and the vice president, an action plan had to be created to achieve the goals. The United Nations Development Program team played an integral role in this stage. They first helped to clearly define the president's priorities, then they helped in turning the priorities into targets that would be translated into goals in the

online system. The whole process was in collaboration with the Minister of presidency and the vice minister. The UNDP asked the presidency to set a maximum of 15 goals but the presidency set 112 goals. They asked the ministers to create small groups within each ministry to analyze the capacity of each government what needs to continue from the old system and what needed to be omitted or improved. Then they defined the presidential goals and distributed them among the different ministries. Each ministry was given from 2 to 15 goals according to the pre-set priorities and the budget to achieve the goals was approved by the president.

Each ministry had to appoint a goal manager and a coordinator to make sure that goals were achieved and a coordinator was to help the goal manager to solve problems and achieve the desired goals. With the support of UNDP, it took a year for the goal managers to be trained to use the SIGOB program. The most difficult part for the goals managers was to set indicators to track the progress of their performance. According to Cuello, it was also difficult to convince the goals managers of the importance of using this system, since it took time to train them to use it. The presidency had already set broad goals and each ministry's goal manager was required to set intermediate goals and to impose time frames to execute them and to put them on the online platform. Each manager created an online profile. The system was not open to the public or even to all public servants. The password was given to 200-300 public officials. The SIGOB aimed at helping to identify the problems in achieving the goals and the goal manager had to deal with them. It also notified the goal managers about the deadlines and would give an alarm in case the goal managers failed to meet the deadlines. The goal team in the ministry of presidency was responsible to help goals managers struggling to achieve their goals in finding solutions. If the problems became very complicated and difficult to solve, it was transferred to a committee of presidential goals that include all key ministers and high ranking officials. The system collaboration and coordination in addition to the support it received from the UNDP helped in the success of the experience and in realising the desired goals.

C.5- A Bottom up Strategy to Encourage Public Servants to be Part of the Change Rather than Subjects:

Fighting corruption and initiating reforms has never been an easy task. Policy makers may be able to design excellent anti- corruption strategies that can adapt to the country's context, but they can nonetheless fail to reach the desired goals. Sometimes policy makers take into consideration the context of the country in which the reforms will be implemented but forget about the smaller and equally important context, which is the agency's context, who are the first ones encountered with the reforms. To avoid this trap, Anil Kumar Ujoodha, director general of the national government's Independent Commission against corruption, suggested a strategy that helped in preventing and curbing corruption where the targeted agencies and the employees actively participated. In the following section, the research will present a briefing of this successful story as presented by Princeton University.⁶²⁴

The Independent Commission Against Corruption (ICAC), was founded in 2002, in Mauritius, when the Parliament passed an anti-corruption law and decided to set up the ICAC. By 2006, the number of complaints increased from 200 to 1000. The ICAC performed quite well in prosecution and investigations, which represented an important step towards a cleaner government. However, what really worried Ujoodha, director general of ICAC, was the widespread corruption in some governmental agencies that could not be corrected through prosecution or investigation.

There were a number of complaints from certain agencies like the civil status service, the traffic police, and customs, regarding the soliciting of bribes and preferential treatment. .

⁶²⁴Tristan Dreisbach, "Tackling Corruption from the Bottom Up: Decentralized Graft Prevention in Mauritius, 2009-2016" (2017) Tackling Corrupt Bottom Decentralized Graft Prev Maurit 2009-2016, online: </publications/tackling-corruption-bottom-decentralized-graft-prevention-mauritius>.

Ujoodha knew that the solution was to work on prevention and education to reduce the opportunities for bribes. He appointed Rashda Domah to be the director of the prevention and education department, as she had a long time successful career as an auditor, so it was easy for her to assess the problems. Together they decided to create a strategy to reduce the level of corruption in the governmental agencies.

Ujoodha and Domah knew that the ICAC faced a number of problems. The ICAC could only issue recommendations, as it did not have the legal authority to require compliance. Accordingly, it had to design an anti-corruption plan that would appeal to the prime minister and to the head of the civil service status. They also knew that it would not be easy to monitor the implementation and progress of the strategy in the agencies , because ICAC did not have enough employees in the education and prevention department. Moreover, he knew that his request to increase the number of employees would not be approved. He was also aware that the parliament would not give broad authority to impose changes on the civil service. Given the above mentioned constraints, ICAC had to act on the prevention of corruption.

In response to the given limitations, Ujoodha decided that he would make use of the available resources to execute his anti-corruption plan. His action plan consisted of two main missions: To help agencies design the anti-corruption strategy, and to convince the prime minister and the head of the civil service of its importance, and the importance of ensuring that it was applied in the different agencies.

He decided to take a new approach to prevention, after studying the countries experiences in prevention. Ujoodha and Domah decided that the fight against corruption and prevention would be each agency's responsibility and IACA prevention and education department would be limited at issuing guidance, and following up the progress. Therefore, they decentralized the process, and each agency was responsible for assessing its own risks

and finding the appropriate solutions and the ICAC staff was supposed to help the agencies through the process. This allowed the reforms to be custom made according to the vulnerabilities that different activities caused. It was also important to ensure that there was a balance between reducing corruption, while making the process more efficient.

Ujoodhaand and Domah decided that the ICAC prevention and education department could not be limited to publishing reviews and issuing recommendations. Therefore, the decentralization process helped in finding a way to assist employees through the process, rather than issuing recommendations and researches that they usually ignored. The anti-corruption strategy was divided into structural and procedural processes. The structural process was designated to assign the committee, and the procedural process was to design the policy.

The ICAC started by conducting a survey where they asked around 2000 citizens about the most common acts that they encountered on a daily basis. By relying on the survey results, and other researches, they identified 21 priorities that agencies had to develop in any anti-corruption strategy, such as procurement, conflicts of interests, codes of conduct etc. Accordingly in 2010, they developed a strategy that they called, “ Public Sector Anti-Corruption Framework”. It consisted of a 53 pages guide to help officials in the prevention and control of corruption mission. Before drafting the framework, the ICAC held meetings with top officials to keep them acquainted with the process, in order to avoid surprises and resistance.

They started with the civil service status, and the traffic police. Every agency was responsible for creating its own anti-corruption committee from its own officials, to assess the corruption risks and vulnerabilities. The next step was to draft a policy from a template prepared by ICAC to guide the committee work. The policy draft was then submitted to ICAC for review. The policy had to start with the Agency’s commitment to fight against corruption

in accordance with Mauritius laws, and detailed the composition and the functions of the anti-corruption committees and set up expectations for employee conduct. At this stage, ICAC helped employees to identify specific corruption risks and to find adequate solutions. ICAC officers were expected to be members in anti-corruption committees. Each ICAC employee was a member in one to five committees to help in monitoring the progress and finding solutions.

One of the most important strategies that ICAC adopted during this process was that intentionally kept formal, and informal relationships with the agencies that embraced the anti-corruption strategy. The informal relationships helped in keeping closer track of the progress. To track the progress, ICAC offices received formal reports of prevention and education every 3 months.

In 2012, ICAC won the UNODC award for the innovation in public service. This international recognition proved to the top officials the importance of the strategy. The ICAC's learning division issued a short guide about risk management in which they identified 4 steps: Identify the risks, analyze risks, evaluate the risks, prioritize the risks, manage the risk, and monitor the performance. ICAC offered assistance and guidance through every step and helped in tracking the progress. By 2012, only 12 agencies have signed up to join the strategy, but by 2013, 40 agencies joined.

C.6- Strengthening the Judicial System: An Important Pillar in an Anti-Corruption Reform Strategy in Kenya

An independent and honest judicial system is the backbone and most important characteristic of a successful nation that respects the rule of law. The respect of the rule of law is always a product of an honest, reliable, and trustworthy judicial system. Therefore, any successful anti-corruption strategy, will put into consideration the evaluation of the status of

the judiciary system. Kenya is one of the countries that has a long history of suffering from corruption and attempts to fight against it on the national as well as on the international level. In the aftermath of the 2007 disputed presidential elections and resulting violence that continued for three years, and the international mediation process intervention; the 2010 Constitution what made judicial reforms a clear mandate. The resulting 2010 constitution could have been simply ink on paper, but Muntaga used it to implement important reforms into the judicial system. In the next section, the research will give a briefing of this important experience as explained by Princeton University.⁶²⁵

The judicial system in Kenya suffered from many structural, organizational issues as well as a lack of resources, and a lack of training problems among other things, , but the most threatening problem was the widespread corruption that eroded people’s trust in a fair and impartial judicial system. Muntaga was in charge to bring about the important reforms in the judicial system, in an attempt to control corruption and redeem the people’s trust. Muntaga was aware of the importance of monitoring the implementation of these reforms so he appointed Nuggi as a director of the Judiciary Transformation Secretariat which was responsible of coordinating the initiatives, tracking the achieved progress, and sharing the best practices in the courts.

After a long process that consisted of assembling a team to assess and identify the judiciary problems, and after reviewing possible previously proposed recommendations by the civil society, and internal reports, in addition to consulting the judges, and magistrates to ensure their support; in May, 2012, they came up with a plan called “ The Judiciary Transformation Framework.” The framework consisted of four pillars: The first pillar ensured access to justice. This was a people centered approach. In this sense, customer care desks were created, the procedures were streamlined and the complaint mechanisms were enhanced. The second pillar was professionals centered. It focused on empowering judges by increasing training and clearly identifying individual responsibilities. The third and fourth pillars were

⁶²⁵ Maya Gainer, “How Kenya Cleaned Up Its Courts” Democr Lab Legatum Inst 10.

designated to computerizing the courts procedures, and to improving the court's information technology infrastructure.

The Judiciary Transformation Secretariat led by Ngugi organized 38 inclusive workshops where judges, and employees from all levels including the drivers, and cleaners were invited. This approach represented a "cultural shock" in a hierarchal society, where there was a clear distinction between the levels in the society and where the lack of accountability represented a trend. The workshops were designed to discuss the challenges the judiciary faced and asked the participants to suggest solutions. The goal was to give a sense of ownership to the reforms.

There were a huge number of reforms to be undertaken. The administrative processes differed from one court to another. The court registrars were responsible for standardizing and communicating the administrative processes. The reforms also called for streamlining the procedures and clarifying the courts processes for the litigants. Each court was required to create a service chart in the form of a billboard where requirements, fees, and timelines of court processes were posted. Moreover, each court was required to draft a registry for both users and staff to explain all the court procedures.

Another important challenge was the physical organization of the file. The chaos and lack of organization enabled corruption in the form of hiding or stealing files or documents. The High Court Registry created a system to organize and colour code the files. The registrars then implemented a tracking system that consisted of creating a "tracer card" whereby every person who retrieved a file would be known.

The reformers also struggled to create a system that ensures a better monitoring, tracking, and information sharing system. The initial plan was to introduce an electronic data management system to input data, share the information, track delays, and randomly assign cases to judges to limit corruption. The electronic management system was already introduced

in some parts of Kenya, but the reformers could not generalize it in all courts because some of the court systems were not adequately equipped with internet connections or even with computers. In 2013, to compensate the lack of resources, the judiciary performance management committee developed a less advanced tracking tool, that took the form of an excel spreadsheet customized to the court's procedures. This simple system that they named "The Daily Returns Template" was disseminated in October, 2015. The process was simple to manage, at the end of each day the officer was required to fill the relevant information and send a copy to the central directorate. This simple yet effective process allowed the directorate to track work loads, and deadlines. However, this system failed to allow the sharing of information, and there was no means by which to check the credibility of the information provided by the courts to the directorate.

The inclusive approach that Mutunga adopted in the judiciary system reforms required not only the employees in the courts to be part of this system but even citizens were invited to be part of the change. An ombudsman's office was founded to receive citizen complaints. The system allowed citizens to present their complaints personally, send Emails, letters, faxes or text messages. The office in return connected them with the courts and gave deadlines for response. Once the officer opened the system he was required to solve the problem or to provide an explanation within the provided deadline. Meaningless or inappropriate responses were sometimes the reason for disciplinary actions against judges. This time the problem was not the system itself. It encouraged citizens to use the system which was designed to serve them.

In line with his inclusive reform policy, Mutunga developed the existing system of court users committee which gathered judges, police, civil society organizations, and leaders that existed from 2006 to be an official part of the justice system, and benefited from their services in gathering information about the present challenges, and performances. Furthermore, the court users committees were better positioned to inform their perspective communities about the new policies or decisions.

The reform system resulted in concrete results. The lack of personnel was resolved when the judiciary hired 200 new judges, and established 25 new courts. On the international level, the 2013 Gallup survey results showed that 61% of Kenyans had confidence in the judiciary, compared to 27% in 2009. However, the results were not sustainable because of some scandals. Although, the reforms represented a step forward in improving the court system in Kenya, efforts were needed to continue to build trust in the system.

The research can draw several implications from this experience.

Reforms have to be inclusive in the sense that, all parties affected by the negative effects of corruption also had to be included in the reforms. Mutunga was aware of the importance of the partnership of all stakeholders.

It is important to help judges and employees that they contributed to the changes, as opposed to making them feel that they must submit to these changes. The aim is to avoid possible resistance. Therefore, the meetings with judges and the extensive consultation that Mutunga and Ngugi held were intended to avoid resistance.⁶²⁶ To ensure a successful implementation of the reforms, judges, magistrates, and employees had to feel a sense of ownership for the reforms. They had to feel that it was their ideas and that they were supporting them. It is not about imposing the change but about making it happen.

The 38 workshops that the secretariat organized as part of the inclusive “Judiciary Transformation Framework” was important not only to bring the judges and employees together to discuss problems and find solutions but also to cure an important symptom of

⁶²⁶ It is worth noting that as discussed earlier with the “Path Dependence theory” in part one chapter 2 when reformers do not take into consideration the possible resistance of employees and find adequate solutions the designated reforms fail

corruption. Research has shown that the more hierarchical the society and the wider the power distance in the society, the more the corruption. Therefore, taking initiatives to reduce discrepancies in power will indirectly help control corruption.

Sometimes it is difficult to achieve the desired goal, but getting closer to the goal is far better than accepting the existing conditions. Even though, the reforms could not achieve a fully developed electronic case management system due to the lack of resources, the “Daily Court Returns template” helped in getting closer to the goal by using excel spreadsheet. This simple tool significantly helped to improve monitoring.

The reason why the Ombudsman’s office did not receive enough complaints and citizen were not encouraged to use it was the lack of trust in the system. Citizens were unable to believe that change was possible. This is the reason why it is important to include the media in the reforms to publicize successes, especially since responses were monitored and officers had to respond within assigned time frames.

The simplification of procedures is an important step in any reform strategy aimed at reducing opportunities of corruption.

The reforms were successful because they helped to consolidate principles of transparency, when each court was in charge of preparing a billboard to post all the courts processes and fees. The monitoring was achieved through the creation of the Daily Court Returns Template. The accountability principle was consolidated through the creation of the office of Ombudsman, whereby citizens were able to present their complaints and report any violations to the rules, and were entitled to receive answers within prescribed timeframes.

C.7- Curing La Paz from its Long-Term Corruption Problems

La Paz, a beautiful city in Bolivia, has long been infected with corruption. Although, some successful reforms measures were undertaken in 1985 by the elected mayor, Ronald McLean-Abaroa, and were registered and celebrated in his co-authored popular book, “Corrupt Cities” , where he shared his experiences and strategies in fighting against corruption.⁶²⁷ Shortly after he left office however, corruption began to grow again. La Paz city was fortunate enough to have Juan Del Granado elected as its mayor in 1999. The Legatum Institute registered the success story of this mayor in reviving and bringing reforms to the municipality. The next section the research will give a briefing about this successful experience as illustrated by the Legatum institute then the experience will be analyzed.⁶²⁸

Juan Del Granado was elected mayor of the city of La Paz in 1999. He already knew that high levels of corruption were awaiting him, but he arrived with the mindset of a challenger, determined to transform the city of La Paz. He adopted a strict “ zero tolerance policy” to transmit a clear message that things had changed and that this was not just a slogan. The zero tolerance policy was translated into a comprehensive program in 2002, which had three main components: First, prosecution in case of corrupt acts in accordance with the public officials code of conducts. Second, reformers wanted to recover the city’s economy by focusing on reforms on fiscal policies to generate more revenues. Third, building trust between the city employees and the citizens by allowing more transparency, and citizens participation.

⁶²⁷ Klitgaard & MacLean-Abaroa, *supra* note 202.

⁶²⁸ Paul Heywood & Nieves Zuñiga, “Cleaning Up La Paz:How Bolivia’s biggest city freed itself from a ubiquitous culture of corruption.” (2015) Democr Lab Legatum Inst, online: <<https://lif.blob.core.windows.net/lif/docs/default-source/publications/cleaning-up-la-paz---curbing-corruption-september-2015-pdf.pdf?sfvrsn=2>>.

To achieve his comprehensive policy reform, he created the “Transparency Unit” in 2004. To enhance transparency, he used innovative anti-corruption tools to unveil corrupt acts. Besides, creating an online reporting mechanism so that citizens could file their complaints, it helped in founding creative mechanisms to detect corrupt behaviors. For example, they sometimes used people that pretended they were seeking services from the city to detect any corrupt behavior.

He was also committed to improving the quality of services offered by the bureaucracy. To achieve his goal, he created a “Continuous Improvement Unit”. This unit aimed at simplifying and clarifying the procedures of permits, licenses, and other services offered by the city, to better serve the citizens. It created a web page where it listed all the municipal regulations from 1960. It also aimed at providing online tools that offered detailed explanations of the steps that citizens had to follow to obtain the services they were seeking. He also installed a system that enabled the sending of text messages and notifications to inform citizens of the completion of their applications. Another area of improvement was the transparency in the procedures used for land registration. Moreover, reforms were undertaken to improve the procurement processes, to ensure that they were awarded on a competitive basis and that there were effective monitoring measures undertaken, to ensure the quality of the public projects. These tools allowed for more transparency and therefore reduced the opportunities for corruption.

Under the leadership of Juan Del Granado, the city allowed and encouraged more citizen participation. The city created “The District Neighbourhood Hearings”, where citizens were encouraged to present their complaints or suggestions. They were also encouraged to participate in the budgeting of local public projects. They also created people’s assemblies and “citizens planning councils” chaired by a representative of the mayor to be able to discuss policies. Citizens were also encouraged to participate in the Municipal Development Plan, the La Paz assembly, to discuss other strategic topics. The city also aimed at raising public awareness in understanding that they held a shared responsibility in improving the quality of

life in the city in which lived. Citizens participation restored social trust in the municipal government and made citizens feel that they are partners in the reforms which reduced the opportunities of corruption.

Transparency and accountability measures and increases in public participation helped in reducing the opportunities of corruption and in realizing Del Granado goals to increase city revenues. For example, the applied reforms raised the revenues generated from taxes, especially property taxes and vehicles taxes which increased significantly from 2002-2004. The sources of revenue continued to increase to the point that the city revenue grew by 15% from 2010-2011. The seriousness and effectiveness of the reforms helped in attracting funds and aids from international organizations which were previously cautious about funding projects in Bolivia. The World Bank, for example, funded a project called the Secondary Education Transformation Project, from 2007-2013. Similarly, in 2009, the Inter-American Development Bank funded the Rehabilitation of Downtown La Paz. Therefore, the successful anti-corruption measures restored the trust on national and international level.

One of the most important reforms that Del Granado achieved was that he did not only work with his employees to fight against corruption on an incentives basis, but also worked on restoring the employees public images for themselves, and for the citizens. He created a program to reward good practices and integrity. He organized a yearly ceremony where the city government granted awards to recognize the efforts of the most efficient, transparent, and honest civil servants. This way he restored the pride of public servants and their image in the public's eyes. This initiative helped the citizens to gradually come to see public servants as managers that worked for the common good and the public interest, instead of viewing them as civil servants who were self-interested and worked only for their own good. As a result, in early 2002, when a heavy flood hit the city, the municipal civil servants worked hard to provide relief for the affected people. The citizens showed gratitude for the efforts of the public servants, which helped in both restoring the public servants' image in the eyes of the citizens. and even helped restore their self-perception.

Implications:

Del Granado's strategy yielded the desired goals for many reasons. One of the main reasons why most reforms are not given much weight or are sometimes altogether ignored is because they do not work on creating a culture of integrity, but rather, they create a culture of compliance. Del Granado was aware that building a culture of integrity pays off and guarantees more sustainability. Other factors for his success included:

1- Reducing the monopoly of power that bureaucrats and municipality officials had by enhancing transparency, by introducing innovative tools and by ensuring that citizens had proper channels of complaint and the right accountability tools by which to prosecute offenders thus reducing the opportunities of corruption.

2- Introducing reforms which helped simplify and clarify procedures to issue permits and licenses and helped in the distribution and sharing of the civil servants' power that the information held. Additionally, it reduced the complexity and ambiguity of the procedures, which also reduced the opportunities for corruption.

3- Research has shown that allowing the active participation of citizens in monitoring, and helping to apply the reforms, ensures the control of corruption and better application of the designed reforms.^{629 630}

4- Tackling corruption in the procurement sector is one of the most important areas, since procurement processes offer a wide range of opportunities to engage in corrupt acts. Ensuring the transparency of the different steps in the process, and introducing effective monitoring measures helped in guaranteeing the reforms in this area.

⁶²⁹ Maya Gainer, "Listening to the Public: A Citizen Scorecard in the Philippines, 2010-2014" (2015) List Public Citiz Scorec Philipp 2010-2014, online: </publications/listening-public-citizen-scorecard-philippines-2010-2014>.

⁶³⁰ Reinikka & Svensson, *supra* note 155.

5- The best reforms strategies start with the available limited resources until trust is built on the national and international level. Once this step is reached, it is easier to secure international funding support. Therefore, reformers should concentrate more on the anti-corruption reforms needed, to take a comprehensive approach to ensure its success, while taking into consideration the creation and promotion of a culture of integrity to guarantee the sustainability of the reforms.

C.8- CSOs: An Important Partner in Anti-Corruption Strategies in Philippines

In the Philippines, when president Aquino won the presidential elections, and was declared as the official leader of the Philippines, he undertook many reforms. One of the most important reforms that helped his government achieve its goals and fulfill its strategy to fight against corruption is consolidating the role of the civil society in controlling corruption and encouraging them to achieve the shared goals. Through its commission on Audit department, the government (COA) invited the citizens and civil society organizations to monitor the allocation of funds and the progress of the infrastructure projects undertaken by the government.⁶³¹ The program was called Citizen Participatory Audit (CPA) which allowed a better cooperation and participation of all the stakeholders in monitoring and tackling corruption.⁶³²

In response to this true inclusive and participative policy the Concerned Citizens of Abra for Good Governance CCAGG, which is an NGO formed in 1986 in Philippines started to participate in partnership programs with the government to control corruption. To improve the NGOs performance and to make their role more effective, the CCAGG members which

⁶³¹ The improvement and success story of Philippines was recorded in this research in chapter 3 part one.

⁶³² Warren Krafchik & Vivek Ramkumar, "The Role of Civil Society Organizations in Auditing and Public Finance Management" (2005) Audit Soc Change Strategy Citiz Engagem Public Sect Account U N Publ N Y.

were mostly composed of housewives, and out of school students who received support from professionals, signed a memorandum of Understanding with the National Economic Authority to assist them in their mission. In order to improve their capabilities, and the quality of their performance in helping the agency to monitor the projects, they provided some members of the CCAGG with adequate training.⁶³³ One of their important successful achievements was realized the CCAGG actively reacted after reading a newspaper advertisement issued by the Ministry of Public Works and Highways, announcing the successful achievement and completion of 27 projects in Abra province. The CCAGG knew that this was a misleading information. Therefore, they decided to reply to the misinformation by documenting the actual state of the alleged completed 27 projects.

The documentation took the form of testimonies, and actual pictures taken from nearby residents to each project. The documents proved that the projects were either in their beginning stage or mid-way in their completion. Accordingly, they submitted their finding results to the government and requested that the officials responsible in the Ministry of Public Works and Highways be investigated for providing misleading information.

In response to the CCAGG complaint, a government official audit committee was formed, and confirmed CCAGG findings. Accordingly, eleven government officials were charged with corruption and dismissed from their positions. This shows that civil society can play an active role in curbing corruption in the country. It can also reduce the government expenses, and efforts in fighting corruption by assisting it to achieve its desired goal. In the Philippines case, the CCAGG were in charge of compiling the file which proved the engagement of the officials in corruption.

⁶³³ The information on CCAGG contribution on fighting against corruption was accessed from: “The Role of Civil Society Organizations in Auditing and Public Finance Management | Publications”, online: *Int Budg Partnersh*<<https://www.internationalbudget.org/publications/the-role-of-civil-society-organizations-in-auditing-and-public-finance-management/>>.

NGOs also played an active role in curbing corruption in India through putting pressure on the government to enact a law to give people the right to access information, RTI. MKSS is a people's organization that through its efforts helped in achieving people's rights to access information in India, as a step forward in curbing corruption, and bringing equality. The MKSS is a people's⁶³⁴ organization that was established in 1990 in one of the largest states in India. It was originally created due to the struggle for setting minimum wages for workers and the peasants.

In 1994, the MKSS officially demanded the government to provide them with the financial expenditure records. The government officially replied and refused the request on the basis that the MKSS is not legally entitled to access the information. Following several requests, lobbying, public pressure, and the empathy of some officials, they were able to access the information informally. Once they accessed the information, their village council examined it. The first examination revealed some discrepancies, and MKSS organized public hearings. Government officials and experts were invited to answer the citizens' questions publicly. In the public hearings, the citizens confronted the government officials with documents showing fake payrolls, unperformed public works and that some people were never paid for the work they performed. The public hearings had very successful results, some officials were convicted with public funds embezzlements, and workers who hadn't been paid for years received their payments. The MKSS was not satisfied with short term results since the public hearings revealed the need for sustainable measures to ensure transparency, and public officials' accountability. The struggle, and the attempts (through different means including lobbying, and demonstrations) continued for many years. The fruits of those efforts were reaped when the Right To Information law was enacted in May 2000. Each success was

⁶³⁴ Information about MKSS and their achievements were retrieved from the organization website. "About Us – Mazdoor Kisan Shakti Sangathan", online: <<http://mkssindia.org/about/>>.

Last accessed on the 30th of June 2018. And from following the money4/29/20 9:59:00 PM "Following the Money: Do Public Expenditure Tracking Surveys Matter?", online: *GSDRC* <<http://gsdrc.org/document-library/following-the-money-do-public-expenditure-tracking-surveys-matter/>>.

a step forward to another important achievement. Since the MKSS primary goal was to ensure that the workers receive a minimum wage, it continued to ensure more transparency, and access to information to hold public officials accountable in case of deviation until the National Rural Employment Guarantee Act was issued in 2005. This Act guarantees a 100 days a year employment with minimum wage to all rural households.

MKSS success in putting pressure on the government to enact the Right to Information Act (RTI) in 1999 helped a group of activists called Parivartan to hold public officials accountable for engaging in corrupt deals. They used the RTI Act to access information on the public distribution system, which consists of a government system especially created to guarantee the distribution of food grains at an affordable price for the poor. By gathering information about the corrupt practices in the food grain distribution system, the Parivartan succeeded in mobilising the public opinion –by disseminating the information through the media- and putting pressure on the government to hold the public officials accountable.⁶³⁵

There exist many other examples that proved that NGOs participation helps the government achieve their desired goals. The keyword here is “empowerment”. When the central governments empower the NGOs specifically and the civil society organizations in general, together they may complement each other efforts to achieve the country’s goals.

⁶³⁵Pande, *supra* note 135.

Part one : Conclusion

Part One of the research highlighted the research problem. It outlined the theoretical, conceptual framework and the methodology used in the research. Based on the review of the literature, part one of the research provided a diagnostic reading of the problem of corruption by studying the different causes and effects of corruption. Furthermore, it explored some important reforms solution to tackle corruption. Finally, part one provided a practical evidence that corruption is curable by presenting successful countries experiences in fighting corruption. Therefore, part one set the theoretical and practical framework that helps the researcher in her attempt to answer the core question of the thesis, that is, to find out how can Egypt's legislative governance benefit from anti-corruption remedies. Part two studies Egypt's efforts to fight corruption in light of the first drafted national anti-corruption strate

PART TWO:

A CRITICAL ANALYSIS AND RECOMMENDATIONS REQUIRED TOWARDS THE SUCCESS OF EGYPT'S ANTI- CORRUPTION STRATEGY: ROADMAP TO PROGRESS?

Part Two: Introduction

Without a post-mortem critical constructive interdisciplinary analysis of Egypt's Anti-Corruption Strategy (hereafter referred to as "the Strategy") that was developed in 2014, and scheduled to run from 2014-2018, it is difficult to develop better adapted strategies of fighting corruption within Egypt's context. It is important to note that this research stems from the belief that the Strategy represents an important step in Egypt's efforts to control corruption through its systems. Indeed, it should be seen as a milestone in Egyptian history, being the very first anti-corruption text ever issued in Egypt. That is why this research provides a critical interdisciplinary analysis of the Strategy, which is to the best of the researcher's knowledge the first of its kind.

Part Two is divided into four chapters. Chapter one starts by giving a historical background of Egypt's efforts to fight corruption from 1952-2013 to explain the roots of the problem of corruption and the way the political leaders reacted to face this problem. Chapter two further continues by giving a brief explanation about the composition of the Strategy, and

proceeds to discuss the following key components of the strategy: the main goal⁶³⁶, the methodology, the foundation, and the mechanisms of drawing up the Strategy. Chapter three further discusses the ten main short and medium term goals as set by the Strategy in terms of what was actually done and what was not, giving legislative and non-legislative recommendations about what should have been done to be able to achieve better results in the future. The study of these mentioned parts is intended to discuss what should have been done according to the scientific literature reviewed and the experience of other countries that succeeded in achieving their intended goal of decreasing or eliminating corruption. The research includes a detailed study of the Strategy in terms of its aim, effectiveness and the parties involved. Chapter four attempts to provide constructive recommendations to better perform in future anti-corruption strategies.

Chapter One: Historical Background of Anti-corruption efforts in Egypt

It is important to study the history of anti-corruption efforts in Egypt in order to have a better understanding of its roots. This section focuses on the forms of administrative corruption that emerged since 1952 and the legislative policies that emerged ever since. It is worth noting however that this research is not meant to provide a detailed account/explanation of the political, economic, or social history since the main focus of the research is to address the question: How can Egypt's legislative governance benefit from an interdisciplinary inventory of anti-corruption governance?

One of the main causes of the 1952 Revolution was fighting corruption. This was stated in the reasons that Mohamed Naguib (leader of the Revolution at that time) provided in the

⁶³⁶ the main goal is: Combating corruption in the Egyptian society through the development of objectives, policies, programs and mechanisms in order to curb corruption and build an anti-corruption societal culture.

statement he gave announcing the coup d'état. The statement that aimed at addressing King Farouk, the King of Egypt at that time, said:

In view of what the country has suffered in the recent past, the complete vacuity prevailing in all corners as a result of your bad behavior, your toying with the constitution, and your disdain for the wants of the people, no one rests assured of life, livelihood, and honor. Egypt's reputation among the peoples of the world has been debased as a result of your excesses in these areas to the extent that traitors and bribe-takers find protection beneath your shadow in addition to security, excessive wealth, and many extravagances at the expense of the hungry and impoverished people. You manifested this during and after the Palestine War in the corrupt arms scandals and your open interference in the courts to try to falsify the facts of the case, thus shaking faith in justice. Therefore, the army, representing the power of the people, has empowered me to demand that Your Majesty abdicate the throne to His Highness Crown Prince Ahmed Fouad, provided that this is accomplished at the fixed time of 12 o'clock noon today (Saturday, 26 July 1952, the 4th of Zul Qa'ada, 1371), and that you depart the country before 6 o'clock in the evening of the same day. The army places upon Your Majesty the burden of everything that may result from your failure to abdicate according to the wishes of the people.⁶³⁷

According to this notice provided by General Mohamed Naguib, broadcasted by Anwar El Sadaat, (one of the so-called "Free Officers" who led the Revolution at the time) one of the important justifications for the Revolution and the abdication of King Farouk was "corruption".

Charles Saint-Prot described Egypt and the various social and legal changes as:

Vieille nation s'inscrivant dans la continuité historique, avec un peuple d'une assez grande homogénéité, l'Égypte avance à son pas en cherchant à s'adapter aux circonstances. De la monarchie constitutionnelle aux révolutions de 2011 et 2013, en passant par l'époque nassérienne et post-nassérienne, son histoire constitutionnelle est donc caractérisée moins par des ruptures tranchées que par des compromis dont le texte soumis au référendum de Janvier 2014 est un bon exemple.⁶³⁸

⁶³⁷ Amil Khan, *The Long Struggle: The Seeds of the Muslim World's Frustration* (John Hunt Publishing, 2010) at 58.

⁶³⁸ Jean-Yves de Cara & Charles Saint-Prot, *L'évolution constitutionnelle de l'Égypte : avec le texte de la Constitution de 2014*, Collection Études géopolitiques ; no 12 (Paris: Observatoire d'Études Géopolitiques, 2014).

To efficiently manage civil services and the public sector, the leaders of the 1952 Revolution sought to apply harsh legal rules that targeted fighting corruption. This tradition of promulgating harsh laws to protect the integrity of public servants and reduce corruption was continued throughout the years. This section, accordingly, discusses the legislative policies to fight corruption along four historical phases:

- (1) the first phase starts following the 1952 revolution and during the presidency of Nasser (1952-1970)
- (2) the second phase during Sadaat presidency (1970 –1981),
- (3) the third phase during Mubarak presidency (19 81- 2011) ; and
- (4) the fourth phase in the aftermath of the historical 2011 revolution until Al Sissi presidency (2011 - 2014)

The reason for this division is that it is agreed upon among historians that each one of these historical phases has its own political and administrative characteristics that were reflected in the nature of corruption at that time and the legislative tools that the leaders used to control it. ⁶³⁹

To illustrate the unique characteristics of each historical phase, Waterbury argues that:

When I refer to the Nasserist regime I am implying something a good deal less than a formal system or a sophisticated ideology. It was, by definition, highly personalized, and thus the passing of the regime's founder meant the passing of the regime itself. After about 1974-75 it could be said that Sadat had elaborated his own regime....His successor, Husni Mubarak, will if given the chance, build his own regime, gradually forming a new nexus of alliances that will make his incumbency distinctive.⁶⁴⁰

⁶³⁹ John Waterbury, *The Egypt of Nasser and Sadat: The Political Economy of Two Regimes* (Princeton University Press, 1983); Tarek Osman, *Egypt on the Brink: From Nasser to Mubarak* (Yale University Press, 2010).

⁶⁴⁰ *Ibid* at (xiii).

A.- The First Phase: (1950 – 1970)

Nasser's regime was characterized by important political, economic and social changes the effects of which were reflected in the spread of/fight against corruption, for example the abolishment of political parties, the redistribution of land, the nationalization of the Suez canal and private sector, and the increasing importance the state gave to the public sector to achieve its goal. According to Tamir Moustafa: "Nasser (1954–1970) pinned his legitimacy on the revolutionary principles of national independence, the redistribution of national wealth, economic development, and Arab nationalism."⁶⁴¹The control of the state over the means of production and the economy made it important to have legislations to govern the public sector. A number of policies were adopted to fight administrative corruption and to protect the public officials' integrity particularly that these policies were in accordance to the main aims of the 1952 Revolution, namely attaining social justice through, fighting corruption and illicit enrichment. The new political and social ambitions set by the revolutionary government were reflected in the criminal policy which was directed into setting new reforms to fight corruption and bribery in the public sector.

Before the 1952 revolution, during the rule of King Faruq ruled, the wealth of the nation represented mostly in the land was concentrated in the hands of a small group in the society. This group had both political and economic power. The vast population felt miserable and helpless, falling into great poverty and being unable to seek justice. The social process that changed the structure of the society was a revolutionary one. As a result, quick decisions were made and laws were declared. Following the 1952 revolution, that resulted in abolishing the constitutional monarchy, overthrowing the king, and establishing the Arab republic, the revolutionary government started to draw the characteristics of the State. As Tamir Moustafa explains, "The Constitution was annulled by executive decree on December 10, 1952, and

⁶⁴¹ Tamir Moustafa, *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt* (Cambridge University Press, 2007) at 39.

another decree, issued January 17, 1953, dissolved all political parties. Egyptian legal institutions were also weakened significantly.”⁶⁴²

The social and economic environment changed with the redistribution of wealth following the Revolution. Although Nasser intended to reduce inequality by the redistribution of the land, Zaalook explicates that a new ‘state bourgeoisie’ was created after acquiring power and control over national wealth.⁶⁴³ Waterbury explains that at the beginning of Nasser’s presidency, major efforts were undertaken in the redistribution of wealth and did not intend to exploit the working class through undertaking economic measures. He argues:

This alliance- referring to the alliance between the military and State technocrats-while it repressed the labor force, did not have the will to exploit it, to extract from it through inflation and low wages an investable surplus. Indeed Nasser’s authoritarianism was ostensibly inclusivist, both politically and economically, and populist at least in rhetoric. There was a major effort of redistribution of wealth that, ultimately, derailed the process of accumulation.....Under Nasser accumulation took place primarily through nationalisation. ⁶⁴⁴

Zaalouk argues that when the 'Free officers' accessed power, they did not have a clear socio-economic plan and did not understand that political power was not fully separated from the economic power.⁶⁴⁵ He puts it clearly when he says:

The Free Officers had in their own minds made a false distinction the large land owners- the holders of political power – and the bourgeois Capitalists, who were thought to hold only economic power. They had perhaps not fully grasped the fact that both were fractions of one of the same class; nor had they apparently understood that economic power was not entirely separate from political power.⁶⁴⁶

⁶⁴² *Ibid* at 59.

⁶⁴³ Malak Zaalouk, *Power, class, and foreign capital in Egypt: the rise of the new bourgeoisie* (Zed Books, 1989) at 54.

⁶⁴⁴ Waterbury, *supra* note 631 at 9–10.

⁶⁴⁵ Zaalouk, *supra* note 635 at 24.

⁶⁴⁶ *Ibid* at 25.

A survey looking into the effect of the changes initiated by the 1952 Revolution and continued over the span of fifty years, conducted by the National Center for Social and Criminal Studies in 2003. The study showed that the Egyptian State aimed at developing the middle and working class and adopting a socialist regime. From an economical approach, “the National Council for productivity development” was created to highlight the necessity of benefiting from foreign capital in development projects. Therefore, the law (56) of 1953 governing the investment of foreign capital in development projects was promulgated. Moreover, the nationalisation policy had significant effects on the economy. The State’s extended authority on the public sector resulted in an increase in the number of public servants, bureaucracy, and the proportion of the middle class in the population. They imposed their political authority through the social union for syndicates.⁶⁴⁷

Singerman argues that “Nasser developed corporatist state-controlled unions to contain and placate workers and to meet some of the financial and social concerns of workers, while brutally repressing labor activists who tried to maintain an autonomous base of organisation.”⁶⁴⁸

The socialist approach and the redistribution of wealth was also accompanied with major changes in the public sector and public service structure and the increase in the number of employees. According to Waterbury:

The Nasserist regime regarded the civil service and public sector as instruments of change and pre-emption. To change Egyptian society, to promote mass literacy, to shift the country to an industrial footing, and to achieve the rates of growth required to bring about broad-based prosperity, were dependent on the growth of a powerful, interventionist State apparatus. Preemption consisted in cornering markets in human and material resources and transferring them to public control, thereby denying their use to potentially hostile groups in the private sector.⁶⁴⁹

⁶⁴⁷ المؤتمر السنوي الخامس -التغيير in “سهير عبدالمنعم, “ابعاد مكافحة الفساد الاداري في السياسة الجنائية في الصف الثاني من القرن العشرين (الاجتماعي في المجتمع المصري خلال خمسين عاما) (المركز القومي للبحوث الاجتماعية و الجنائية, ٢٠٠٣).

⁶⁴⁸ Diane Singerman, *Avenues of Participation: Family, Politics, and Networks in Urban Quarters of Cairo* (Princeton University Press, 1995) at 206.

⁶⁴⁹ Waterbury, *supra* note 639 at 260.

The legislative policy adopted to control civil services and public sector reflects the power given to it to achieve the transformation goals. A large number of laws were promulgated to control the public sector and reduce corruption. The new political and social ambitions set by the revolutionary government were reflected in the criminal policy that was directed into setting new reforms to fight corruption and bribery. A dissertation entitled “The criminal protection of the integrity of the public service” showed that a number of harsh laws were promulgated to protect the integrity of the public service as follows:⁶⁵⁰

- On the 14th of August 1952 a new law was promulgated under the name of ‘The purification of government administration’, which aimed at “fighting the grassroots of corruption” as explained in the goals for enacting the law. Article 1 stipulated that the law will decide on “the creation of committees for the purification of ministries, and institutions which are managed or supervised by the government, their main task will be to search for and uncover the crimes and the administrative infringements that took place at anytime until the application of this law, or whatever is related with these crimes or infringements even if it took place after the application of the law (...)”
- On 14th of December of the same year, the law 181 of the penal code was promulgated and allowed the dismissal of the public officials and employees who committed acts that affected their integrity or reputation without previous notice or administrative investigation of the case. However, these legislative regulations were not as effective as expected to achieve the desired goals. Therefore, the military order number 57 was declared on the 15th of February 1953. It commanded that bribery crimes must be reviewed by the military courts. This order was accompanied by some amendments in the law criminalising bribery by the law 69 for the year 1953,⁶⁵¹ the law No 112 of the year 1957 and finally the law No 120 of the year 1962. These amendments were characterized by a larger definition of bribery as a crime. It was decided that bribery will be defined as a crime even if the public official performs a

⁶⁵⁰ ١٩٩٦ سهير عبدالمنعم, الحماية الجنائية لنزاهة الوظيفة العامة كلية الحقوق-جامعة القاهرة, [unpublished] at 60–61.

⁶⁵¹ <http://www.arablegalportal.org/financial/legaldocs/anti-corruption/egypt/AnnexNo.21.pdf>

duty that is not within his frame of responsibilities. In addition, it encompassed new forms of bribes and gave a wide discretionary power to the judge. The decided sanction for any form of bribe was life imprisonment with hard labour. These laws further criminalised the execution of public work based on nepotism or favouritism.⁶⁵²

To provide further protection of the integrity of the public servants and public officials, the first enacted law on illicit gain which was promulgated in 1951 was amended with the law (131) of the year 1952 which aimed at purifying the public service. The amendments continued and the law (148) of the year 1961 was promulgated to expand the coverage of those submitting to its provisions to include all the officials in the public authority and those working in State Administrative Apparatus with few exceptions.⁶⁵³ It also stipulated in article (10) that The Law No (247) of 1956, article (79) of 1958 determines the procedures to hold the president of the State and the ministers accountable in case of illicit gain suspects.⁶⁵⁴

Some oversight bodies were created to improve monitoring in the public sector. The Administrative Prosecution Authority was formed according to the law No 117 of 1958. In addition, The Central Auditing Organisation was created in accordance with the law No (129) of the year 1964 and the Central Agency for Organisation and Administration was also created in accordance with law (118) of 1964. In 1964, a new Civil service Code was promulgated. As previously mentioned, during this era, there was a clear inflation in the number of civil servants due to the State's obligation according to the Decree (185) of 1964 to offer employment positions to all university graduates in the state administrative apparatus and the public sector.⁶⁵⁵ This also led to an increase in the public payroll since it included one-third of the

⁶⁵² *Ibid* Articles 103-109

⁶⁵³ عبدالمنعم, *supra* note 647 at 1095.

⁶⁵⁴ عبدالمنعم, *supra* note 647 at 1096.

⁶⁵⁵ Waterbury, *supra* note 639 at 234.

population.⁶⁵⁶ Waterbury explains that, according to the data (from 1962-1971), the State employed one third of its population and paid about two-thirds of the national wage bill.⁶⁵⁷

According to a study conducted by the National council for criminal and social studies on the bribery phenomenon in the Egyptian society from the perspective of the people of authority in the justice system, the mismanagement and absence of monitoring and follow up resulted in the increase of petty corruption. According to criminal statistics, the number of embezzlement crimes committed by bureaucrats was at the highest rate followed by bribery and graft.⁶⁵⁸ Declining economic conditions, adopting an economy of war, and the social changes accompanying the war losses contributed to undervaluing the implementation of the laws that aimed to reduce administrative corruption.

From the above presentation of the criminal legislative policy and according to the above- mentioned study conducted by the National Council for Social and Criminal studies, the research concludes that the newly declared laws reflected extreme strictness in its language (using the term ‘purification’ and ‘firing’ personnel). Firing public employees without any disciplinary or administrative procedures did not solve the problem, because a simple personnel filling could not bring the problem of corruption to an end. According to Huntington: “In a society where corruption is widespread the passage of strict laws against corruption serves only to multiply the opportunities of corruption.”⁶⁵⁹ These strict laws that were enacted to “purify” the public institutions and the government from the corrupted employees did not solve the problem and Egypt continued to suffer from corruption and its effects throughout the years. According to Singerman, the increasing number of amendments in the laws in a short period of

⁶⁵⁶ *Ibid* at 242.

⁶⁵⁷ *Ibid* at 244.

⁶⁵⁸ المركز القومي (cairo, Egypt) السيد شتا, ظاهرة الرشوة في المجتمع المصري من وجهة نظر المسؤولين باجهزة العدالة الجنائية- التقرير الثاني (للبحوث الاجتماعية و الجنائية, 1973) at 159–169.

⁶⁵⁹ Samuel P Huntington, *Political order in changing societies*.-- (New-Haven: Yale University Press, 1968).

time created uncertainty and ambiguity in the text of the laws which in turn created a need for informal relationships to execute the service needed. ⁶⁶⁰

Research has proved that harsh text of the law can only cause temporary psychological effects. However, people usually experience anxiety related to the uncertainty of the way the law will be interpreted and applied. Regrettably, once this tough law is not implemented, it loses its effectiveness. Administrative sanctions are usually easier to be applied by judges and enforcement authorities. According to Edward Rubin “Modern morality suggests that widespread corruption being viewed as failure of service might be punished by administrative rather than criminal means, such as year’s suspension without pay for the first offense and dismissal or prison only for recidivism delimited sanctions of this sort could be more swiftly and widely imposed and would probably seem more fair as well”⁶⁶¹

There is a difference between the number of cases reported to the authorities and the number of decisions made by the courts. Many corrupt acts may have been reported during this period but this does not mean that the number of decisions made by the criminal courts match them. Shifting from a widespread act “corruption” but still accepted to be defined as a “crime” represents an extreme change. Susan Rose Ackerman asserts that: “once corruption is tolerated there is no guarantee that it will be limited to inefficient regulations.”⁶⁶² The causes of corruption could not be limited to inefficient laws or regulations that existed before the revolution; rather, it can be attributed to the structure of society and centralisation of power which also played an important role in creating a corruption-friendly environment. It is always easier and quicker to change the text of the law than to change the people's attitudes and reactions towards the text of the law.

⁶⁶⁰ Singerman, *supra* note 648 at 206.

⁶⁶¹ Edward L Rubin, “Corruption, Governance, and Morality” (2013) 92 Tex Law Rev 943 at 971.

⁶⁶² Susan Rose-Ackerman, *supra* note 51 at 22–23.

The tradition to deal with corruption in Egypt continued to be dealt with through the introduction of several amendments to the penal code to limit corruption. By the end of Nasser's regime, there was a constant conflict over Nasser's strict policies and the 'new state bourgeoisie' who held the economic power and exercised pressure over the government towards more openness to the West and to adopt a market economy.⁶⁶³

B. The Second Phase from Sadat's Presidency to Mubarak's Era

This section briefly discusses the important economic changes that were brought with Sadat's new era which affected the composition of the social structure and also discusses new forms of corruption that emerged. The legislative policy used by the state to control the public sector and the changing nature of administrative corruption was associated with this historical phase.

During Sadat's presidency, major economic changes were introduced, trade and investment were encouraged and the national and foreign capital investment law number 43 for the year 1974 was promulgated, which brought major social and economic changes.

Anwar El Sadat was declared President of Egypt following Nasser's death in September 1970. A new constitution was promulgated in 1971 and the political parties were allowed to re-enter the political life (but they were still restricted by the executive authority). Moustafa describes allowing the participation in political life as follows: "But Sadat's shift to a multiparty system was never intended to be a complete and comprehensive democratic transition. Rather, it was to be a tightly controlled process of political liberalization that would give the appearance of free party competition with few concrete concessions from the regime."⁶⁶⁴

⁶⁶³ Zaalouk, *supra* note 643 at 54.

⁶⁶⁴ Moustafa, *Supra* note 641.

Sadat's regime (1970-1981) was mainly characterized by a turning from Nasser's socialism to what came to be named "*infitah*" or "Open Economy" where investment and open trade policies were widely encouraged on the national and international levels. Waterbury describes the economic openness and the hope to strengthen the public sector through the adopted policy as follow: "Concomitantly both public and private sector interests have entered into joint ventures with foreign investors who have been welcomed back to Egypt since 1973. Their presence was hoped to promote innovation, new managerial techniques, and the technological renovation of the overprotected and the languishing public sector. It was also intended to bring in foreign markets by mobilizing the know-hows and names of MNCs."⁶⁶⁵ Therefore, according to Waterbury, the presence of foreign investors was expected to bring development to the economy and in the public sector. The new oriented investment strategy influenced the legislative strategies to fight administrative corruption. The research presents some important laws that were promulgated during Sadat's presidency to fight the types of administrative corruption that emerged with the changing state policy towards *infitah*.

According to Abd El Moneim, to consolidate the *infitah* policy, a number of laws were promulgated: for example the law No 43 of 1974 concerning the investment of the Arab, foreign laws and free zones and the law No 73 that consolidated the right of the Egyptians to represent foreign companies and other laws that encouraged the private sector. Zaalouk explicates that "the first phase beginning with the Sadat political regime in 1970 represents the preparatory phase of *infitah*, while the second phase commencing with the October working paper in 1973, immediately followed by investment law No. 43 of 1974, represents the operational phase."⁶⁶⁶ Waterbury argues that Egypt tried to attract Arab capital with the promulgation of the first investment law in 1971, even before the law 43 of 1974 which set the basic characteristics of *infitah*.⁶⁶⁷ Waterbury argues that the economic growth was not mainly because of the "planned" *infitah*.—He argues that it was due to some other factors that could have been incorporated to

⁶⁶⁵ Waterbury *supra* note 639 at 11

⁶⁶⁶ Zaalouk, *supra* note 643 at 55.

⁶⁶⁷ Waterbury, *supra* note 639 at 416.

Nasser's socialist experiment as "the worker's migration, tourist receipts, Suez Canal receipts, and Petroleum export earnings."⁶⁶⁸

One of the landmark events of Sadat's presidency was the establishment of the Supreme Constitutional Court. Moustafa explains the driving circumstances for the establishment of the Supreme Constitutional Court. He argues that following the falling socialist experience set by Nasser, the nationalisation of the private sector, and removing all the constraints on the executive power, it was difficult to attract foreign and national investments in spite of the tax exemptions and the different laws that were promulgated to encourage investment.⁶⁶⁹ Moustafa explains that after trying for ten years to achieve this aim but failing to fulfill it, "the government established a surprisingly independent court empowered to perform judicial review. The Supreme Constitutional Court provided long-sought-after institutional guarantees on property rights."⁶⁷⁰ Therefore, according to this view, the Supreme Constitutional Court was set also as a guarantee to limit the large power of the executive authority which was granted during Nasser's presidency with the aim of encouraging investment.

Abd El Moneim explains that research shows that the social roots of the "*infitah*" or "open economy" is characterized by the monopolisation of some specific families by using blood relationships, marriages and partnerships with the Arab and foreign capital in services. This is in addition to consumption projects that aimed at realising quick gains, which resulted in the marriage between money and power, which in turn contributed to the disappearance of the limits between the public and private sectors. Therefore, the "infitah" deviated from its development goals to a consumption goal. This created the national budget deficits and the state failed to pay its loans which affected the financial policy and resulted in the promulgation of the law No 120 for the year 1975 concerning the Central Bank and the Financial Institutions and

⁶⁶⁸ *Ibid* at 203.

⁶⁶⁹ Moustafa, *supra* note 641 at 229.

⁶⁷⁰ *Ibid*.

the adoption of the secrecy of the financial reports and the Central Auditing agency.⁶⁷¹ Waterbury explains that the due to the increase in the inflation rate, Sadat had to increase the minimum wage four times from 1972 to 1981.⁶⁷² Increasing the minimum wage was not enough to improve the standard of living for Egyptians who relied on fixed income so protests became quite common.⁶⁷³ However, to compensate the heavy national budget deficit, Sadat decided to comply with the IMF measures to reduce the budget deficit.⁶⁷⁴

Waterbury explains the situation during this period of time as follow:

The possibility that has opened up since 1974 is that the weight of economic activity will shift to private Egyptian and foreign interests, sustained by a migration of the state bourgeoisie out of the State . The result would be the gradual rebuilding of a private entrepreneurial class where the control and ownership of the means of production are increasingly coincident.”⁶⁷⁵ Waterbury summarizes the *infitah* results as follow “In short, the benefits of *infitah* in its broadest sense have not been confined merely to the upper bourgeoisie. At the same time, other segments of the society have seen their relative position deteriorate, although the means to measure their decline with any accuracy are not in place.”⁶⁷⁶

Therefore, according to this view the economic benefits from *infitah* were concentrated in a relatively limited class of the population.

Among the important legislations that were promulgated to protect the integrity of the public service and public funds was the promulgation of Egyptian Constitution in 1971 which drew the characteristics of the legislative framework of the State in enhancing the national economy, democracy and human rights, and kept theoretically what the previous regime has set from the authority of the people over the sources means of production according to the development project and the share of the employees in managing the project which contradicted

⁶⁷¹ المسح الاجتماعي in “سبير عبد المنعم، دور السياسة التشريعية في الحد من الفساد في ضوء المتغيرات المجتمعية بين يوليو ١٩٥٢ يناير ٢٠١١” at 772. (المشامل للمجتمع المصري) (المركز القومي للبحوث الاجتماعية و الجنائية، ٢٠١٦).

⁶⁷² Waterbury, *supra* note 639 at 228.

⁶⁷³ *Ibid* at 229.

⁶⁷⁴ *Ibid*.

⁶⁷⁵ *Ibid* at 261.

⁶⁷⁶ *Ibid* at 231.

the practice in the ground.⁶⁷⁷ Although bribery was a criminalised and the law on illicit gain (148) of 1961 was amended by the law No 62 of 1975 and the civil service Law 46 of 1964 was amended with the Law 58 of 1971 to provide further protection of the integrity of civil servants; however corruption continued to be an important problem.⁶⁷⁸ The civil servants low salaries contributed in the widespread of petty corruption.⁶⁷⁹ This view was supported by a study conducted to measure the social and economic deviation that affected the public service sector from 1974 to 1990, which showed that one third of the cases studied were found to be related to bribery and commission in addition to the grand corruption which facilitated the exploitation of the public funds by high public officials, in addition to the declining importance of ethics and the sovereignty of the state.⁶⁸⁰

From the above, it is concluded that efforts and legislations made to fight corruption did not prove successful. However, in case of the *infitah* strategy, as seen according to the presented views it only benefited a specific class of the society, while the civil servants conditions deteriorated (knowing that they represented a large portion of the population). The promulgated laws that aimed to protect the integrity of the civil servants and to reduce the administrative corruption could not achieve their designated goals because the law does not operate in vacuum, instead it is affected by the context in which it operates.

⁶⁷⁷ عبدالمنعم, *supra* note 671 at 774.

⁶⁷⁸ Osman, *supra* note 631 at 123.

⁶⁷⁹ Waterbury, *supra* note 639 at 347.

⁶⁸⁰ اكرام فتحي الياس, *الابعاد الاقتصادية والاجتماعية للانحرافات التي تلحق بالوظيفة العامة في مصر دراسة لبعض قضايا الفساد* جامعة الازهر, 1999) [unpublished].

C. The Third Phase: Mubarak's Presidency up to Egyptian Revolution in 2011 (1981 - 2011)

In this section, the research briefly presents the economic and social conditions under Mubarak's presidency that lead to the emergence of new forms of administrative corruption.

Egypt's challenging economic conditions following Sadat's "infitah" policies that led the country to be heavily indebted, obliged Mubarak to seek loans from the International Monetary Fund (IMF) and the World Bank (WB). The economic and social conditions continued to deteriorate with the different privatization deals that took place in 1990 and the last one before the 2011 revolution where public assets were sold for private gains and the revenues were not efficiently allocated. This negatively affected the allocation of government expenditures in important sectors like health and education to benefit some elites from the ruling political party.⁶⁸¹ Until the end of the 80s the state played an important role in the economy. However, Mubarak's economic policy relied on the reduction of the role of the state in the economy. To accomplish this goal, a number of laws were promulgated to encourage investment and more participation of the private sector like the law no. 8 of 1997 on the investment incentives, the law no. 37 of 1992 on the amendment of the articles governing the banking laws, the law no. 95 of 1992 on the financial markets law and its amendments, the law no. 101 of 1992 on the establishment of private universities and the law no. 38 of 1994 which organises dealing with the foreign currency, the law no. 5 of the year 1996 which sets the rules for dealing with the desert lands that are owned by the state and granting them for free or for a nominal rent amount of money to found projects, the law no.1 of 1998 that established the Egyptian general institution for maritime transportation to expand the private sector participation and the law no. 22 of 1998 to set the legal framework which allows the private and investment sector to construct public ports and the law 155 of 1998 which organises the participation of the of the private sector in

⁶⁸¹ Samer Soliman, "The Political Economy of Mubarak's Fall" in *Arab Spring Egypt Revolut Beyond* (American University in Cairo Press, 2012) at 43–62.

the national banks capitals among other laws that aimed at encouraging the private sector for a greater participation in the economy.⁶⁸² Mubarak's economic policies that failed to reduce the state budget deficit, together with the last privatisation deals and the reprioritization of allocating the funds to the public agencies negatively affected the five million employees working in the State Administrative Apparatus.⁶⁸³ The economic conditions that concentrated the wealth of the country in the hands of small interest groups which benefited from the privatisation deals and the reallocation of government expenditures to benefit those interest groups resulted in the creation of new forms of administrative corruption.

The marriage of wealth and power, the deteriorating economic conditions of a large number of civil servants in the absence of clear transparency, monitoring and accountability measures contributed in the widespread of administrative corruption. Accordingly, petty corruption became widespread and the use of middlemen to get things done became a common practice.⁶⁸⁴ People got accustomed of talking about corruption that was clearly manifested in the informal economy.⁶⁸⁵ Galal Amin explains that there was a constant increase in the levels of social inequality and the rate of this social inequality got even more accelerated since 2004.⁶⁸⁶ The increasing power of the business elites and the active role they played in the political life (in the parliament) especially through the appointment of some important business people to lead the economic and commercial portfolio in the neo-liberal government headed by Nazif (The last Prime Minister during Mubarak's regime) consolidated this group's power over the economic and political life. Although the law no.3 of 2005 was promulgated to forbid monopolistic practices and the procurement law no. law 89 of 1998 was also promulgated in addition to the establishment of the money laundering unit in the Ministry of Justice according to the law no.8 of 2002, however, those laws were only on the books and those businessmen

⁶⁸² عبدالمنعم, *supra* note 647 at 776.

⁶⁸³ Soliman, *supra* note 681 at 56.

⁶⁸⁴ Ibrahim Mamdouh Fouda, "Corruption and Money Laundering in Egypt" (2010).

⁶⁸⁵ Friedrich Schneider, "Size and Measurement of the Informal Economy in 110 Countries Around the World" (2002) at 6.

⁶⁸⁶ Galal Amin, *Egypt in the Era of Hosni Mubarak* (American University in Cairo Press, 2011).

monopolised most of the important projects and industries in the country. Grand corruption exercised by high public officials was not the only problem but also the recruitment and promotion in the public sector based on nepotism and subjective criteria and not on merit was a common practice.⁶⁸⁷ All this contributed in the deterioration in the performance of the public civil service and the quality of the public services which made bribe paying quite a common practice.

The widespread and systemic nature of petty and grand corruption which resulted from the infiltration of a group of businessmen in the political life, together with the absence of clear monitoring and accountability measures in the public sector made corruption one of the important problems that concerned Egyptians. A survey was conducted by the Center for International Private Enterprise in 2009 and asked 1800 Egyptians about the problems that the government has to address, Corruption was viewed as one of the important problems that the government has to prioritise.⁶⁸⁸ Despite this widespread corruption, Mubarak continued to consolidate the power of his political party (the National Democratic Party) and continued to exercise vote rigging which helped him to secure the majority of the seats in the 2010 elections.⁶⁸⁹ By the mid 2000 the government started to initiate some important restrictions on some sorts of guarantees that Egyptians enjoyed since 1960s.⁶⁹⁰ The prices of the routine and basic food prices started to increase, the healthcare started to be privatized, the government was no more committed to secure jobs to graduates in the public sector, and the dominant policy was a capitalist one.⁶⁹¹

⁶⁸⁷ Ghada Moussa, *Public Administration: Improving Transparency and Accountability* (Barcelona: European Institute of the Mediterranean Coordination, 2013) at 111.

⁶⁸⁸ *Egyptian citizens perceptions of transparency and corruption -*, Final Report (Egypt: Center For International Private Enterprise, 2009) at 7.

⁶⁸⁹ Osman, *Supra note* 639 at 204

⁶⁹⁰ *Ibid* at 235.

⁶⁹¹ *Ibid*.

Ossman argues that

Many observers highlight the corruption and vast income differentials that are among the by-products of these changes. As important however, is the emergence of a new and broad-based class of engaged economic system. These business people (owners and shareholders, as well as managers and employees) are economically independent of the government's and the public sector's schemes, and this encouraged a much more assertive and outspoken attitude towards the elements holding the country back. It is notable for example, that new and relatively insignificant associations of small- and medium-sized business entities are actively involved in drafting laws, in the tradition of white papers pursued by Western governments.⁶⁹²

According to this view the vast population's basic needs were ignored by the government and not only administrative corruption was widespread but interest groups started to interfere in drafting the laws to serve their interests. This represents one of the most dangerous forms of corruption because it is called "corruption by the law" and not by "violating the law".⁶⁹³

A study conducted by the social contract center to assess corruption in Egypt before the 2011 revolution described corruption as destructive where the most important public sector companies were sold with very low prices or nominal prices. According to this study, the reason behind those unfair deals was the lack of transparency on the part of the government in the evaluation and selling procedures and later even in how the revenues of those deals were used and allocated. The social contract center said that those deals had to be supervised by the parliament and the regulatory bodies to control corruption. Besides, according to this study the members of the Parliament were known to be engaged in different kinds of corruption.⁶⁹⁴

Due to the widespread of corruption that characterized Mubarak's presidency, laws were promulgated to serve certain people's interests, and the two waves of privatisation resulted in important grand corruption deals from high public officials, not to mention the widespread petty corruption together with the dominance of Mubarak's elder son on the business environment in

⁶⁹² *Ibid* at 235–236.

⁶⁹³ عيد المنعم, *supra* note 671 at 781.

⁶⁹⁴ (حسين حسن, *دراسة تحليلية لاسباب الفساد في مصر قبل ثورة ٢٥ يناير* (مركز العقد الاجتماعي- مجلس الوزراء, 2011) at 778.

Egypt and his interference in the economy and imposing himself to be involved in some deals if they were to executed, in addition to his younger son interference in the political life, people took to the streets on the 25th of January 2011, demonstrating against all the conditions of the country, one of which was the widespread corruption. Demonstrators adopted the slogan "3eish – 7orra – 3adala 2gtema3eya" i.e. “bread, dignity, and social justice”. After eighteen days of demonstrations, Mubarak resigned on the 11th of February 2011. Omar Suleiman announced Mubarak resignation and the authority passed to the Supreme Council of Armed forces. Mubarak and his sons were later charged with corruption cases.

Mubarak thirty years' rule ended with his resignation that he was “forced” to step down after the people demonstrated against his policies and the widespread corruption which was dealt with like his predecessors by promulgating laws that existed only in the books and were applied on a very limited scale.

D- Fourth phase: From the 2011 Revolution to AL Sissi Presidency (2011 – to date)

This phase was characterized by political instability, many governmental changes and political instability and constant demonstrations and protests. Tantawi, the head of Supreme Council of Armed forces declared that the Constitution was suspended and the parliament and the shura council were dissolved). The Supreme Council of Armed forces ruled for eighteen months. The Muslim Brotherhood won the Democratic parliamentary and presidential elections in 2012 where ex-president Mohamed Morsi was declared Egypt’s president. President Mohamed Morsi ruled for one year. His presidency was marked with a number of political and social tensions. On the 28th of November 2012 the court protested and stopped working in all its circuits to express its dis-content after Morsi issued constitutional declarations that give him absolute authority and make him not subject to any oversight. In December 2012, Morsi declared the new constitution which was subject to important controversial as some viewed it as granting

the president vast authority and it was limiting the power of the Supreme Constitutional court, as it prevents the Supreme Constitutional court from reviewing the laws related to presidential or parliamentary matters, besides it limits the number of judges from nineteen to eleven. Morsi's administration failed to reduce the level of corruption. According to a survey conducted by Transparency International in Egypt in 2013 found that 36% of the 1000 Egyptians surveyed had to pay a bribe (which represents 19% increase when compared with the previous survey conducted in 2004).⁶⁹⁵ According to Ossman :

By mid-2013, and as the economic situation in Egypt deteriorated due to the significant drop in tourism, waning of internal trade, significant decline in foreign direct investments and acute weakening of the overall monetary positions, ... on the back of enormous protests against Morsi's rule, in July 2013 the armed forces intervened, deposing the president and appointing Adly Mansour, the top judge of the Constitutional court, as Egypt's interim leader.⁶⁹⁶

During Adly Mansour's interim presidency, the law 82 of 2013 introduced some amendments to the law 89 of 1998 governing the public procurement process, where article (7)(1) of the law 82 of 2013 allowed the state to directly award government contracts in case of emergencies. This law gave wide discretionary power to the public officials which in turn increased the level of corruption in this vulnerable sector.⁶⁹⁷ Another important amendment was introduced to the investment 8/1997 in 2014 where Article (8) of the amended law prevents third parties to challenge contracts between the government and investors. Denying the rights of third parties to challenge the contracts opens the door to corruption because of the absence of effective oversight and accountability measures.

In May 2014, the presidential elections were declared and Al Sissi was sworn into office in 2014. This research provides a detailed analysis of the corruption challenges and the anti-

⁶⁹⁵ *Egyptian citizens perceptions of transparency and corruption* -, Final Report (Egypt: Center For International Private Enterprise, 2009) at 7.

⁶⁹⁶ Osman, *supra* note 639 at 246.

⁶⁹⁷ A detailed explanation of the problems associated with the promulgation of this law is provided in the critical Analysis of the national anti-corruption strategy in part two chapter two.

corruption efforts during Al-Sissi presidency within the framework of the critical analysis of the national anti-corruption strategy which was initiated in December 2014 for a duration of four years.

To sum up, corruption has been a persistent problem from 1952 to present although one of the main reasons of the 1952 was corruption. Throughout the years, almost the same strategy was used by all political leaders to deal with administrative corruption, namely to promulgate new laws or to introduce amendments of the new laws. They all sought to control administrative corruption to achieve economic development but they all failed to effectively introduce the democracy tools (transparency, monitoring, accountability, free press, systems of checks and balances...)to guarantee the sustainability of the reforms.

Sedra summed up the core problem when he said that:

What Egypt needed in 1952, according to Nasser, was not democracy but development, a scientific effort to carry Egypt into the modern world, with all the accoutrements of education and industrialization that this entailed. I think it has become quite clear over the past sixty years that this was a historic mistake, for which at least three generations of Egyptians have paid an enormous price.⁶⁹⁸

Finally, Corruption still exists and that this research firmly believes that there are crucial legislative and non-legislative procedures that should be made so that any efforts to fight corruption succeed in achieving their aims. The latter will be made clear along the research.

⁶⁹⁸ Paul Sedra, "The Long Shadow of the 1952 Revolution", *Jadaliyya* (13 February 2011), online: <<http://www.jadaliyya.com/Details/23691>>.

Chapter Two: A Critical Analysis of Egypt's National Anti-Corruption Strategy

Two very important revolutions emerged only two years apart during Egypt's contemporary history. The first revolution occurred on 25th of January 2011 and resulted in the overthrowing of Mubarak's regime of over thirty years; the second revolution took place on 30th of June 2013, as the people of Egypt took to the streets in rebellion against the Muslim Brotherhood regime which took over following the 2011 revolution.

Prior to, during and following both revolutions, a cultural change that would restore ethical values of integrity and honesty seemed to be a collective and an inevitable demand. Corruption, as one of the negative phenomena that spread its horrendous effects all over Egyptian society was at the core of the societal ailments. The 2011 and 2013 revolutions were led by groups of Egyptian youth with a sense of high moral values and dedication. They seemed to have high hopes of effecting not only political change but also cultural change.

Sedra puts it quite correctly claiming that:

One of my great hopes at the time of the 25 January revolution was that there would emerge from Tahrir not only a reinvention of Egypt's politics, but a remaking of Egypt's cultural life — a remaking that would foreground the best of the 'Tahrir spirit,' its inclusiveness, its collectivism, its self-sacrifice ... And that is to advance what I would call the 'cultural project' of the revolution, as contrasted with the political project of the revolution.⁶⁹⁹

The Egyptian people who took to the streets in rejection of "the status quo" whether in 2011 or in 2013 highlighted the importance of dealing with the phenomenon of corruption, among other cultural and ethical problems that hit the Egyptian society, not only in the media

⁶⁹⁹ Paul Sedra, "The cultural project of the revolution", *Egypt Indep* (25 August 2012), online: <<https://www.egyptindependent.com/cultural-project-revolution/>>.

in all its forms (including social media), but also during social gatherings, making it one of the most important problems that needed to be dealt with.

In 2011, a BBC survey asked 13,353 adult citizens to rate the seriousness of some global issues. The survey's results showed that the "Majorities in all but four of the countries polled rated corruption as a very serious problem, Brazilians (96%), Egyptians (91%)".⁷⁰⁰ In 2013 a survey conducted by the WIN/Gallup international interviewed 66,806 persons in 65 countries, and showed that corruption is the world's number one problem." According to the National Integrity System assessment developed by Transparency International and published in August 2015:

"Between 2011 and 2014, Egypt experienced perhaps the most turbulent and uncertain phase in its modern history. The elimination of widespread corruption was one of the key issues galvanizing Egyptians during the 25 January revolution. Hopes were high when the Mubarak regime toppled in 2011 that the time had come for an accountable, transparent and fair system of governance."⁷⁰¹

According to Sedra:

Indeed, the language of revolution has created new expectations about what is just and unjust, what is acceptable and unacceptable in public life. And while politicians may fail to live up to these expectations, the expectations themselves remain vitally important nonetheless. To the extent that the language of revolution can enable a new political imagination in Egypt, we should embrace it.⁷⁰²

In response to people's constant and serious demand to fight corruption, the elected President and political leaders had to show their commitment to deal with this urgent problem,

⁷⁰⁰ "BBC - Press Office - Global poll: Corruption is world's most talked about problem", (12 September 2010), online: <http://www.bbc.co.uk/pressoffice/pressreleases/stories/2010/12_december/09/corruption.shtml>.

⁷⁰¹ Mohamed El Kalla, Menna Tarek & Salma El Sayeh, *Egypt 2014: National Integrity System Assessment* (Transparency International, 2015).

⁷⁰² Paul Sedra, "Why the Language of Revolution Matters", *Jadaliyya* - □□□□ (23 July 2012), online: <<http://www.jadaliyya.com/Details/26668>>.

and more effective ways of controlling corruption had to be developed. Dealing with the problem of corruption had to become a more urgent issue to deal with. It could no longer be linked with the leader/president's will as to whether to deal with this problem or not. Accordingly, the 2014 Egyptian Constitution put fighting corruption as one of its main responsibilities. Thus article (128) of the Egyptian Constitution of 2014 stipulates that "The state is committed to fighting corruption". Dedicating an article in the 2014 Constitution to the fight against corruption reflects the importance the leaders are required to give whether currently or in the future and also sets new roles for the existing and future anti-corruption agencies and authorities including the importance to coordinate amongst themselves to achieve the desired goal. Following the declaration of the 2014 Constitution, Egypt's commitment to fight corruption was reflected in the formulation of the National Anti-Corruption Strategy (the Strategy).

Almost all research conducted in this area emphasizes the importance of the presence of political will for the success of efforts to curb corruption.⁷⁰³ According to UNDP, Egypt's anti-corruption's Strategy: "... constitutes a good and comprehensive starting point as it covers both prevention and criminalization, involves a large number of concerned agencies in combating corruption".⁷⁰⁴ This shows that the effort has been praised and recognized by international organizations. This is an important step forward towards the fight against corruption that deserves to be highlighted and analyzed thoroughly to find the best ways by which it can reap the fruits (results) it was designed to achieve.

The Strategy cannot be viewed as just a good step towards the fight against corruption. It is to be considered as a historical event that Egyptian society has to celebrate and cherish. It is very well formulated and organized as it reflects the true political will to fight the grassroots of corruption. In addition, it shows that time and effort were seriously dedicated to extensively

⁷⁰³ Abdul-Gafaru Abdulai, "Political will in combating corruption in developing and transition economies: A comparative study of Singapore, Hong Kong and Ghana" (2009) 16:4 J Financ Crime 387.

⁷⁰⁴ *Egypt Adopts a National Anti-Corruption Strategy* (United Nations Development Programme, 2014).

analyze the problem in order to find effective solutions and translate them into a well formulated Strategy. As mentioned earlier that most of the successful countries' experiences ⁷⁰⁵ to fight corruption started with similar anti-corruption strategies. The success and the progress achieved in those countries were reflected with an improvement in accordance to international measures, such as the corruption perception index (CPI), worldwide Governance indicator and other international indicators. Such improvements are expected to show on the national and international level.

A. Composition of the Strategy

Egypt's anti-corruption Strategy was developed by the National Coordinating Committee to fight corruption, with the participation of different concerned actors.

The Strategy was formulated in accordance to the 2014 Egyptian Constitution and Egypt's commitment to fight corruption on the international level, since it is a signatory country in the UNCAC and the Arab Convention to Fight Corruption.

The text of the Strategy states that its goal is to fight corruption in Egyptian society "through the development of objectives, policies, programs and mechanisms in order to curb corruption and build an anti-corruption societal culture."⁷⁰⁶

The Strategy consists of three sections: The first section chooses the World Bank definition of corruption as the "Abuse of authority for private gain" to cover corruption in the private sector, too. It also extensively explains the causes of corruption in Egypt and the methods

⁷⁰⁵The research provided some important details about the successful countries experiences in the previous section in part one chapter three.

⁷⁰⁶ National Anti-Corruption Coordinating Sub-Committee, ed, *National Anti-Corruption Strategy* (2014). Last accessed December 2018.

used to measure corruption. The second section delineates the general framework of the strategy which encompasses the principles, the duration and the actors involved in the execution. It also analyses and defines the strengths, the weaknesses, the opportunities and the threats in the surrounding environment. The third section is dedicated for the strategic course which explains the vision, the mission, the main aims of the anti-corruption Strategy and finally, besides the general objectives, the strategy presents the table that delineates ten main objectives, the implementation policies, the authorities responsible for the execution, the duration set to execute then main aims, the authorities responsible for the follow up and the indicators used to measure performance.

B. The Goal of the Strategy

The Strategy starts by stating its well-formulated goal that aims at: “combating corruption in the Egyptian society through the development of objectives, policies, programs and mechanisms in order to curb corruption and build an *anti-corruption societal culture*.” Thus, the objectives, policies and mechanisms are stated to mainly aim at building an anti-corruption societal culture.

In order to achieve this goal as intended by the authorities, the researcher finds that important measures had to be taken. To build an anti-corruption societal culture, the authorities needed to work on realising a cultural revolution to guarantee the sustainability of the goal, a wide dissemination of the goal and the reshaping of people’s beliefs about corruption.

B.1 - The Need for a Cultural Revolution to Guarantee the Sustainability of the Goal

It is the belief of the researcher that building an anti-corruption societal culture in a country like Egypt that suffers from systemic corruption needs a cultural revolution. In other words, almost every person in the population has to be aware of this goal to be able to denounce

corruption and totally refuse it. It is to be noted that corruption has become so much entrenched in Egyptian society that it became quite acceptable to many. In such a challenging situation, the goal of the strategy had to be making every person in the society aware that the government is aiming to reach a total mind shift about this huge problem. This “anti-corruption societal culture” definitely requires that public officials serve as role models and that the government clearly announces and repeats this goal. It also needs collaboration among public institutions, the private sector, the civil society, and the education system that should aim at teaching children from a younger age values of integrity and honesty.

The reason why the research emphasizes the importance of this goal is that, in addition to it being highly noble, it is vital for the realization of the Strategy. However, it is the belief of this researcher that achieving good results for this matter lies in the degree of its dissemination. In other words, if this goal is not widely shared among the population, this anti-corruption societal culture will never be attained and the Strategy would fall short of realizing its main target, namely the eradication of corruption.

Including this important goal in the Strategy shows that the parties that were responsible for designing it were well aware that fighting corruption involves much more than “developing objectives, policies, programs and mechanisms”. They believed that building “an anti-corruption societal culture” is paramount to guarantee the achievement and the sustainability of the attained goal.

B.2- The Need for a Wide Dissemination of the Goal

The question to be raised here is: To what extent was this “anti-corruption societal culture” disseminated and shared in order for this strategy to attain its desired goal? The research discusses the degree of dissemination of the Strategy through the websites of the different State institutions and research centers. The research further discusses the effects of the specially designed publicities to raise people’s awareness that were disseminated through the media. It

also addresses the youth monthly conventions during which no updates about the achievements that were realized were provided.

Websites

By consulting the websites of the National Coordination Committee for Combating Corruption (NCCCC), the websites of the different authorities and agencies that are responsible for implementing the Strategy, there were no indications about the strategy and the role of the agency or authority in implementing it. Only the ACA website posted the Strategy.⁷⁰⁷ Furthermore, by consulting the website and the publications of the National Center for the criminal and Social Studies, no studies were found to discuss this important strategy. In addition, by reviewing the official newspapers and the most popular talk shows there was not enough coverage about this Strategy.

It is the belief of this research that the pre-requisite for creating this culture is dissemination. Posting the Strategy on the websites of authorities responsible for the implementation is not only important to show the public the degree of commitment of the members of the agencies to execute the strategy, but it also serves as a reminder to the members of the concerned agencies of its extreme importance. Research has shown the importance of repeating the anti-corruption messages by sending daily short emails and putting posts on the walls among other measures so that people comply.⁷⁰⁸

The media

The media in Egypt, in all its forms, has gained more popularity during the last few years, especially after the 2011 and 2013 revolutions. And since the illiteracy rate in Egypt is

⁷⁰⁷ *Ibid.*

⁷⁰⁸ Scott Killingsworth, *Modeling the Message: Communicating Compliance Through Organizational Values and Culture*, SSRN Scholarly Paper ID 2161076 (Rochester, NY: Social Science Research Network, 2012); Langevoort, *supra* note 189.

high and most of the poor people living in rural areas rely on television to learn about the news, it is believed that the media should play a major role in the dissemination of the goals of this anti-corruption strategy. Unfortunately, this important means of communication with all its forms whether the social media, the national newspapers, the most popular talk shows and even the national news have not been covering the strategy in the way that may guarantee its success in building that so-called “anti-corruption societal culture”.

The role of the media in disseminating the message should be considered as incomparable. No other means of communication could play a similar role. In 2016, during the month of Ramadan ⁷⁰⁹when the highest number of people watch the TV compared to the rest of the year, Egypt’s government launched four different types of publicities to fight corruption by denouncing the bureaucracy, bribe paying and the role of the intermediaries. The publicity was funded by the UNODC office in the framework of its support to the Egyptian government to fight against corruption.⁷¹⁰ However, the effect of those publicities was not enough because of the short-term effect of the message. A survey was conducted following the publicity dissemination which asked some experts and the general public their opinion about its effect on fighting corruption.⁷¹¹ The survey results showed that the majority of the people surveyed thought that the publicities do not have positive effects either because the problem lies with the anti-corruption legislative framework or because corruption is part of the culture.

The media did not make good use of the opportunity it had in order to effectively help in realizing the Strategy’s vital role of building an anti-corruption societal culture. For example, Egypt’s current president adopted an innovative approach when he decided for the first time in Egypt’s history to hold monthly conferences where he meets with youth and a number of

⁷⁰⁹Ramadan is a holy month where Muslims around the world fast and gather as families and friends for meals and entertainment.

⁷¹⁰ May ربيع شاهين, “حملة إعلامية وطنية لمكافحة الفساد يطلقها مكتب الأمم المتحدة المعني بالمخدرات والجريمة”, بوابة الأهرام الاقتصادي (25 2017), online: <<http://ik.ahram.org/News/36644.aspx>>.

⁷¹¹ الحكومة المصرية تطلق حملة إعلانية لمكافحة الفساد في أجهزة الدولة, قناة الحرة Alhurra,

ministers in different governorates to discuss some of the problems that the country faces.⁷¹² The meetings also gave stakeholders the chance to suggest some reforms to those problems from their own point of view. The conferences proved to be effective in being an innovative way to invite the youth to participate in the political life and to suggest their solutions to those problems. Unfortunately, none of those conferences included specific discussions of the anti-corruption reforms or even provided updates on the implementation.

It would have been quite beneficial to design a special program to raise people's awareness on the threats that corruption presents on the economic growth within the framework of those conferences and invite the youth to participate in solving the problem especially that a recent research developed by the world Economic forum and other important institutions has shown that youth perceive corruption as an important obstacle.⁷¹³ In those important youth conferences, which were watched by different age groups due to the innovative approach, it would have been beneficial to discuss the challenge of fighting corruption that most of the youth and people of Egypt are aware of and complain about.

Raising people's awareness in Egypt about the problems that concerns them the most and their relationship with corruption could have been a starting point to a participative approach. The majority of Egyptians have been complaining recently about the inflation problem that rose from 10.1% in 2014 to 29.7% in 2017.⁷¹⁴ Although corruption is not the only reason for this high inflation rate, it would have been beneficial to explain to people that research has shown that corruption is one cause of the high inflation rate and the fluctuation in currency.⁷¹⁵⁷¹⁶ People would have been more reactive and collaborative in the fight against

⁷¹² "الصفحة الرسمية للمؤتمر الوطني للشباب"، online: <<https://ar-ar.facebook.com/Egyouthconf>>.

⁷¹³ Elaine Dezenski, *4 ways young people can help fight corruption* (World Economic Forum, 2015).

⁷¹⁴ FocusEconomics, "Egypt Inflation Rate (CPI) - Egypt Economy Forecast & Outlook", *Focus Econ Forecasts Worlds Lead Econ*, online: <<https://www.focus-economics.com/country-indicator/egypt/inflation>>.

⁷¹⁵ The increase in prices and the depreciation of the currency were applied in the framework of the IMF conditional reforms law program in Egypt. However, this doesn't undermine the negative effects of corruption on the inflation rate, and the depreciation of the currency.

⁷¹⁶ Al-Marhubi, *supra* note 290.

corruption if they had the opportunity to understand how it directly affected their daily lives in a simplistic way.

Updates about achievements

When Georgia implemented its anti-corruption strategy (as explained in detail in Part One), one of the important measures the stakeholders took to guarantee its success was that the president committed himself to give a weekly briefing about the advancement in implementing the promised anti-corruption strategy. This measure reflected the seriousness and the commitment of the state to fight corruption, which facilitated the collaboration between the parties to execute strategy.⁷¹⁷ This initiative helps citizens to rebuild the missing trust that they suffered from because of the previous unfulfilled promises. It helps citizens to readjust their behaviors and beliefs to cope with the new situation.

Generally speaking, reform strategies are important steps towards proving the seriousness of the measures that the state political leaders are about to take to fight corruption. An important step to guarantee the full participation of all the stakeholders and hence the success of Egypt's anti-corruption strategy is the constant transfer of the anti-corruption message and providing updates about achievements. The updates about the achievements will help celebrate the successes and put people on the right track and help in minimising the negative effects of the previous unsuccessful experiences. It works as a cure for the lack of trust that was built over years. Research has shown that people living in countries that suffer from high levels of corruption experience less trust compared to their counterparts who live in less corrupt countries.⁷¹⁸

⁷¹⁷World Bank, ed, *Fighting corruption in public services: chronicling Georgia's reforms*, Directions in development (Washington D.C: World Bank, 2012).

⁷¹⁸ Rothstein & Uslaner, *supra* note300.

This important anti-corruption message (providing a better explanation of the problem of corruption and the achievements) yet mostly ignored by leaders can be the only important step towards inclusive participation. The reason is that anti-corruption reforms will not always be in the interest of all members of the population. Some people's interests are threatened by the anti-corruption reforms. Therefore, the participation of the people whose interests were affected by the corruption will be the state's arms in implementing the reforms.

B.3- The Need to Reshape People's Beliefs about Corruption

When anti-corruption messages include incidents and stories about strict measures to punish the violators as well as rewarding the people who show high integrity, causing people's behavior about corruption to change, people will start noticing the shifts in beliefs and attitudes to match the new country's strategy and attain the desired anti-corruption societal culture.

According to Basu, "The law cannot change the rules of that grand game. It can only change human expectation and beliefs about the thought and behavior of other human beings. The mammoth power of the law works, at first sight surprisingly, through these rather soft channels of the human mind and human beliefs."⁷¹⁹Therefore, the success of Egypt's anti-corruption strategy as a tool and measure lies in changing human beliefs about how others will react as a step forward towards creating the desired anti-corruption societal culture.

To sum up, for this strategy to achieve its desired goal to "...to curb corruption and build an *anti-corruption societal culture*," it needs to work on changing people's beliefs about how others will react and behave in light on the new strategy. Spreading the message and keeping people updated about the changes in behavior that the implementation of the anti-corruption strategy brought about is one vital key towards reaching the desired goal. It is not only about writing "a good strategy" or distributing it, but rather on developing innovative ways

⁷¹⁹Basu, supra note 347.

that can result in changing people's beliefs, showing people how behaviors changed to cope with the new strategy. In this case, people's beliefs will also change and hence their reaction towards corruption. An anti-corruption goal is always easy to formulate but quite challenging to implement and attain.

C- The Methodology of Building a National Anti-Corruption Strategy

The Strategy states that

The plan of designing a national strategy to combat and prevent corruption depends on identifying its real causes, setting goals, policies, programs and mechanisms that promote the principles of transparency, integrity and accountability with no partiality or discrimination, and contributing to preventing and fighting it through the concerted efforts of all parties of the national system so as to combat corruption and identify the roles of each party.⁷²⁰

The research finds that methodology used to build the national anti-corruption strategy is based on a scientific way of approaching the problem. It states that the method will aim not only to combat corruption but also to take measures to prevent it. Building a strategy that does not only rely on fighting corruption (reactive measures) but also takes appropriate measures to prevent its reoccurrence guarantees not only the success of the anti-corruption efforts but also its sustainability. Below, the research highlights the importance of identifying the causes of corruption, the importance of enhancing principles of transparency, integrity and accountability and the importance of identifying the role of each participating party in preventing and combatting corruption as stated in the methodology of building the Strategy.

“Identifying the causes of corruption” is important but, within in the context of the strategy, it is even more important as it identifies the causes of corruption within the Egyptian

⁷²⁰ National Anti-Corruption Coordinating Sub-Committee, *supra* note 706.

context. According to the methodology upon which the strategy was built, it is mentioned that the Egyptian state will work on promoting principles of transparency, integrity and accountability to combat and prevent corruption. Those principles are the foundation of a successful governance program.

Importance of enhancing principles of transparency, integrity and accountability

According to Klitgaard $C = M + D - A$, corruption = Monopoly + discretion - Accountability. However, it is the research conviction that once the anti-corruption programs work on promoting principles of transparency, integrity and accountability, they reduce the monopoly and the discretion public servants have over the information, which is a first step in creating a culture of integrity.

The questions that the research raise and attempt to answer are: what are the concrete measures that Egypt took within the framework of Strategy in order to promote those principles? What does the academic literature and other countries' experiences reveal about promoting those principles? The research answers these questions when discussing the degree of performance of the ten main aims of the Strategy, specifically when discussing the first aim "improving the performance of Egypt's administrative body and the quality of public services."

An important missing part: The absence of a clear identification of the role of each party in the prevention and the fight against corruption

The research finds that one of the most important missing parts of the strategy that was stated in the methodology upon which the strategy was built is: "identifying the role of each party in combatting and preventing the reoccurrence of corruption". Due to the spread of the responsibilities in fighting corruption between different agencies, a program to coordinate and clearly define the role of each agency and the ways they can cooperate is paramount for the success of the strategy. A culture of inclusion and cooperation versus one of exclusion and competition, has to be created between the different authorities and agencies. This research also

discusses the importance of the role played by the authorities participating in its contribution and the degree of their success in the contributing to attain the Strategy's goals when discussing one of the mechanisms for drawing up the strategy which refers to the "effectual participation of all the concerned bodies in building a united front to fight corruption." The role and contribution of each concerned body will be discussed. The research also discusses the degree of actual coordination between the different regulatory bodies to better achieve its aim.

D- The Foundation of the Strategy

The foundation of the Strategy defines the tools that it uses to better define and understand the problem of corruption in Egypt. The text of the strategy explains that it is founded on the following:

1. Monitoring the most important manifestations of corruption.
2. Accurate diagnosis of the problem of corruption to find out the causes.
3. Identifying the main strengths and weaknesses of the work system and combatting corruption in Egypt.
4. Identifying threats faced by the work system to fight corruption in Egypt and opportunities that can be exploited to support it.
5. Pinpointing targets and achieving them on the short and medium terms.
6. Defining policies to be followed to achieve the goals and addressing the factors causing corruption.
7. Identifying the actions required for effective participation in combatting corruption of all concerned bodies, on the top of which the regulatory bodies, law enforcement bodies, governmental authorities, and civil society organizations.
8. Developing mechanisms for the implementation of the national anti-corruption plan

The next section discusses how the Strategy could have realized better application of each of the points that it founded the Strategy upon.

D.1- Monitoring the Most Important Manifestations of Corruption and Accurate Diagnosis of the Problem of Corruption to discover the Causes

It is the belief of this research that the state's responsibility is to develop a general vision that the different public institutions can follow to fight corruption, but identifying the areas more vulnerable to create corruption opportunities cannot be developed solely by the state. The state is responsible for providing a general vision but the identification of the specific features of the problem of corruption should be better left to each public institution to develop. Each ministry and each public institution is more aware of the areas vulnerable to corruption opportunities.

The role and mission of each public institution or agency in the state's administrative body vary, and, accordingly, the opportunities to engage in corrupt acts and deals becomes more specific to the nature of service provided. Only the people working in those institutions are aware of the possible areas of vulnerabilities within its internal organization. Therefore, to save time and effort, it is recommended to ask employees to take an active part in the diagnosis process and in identifying those particular areas where corruption occurs instead of speculating or identifying the general manifestations of corruption.

Employees' participation in identifying the areas where corruption occurs has an important psychological advantage, besides helping to concentrate on the efforts in fighting corruption in the areas mostly needed through designing effective monitoring tools to control the manifestations of the problem. When institutions adopt a participative approach in identifying the problem of corruption rather than imposing solutions on employees, where their only role is to follow orders, the goal becomes more reachable. In this case, employees put effort into making the anti-corruption programs succeed since they have a sense of ownership of these programs. They tend to feel that they are implementing their own ideas and the strategy that they developed and created rather than having to follow others' suggestions. Moreover,

employees' participation helps in reducing the power distance which in itself is a manifestation of corruption and contributes to realising a proposed rather than an imposed plan.

D.1.a- Power Distance in Egypt

Research has shown that the greater the power distance in countries, the higher the level of corruption.⁷²¹ In Egypt, interaction between the superiors, especially in high managerial ranks and their subordinates is quite rare. Adopting a participative approach may help in reducing this gap and may also help the upper level management to identify the manifestations and forms of corruption that they may not have a chance of knowing because of the existing gap. A participative approach will give leaders a better understanding of areas in corruption and will save the time and effort spent to create committees to identify the areas that are more vulnerable. Sometimes, only bureaucrats in the lower level of the hierarchy can successfully identify those problems.

D.1.b- A Proposed rather than an Imposed Plan

Monitoring the manifestations of corruption and diagnosis of the problem of corruption can be better founded through an inclusive and participative policy rather than a policy founded on obeying orders. The policy used to curb corruption has to be customized in accordance to the particular needs and the services provided by the public institution. Public servants' participation in identifying and monitoring the most important manifestations of corruption creates a sense of ownership to the strategy and encourages employees to participate in making the strategy succeed.

The success of the strategy depends on being a *proposed* rather than *imposed* plan. In other words, the state has to present its vision in fighting corruption, propose a general strategy while giving each institution the flexibility to adapt it to meet its own needs according to the specific manifestations and cases of corruption.

⁷²¹ Sean Richey, "The Impact of Corruption on Social Trust" (2010) Am Polit Res.

D.2- Identifying the Main Strengths and Weaknesses, Threats and Opportunities of the Work System and Combatting Corruption in Egypt.

It is important to identify the main strengths and weaknesses, threats and opportunities of the work system and combatting corruption in Egypt because the nature of public institutions and entities in the State Administrative Body offers different strengths, weaknesses, threats and opportunities in curbing corruption. For example, a public institution which provides services to the public, and where its employees interact constantly with the public will differ from another public institution whose interaction with the public is minimal. Therefore, each case has its particular way of dealing with it.

D.2.a- The Different Nature of the Public Institutions in the State Administrative Body Offers Different Strengths, Weaknesses Threats and Opportunities in Curbing Corruption

Identifying the strengths and weaknesses as well as the threats and opportunities in the process of implementing the anti-corruption strategy is a very important step towards its success. Again, this process has to be implemented on both the general and the specific levels. A general analysis of the weaknesses, strengths, threats and opportunities on the country level is very important to consolidate the strengths, find proper solutions for the weaknesses, identifying the threats that may impede the reforms process and find out about the opportunities of success. Weaknesses, strengths, threats and opportunities differ from one institution to another. For example, the strengths, weaknesses, and opportunities and threats in a public institution that offer services that the general public are in constant need of, for example issuing driving licenses, birth certificates or public services are quite different from those found in institutions that provide services to investors, whether on the local or international level.

D.2.b- An Important Threat: Not Everyone Will Benefit from Curbing Corruption

Assuming that everyone will work on fighting corruption is not true. Some people's interests are threatened by fighting corruption. When each institution clearly identifies the enemies of the success of its reform policies, it gives better opportunities for the success of its strategy.

D.2.c- The Importance of Seizing Opportunities by Using the Strengths: The Example of the Ministry of Investment

The enemies of the success of the strategy are not always the people but the system that creates more chances for corruption. Therefore, identifying those deficiencies in the system -in each public institution - that can increase the chances in engaging in corrupt deals can result in finding better opportunities to create better structured anti-corruption policies. The Ministry of Investment in Egypt found that one of its weaknesses that may represent a barrier to achieve its goal in increasing the level of investment on the local and international levels is the bureaucracy and red tape especially in the registration of new businesses. To deal with this weakness, which also represents a threat to achieving the ministry's goal in increasing the investment level which in turn negatively affects the country's economic growth, the ministry undertook some reforms to deal with this specific problem in the new investment law for the year 2017. Article (22) of the investment law gave the right to the investors to seek the assistance of certified and accredited offices to register their business instead of dealing with bureaucrats to issue their permits.

Article (22) of the Law No 72 of 2017 stipulates that:

[...] The Accreditation Office, on their own responsibility, shall issue for the Investor a certificate of accreditation valid for one year comprising a statement showing to what extent the investment project has satisfied all or part of the conditions in accordance with the laws and regulations which regulate the issuance of approvals, permits, and licenses. A copy of the certificate shall be submitted by the Offices to the Competent Authority in the manner indicated by the Executive Regulations of this Law.....This certificate shall be accepted by the Competent Authorities and their representative at the Investor Service Center and other administrative authorities. However, this shall not prevent the Competent Authority or its representative from objecting to the certificate while indicating the reasons of the objection, within 10 business days maximum from the date of submission of the certificate. If this period expires without issuing a reply, this shall be deemed as an acceptance of the Investors application and the Authority's Chief Executive Officer shall

issue an approval of the application, in the manner provided for in Article (25) of this Law.⁷²²

To remedy the problem of red tape, the new investment law allowed the certified accreditation offices to issue the licenses, permits, and approvals that shall be accepted by the Investor Service Center. In order to realize a balance between the need to issue licenses in a timely manner without complicating the procedures, ensuring that employees do not abuse their discretionary power, and controlling the accreditation offices work, the law allows the Competent Authority to refuse the issued certification while requiring the latter to issue the reasons behind the refusal. Requiring the Competent authority to provide the reasons behind its refusal, limits the discretionary power public officials have. The other advantage that the accreditation offices provide is creating a competition between the public servants who were originally entitled to provide those services and the newly created accreditation offices. This competition may create an incentive for the public servants to improve the quality of the services they provide to prove they also have the ability to provide similar service quality

A similar successful experience⁷²³ was undertaken in La Paz city, Bolivia by its famous mayor Ronald McLearnan in the late 90s who undertook successful revolutionary changes to curb the widespread corruption in the city.⁷²⁴ He found that issuing permits and licenses for construction was inefficient and took a long time to be executed because of some structural problems and the monopoly power that officials had over issuing those permits. To solve the problem, he thought of compensating the structural and monopoly problems by the abundance in human resources where the problem persists. He compensated the limited resources in the city by the abundant human resources of independent engineers that the city of La Paz had. He agreed with the Professional Association of Architects to make it possible to its members to be

⁷²² “Investment Laws | Egypt - Investment Law”, online:

<<http://investmentpolicyhub.unctad.org/InvestmentLaws/laws/167>>.

⁷²³ Ronald McLearnan successful experience in reforming La Paz was explained in part one of the research

⁷²⁴ Klitgaard, MacLean-Abaroa & Parris, *supra* note 202.

certified to grant permits to the citizens on behalf of the city.⁷²⁵ This reform helped citizens to receive timely service and reduced the monopoly power officials had over issuing the permits.

This type of reforms helps in achieving efficiency goals without waiting for the public servants or officials to adapt to the requirements of the new reforms. It also helps in reducing the threats of the resistance of public servants and officials to apply the reforms and gives them enough time to learn and adapt to the new changes. Therefore, it is always beneficial to think out of the box when identifying the strengths and weaknesses to initiate reform in a specific area. In other words, it is important to ask how can we reach the desired goals by exploring the strengths that we have within the institution and how can we compensate the weaknesses of the available resources, whether from inside the institution or through outsourcing? Asking the correct question always leads to creative and successful reforms policies.

D.3 - Pinpointing Targets and Achieving them in the short and Medium Terms and Defining Policies to be Followed to Achieve the Goals

Policy makers in Egypt were aware that fighting corruption is a very general and abstract goal. It has to be decomposed into more specific goals and targets to be able to measure its progress. Therefore, Egypt's anti-corruption strategy identified ten main goals, implementation policies, time frame, and the authorities responsible for their execution and follow up.

D.3.a- The Importance of Realizing Short and Medium Term Goals to Gain Public Trust

To gain the general public support in favor of the Strategy, it is crucial to work on goals that have short term as well as medium term effects especially in public institutions where most citizens seek services (ex. Issuing licenses, permits, birth or death certificates---etc). Every

⁷²⁵ *Ibid* at 33–34.

institution has to specify its targets and the areas it needs to work on according to the type of service it provides.

Long-term goals are important to achieve economic growth but the general public always believe in quick results and short-term goals. Therefore, the importance of achieving and celebrating improvements and successes in achieving short-term goals cannot be undermined in order to ensure public support and the sustainability of the results. In order to be able to continue in achieving long-term sustainable goals and get the required public support, people have to get a taste of how the change and reforms will contribute in improving the quality of their daily life.

The problem with Egypt's anti-corruption Strategy is that it focused more on achieving long term goals, which cannot compensate for the people's needs in experiencing short- and medium-term successes. As a result, people are always complaining about the quality of public services and the non-realization of the promises to improve the quality of services. Besides, improvements in the quality of public services as a result of the implemented reforms have never been enough publicized so sometimes people do not even know about them.⁷²⁶

In the cases of Georgia, Colombia, and the Philippines,⁷²⁷ besides the realization of long term goals in reducing corruption and achieving economic growth that was reflected in the international indicators, political leaders did not ignore the importance of improving the quality of public services so that citizens can experience tangible changes.⁷²⁸ It is understandable that some sectors like construction and energy for example cannot realize short- and medium-term

⁷²⁶The study will discuss important steps that the Egyptian government has taken to improve the quality of the public services when analyzing the first main aim of the strategy which is "Raising the governmental and administrative performance of the state and improving the public services" that has not been enough publicized.

⁷²⁷ As discussed in details in chapter 3 part one of the thesis

⁷²⁸ A full discussion on the success and improvement countries experiences was discussed in Part one.

goals but other public institutions can play this important role and the media can help in celebrating and magnifying the effects of those changes.

The reason why there was a general perception that the Egyptian revolution did not achieve its desired goals in curbing corruption is that the political leaders did not realize the importance publicizing the successes in improving the quality of public services to gain the public support and to be able to continue achieving the long-term goals.

D.3.b- A Success Worthy to be Celebrated: Improvement in Ibrahim Mo Governance 2017 Index

One of the main six indicators-the accountability- that measure the level of safety and rule of law in the 54 African countries according to the Ibrahim Index of African Governance in 2017,⁷²⁹ showed a slight improvement over the last five years in Egypt, yet the progress was neither celebrated nor even heard of. The importance of this specific indicator (the accountability measure) for this research is that it measures the level of accountability according to eight indicators, namely: access to information, online public services, public service accountability and transparency, accountability of public officials, corruption in government and public officials, corruption and bureaucracy, diversion of public funds and corruption investigation. Improvement in the level of accountability does not mean that there was a realized progress in all eight indicators; but it does reflect an overall increased progress level. An improvement in those measures should reflect progress in the medium- and long-term goals in realizing improvement in the quality of public service. This improvement has unfortunately never been highlighted by the political leaders or the media, or even published in the governmental institution websites. Celebrating small successes encourages both the public and the political leaders in realizing bigger ones.

⁷²⁹ Mo Ibrahim Foundation, *2017 Ibrahim Index of African Governance* (Mo Ibrahim Foundation, 2018).

Defining the targets and achieving them, whether in the medium, long or short terms, needs a clear definition and specification of the policies to be followed to achieve the desired goals while addressing the factors causing corruption. As explained earlier, each public institution, depending on its particular nature and the service needs to define the goals and policies it should adopt in order to achieve each specific goal. Defining goals without specifying the policies to be adopted to execute it will never lead to the realization of the goals.

D.3.c- The Role of Public Servants and the General Public

First: Public servants

The goals and the policies to be adopted have first to be shared with the public servants in the respective public institution. They should also be part of the group formulating the policies to gain their support and involvements. It is important to help employees diagnose the problems, formulate the goals, and find the adequate policies to realize them. It is also crucial to help public servants to formulate and adapt to the chosen strategies instead of attacking them.

Second: The Citizens

Since Egypt's national anti-corruption Strategy should be the concern of each Egyptian, and is formulated with the aim of improving the standard of living of all citizens and realizing economic growth and development, the general goals of the strategy as well as the specific goals of each institution have to be shared with the general public, either through posting them on the websites, or through promoting them via the different social media.

Research has shown that consumers report help in reducing corruption.⁷³⁰ Citizens/Consumers of the different services may represent an important source of information when they are provided with the adequate knowledge of the goals that the public institution is

⁷³⁰ Amegashie, *supra* note 147.

seeking to reach. Providing citizens with adequate knowledge, and empowering them with tools to report their opinions about the quality of services may represent an important and inexpensive monitoring tool. The reason is that people have direct interest in improving the quality of the services they receive. Providing citizens with channels to report their complaints in case of violation of the rules and regulations and taking those claims seriously by reacting to them may also represent an effective accountability measure.

D.4- Identifying the Actions Required for Effective Participation in Combatting Corruption of all Concerned Bodies

A successful strategy should always be participatory and inclusive. It should succeed in including all the stakeholders that are concerned with the change. However, achieving a respectable degree of participation cannot be achieved by mere good intentions or by mentioning this in the writing of the Strategy. It is important for the Strategy to include the detailed active measures that will allow it to become inclusive and participatory. It should make sure how each regulatory body, law enforcement body and governmental authority has a clear and measurable mandate to achieve its goal. Otherwise, it will turn out to be a mere “*inclusive text*” rather than an “*inclusive strategy in practice*”.

By exploring the websites of the different regulatory bodies, law enforcement bodies and governmental authorities, the research discovered that the national anti-corruption strategy was neither posted, nor referred to, except in the Administrative Control Authority (ACA) website where it is posted in three languages: Arabic, French and English.

Section two number 3 of the strategy lists all the authorities participating in its execution.⁷³¹ It was expected to find the specific role each institution will play to fight corruption.⁷³² Having

⁷³¹ National Anti-Corruption Coordinating Sub-Committee, *supra* note 706 at 15.

⁷³² The websites of the different authorities participating in the execution of the strategy as per the list provided in the text of the strategy did not mention anything about the strategy (Last accessed in June 2018) . It was expected

such information available would have helped both the public servants and the citizens to know respectively their responsibilities and rights. The text of the strategy states that the Strategy is founded on “Identifying the actions required for the effective participation in combatting corruption of all concerned bodies, on the top of which the regulatory bodies, law enforcement bodies, governmental authorities, and civil society organizations.” However, since the top of the list does not clearly define the major role they play in curbing corruption, it seems problematic.⁷³³

The text of the Strategy also puts the civil society on the top of the list of the institutions and bodies concerned to fight corruption. Article 75 of the Egyptian 2014 constitution states the right to establish associations. It stipulates that:

Citizens have the right to form non-governmental organizations and institutions on a democratic basis, which shall acquire legal personality upon notification. They shall be allowed to engage in activities freely. Administrative agencies shall not interfere in the affairs of such organizations, dissolve them, their board of directors, or their board of trustees except by a judicial ruling. The establishment or continuation of non-governmental organizations and institutions whose structure and activities are operated

to find the text of the strategy itself posted especially on the law enforcement bodies to reflect their commitment to fight against corruption. It is also expected to find the specific role each government institution, authority or law enforcement authority will play in curbing corruption. Posting the strategy and the specific role played by each institution will help the public servants, and employees in the respective institutions to understand their roles, and responsibilities in achieving the institution goal in fighting corruption in the framework of the national anti-corruption strategy. It also helps citizens to understand to whom they shall address in case of encountering corrupt acts. They will also understand the role of each institution in fighting corruption to better direct their complaints. In public institutions that provides services to citizens, and which were known to suffer from prevalent corruption providing this type of information will help public servants understand that the leaders in their institution are serious in taking measures to curb corruption, and will help citizens understand that corrupt practices will not be accepted.

⁷³³ The research did not address the fact that even the media did not play an active role in raising people awareness about the strategy in this section. Although Egypt’s Central Agency for Public Mobilization and Statistics announced in September 2017 that “ The number of illiterate people in the country – taking into account people nine-year and above...has reached 20.1 percent of the population as of 2016”

<http://www.egyptindependent.com/egypt-illiteracy-rates-stand-14-4-males-26-females-capmas/>

which represents a large percentage of the population, where the only source of information will be the media: the either radio or television. A more detailed analysis of the role of the media will be discussed when studying the section dealing with the authorities participating in its execution.

and conducted in secret, or which possess a military or quasi-military character are forbidden, as regulated by law.⁷³⁴

Therefore, the right to establish NGOs is guaranteed by Egypt's Constitution. In addition it gives NGOs the right to engage freely in their activities and protects them against the abuse of the executive authority by forbidding it to "dissolve them, their board of directors, or their board of trustees except by a judicial ruling."

In this context, in June 2018, the Egyptian Supreme Court banned the social solidarity Minister from dissolving NGOs for violating article 75 of the Constitution.⁷³⁵

The operation and the work of NGOs in Egypt is governed by the law No 70 of 2017 which repealed the Law No 84 of 2002.

The Strategy's duration is from December 2014-2018 and it was expected to be a real cooperation between the government and the civil society as per the text of the strategy to achieve its goal in fighting corruption. However, by researching the news sources, and other articles resources, the research showed that even the participative conferences did not start before July 2017. Therefore, even the conferences did not start until nearly one year before the end of the national strategy duration.

There were some attempts to promote cooperation between the government and the civil society to achieve its goals in fighting corruption following the Egyptian revolution, and these attempts continued also following the creation of the strategy. On occasion of the anti-corruption

⁷³⁴ https://www.constituteproject.org/constitution/Egypt_2014.pdf

⁷³⁵ Nesma Abdel Azim, "Supreme Constitutional Court bans social solidarity min. from dissolving NGOs", *EgyptToday* (2 June 2018), online: <<http://www.egypttoday.com/Article/1/51399/Supreme-Constitutional-Court-bans-social-solidarity-min-from-dissolving-NGOs>>.

day in December 2013, the UNODC, UNDP, the Egyptian Ministry of State for Administrative Development (MSAD), the National coordinating committee for combatting corruption and Transparency International held a series of activities to promote the attempts to fight corruption under the theme : "The Arab Republic of Egypt Commemorates the International Anti-Corruption Day - A new start and a different vision to combating corruption in Egypt".

In August 2017, the Ministry of Social solidarity and Anti-corruption National committee organized a conference to discuss the role of the civil society in combatting corruption.⁷³⁶ The conference was held within the framework of the National strategy to fight corruption. During this conference, Dr Hassan Rateb Head of the Egyptian committee for Cooperative and Administrative Studies emphasized the importance of the cooperation between the government and the civil society as part of the development process.⁷³⁷ The second conference was held in March 2018. But was the cooperation limited to holding successful conferences, where their results ended with the conference closing date? Or did the cooperation succeeded to go beyond the conferences and implement the goals the conferences were held to achieve?

Civil society organizations have succeeded to record many successes in different countries in participating in curbing corruption. Some of those countries were also suffering from high levels of corruption and were facing the same challenges to curb it like Philippines (CCAGG) and India (MKSS).⁷³⁸ The key is to accept the active cooperation and participation of the civil society organizations to help the government achieve their goals. To be effective, this participation and inclusiveness has to be implemented on the practical ground. The

⁷³⁶ Egypt Today Staff, "Civil society organizations discuss how to confront corruption", *EgyptToday* (8 January 2017), online: <<http://www.egypttoday.com/Article/1/14938/Civil-society-organizations-discuss-how-to-confront-corruption>>.

⁷³⁷ *Ibid.*

⁷³⁸ The information about the effective role played by the civil societies in Philippines and India is provided in chapter three Part one of the research.

collaboration has to surpass the limits of conferences and resolutions to take more formal agreements to consolidate the role of the civil society.

Egypt can make use of its numerous NGOs in effectively participating to achieve the national strategy goals.⁷³⁹ A participative approach will not only save time, cost, and effort, but will also use citizens' energy and time in actively assisting in fighting corruption instead of only complaining about its devastating effects. NGOs' role as part of the civil societies in fighting corruption cannot be undermined. They can actually facilitate the government's task.

D.5 - Developing mechanisms for the implementation of the national anti-corruption plan.

The research studies the above-mentioned mechanisms when discussing the ten main aims and the implementation policies associated.

E- Mechanisms for Drawing up the Strategy

The text of the strategy explains that there were a number of mechanisms that the strategy was drawn upon. The research studies those mechanisms in terms of what could have been done to implement those mechanisms. Some mechanisms are not discussed extensively for different reasons. For example, - Activating the anti-corruption mechanisms (organizational structure control / human resources development / application of the principles of transparency, integrity / ...). is not discussed as a separate mechanism to avoid repetition since it is discussed when studying the following mechanism “-Setting near/medium-term goals with the possibility of achieving the target in a way that will not conflict with other goals.” Moreover, “Making available all (human / material) resources for the implementation of the strategy.” As a mechanism is discussed when studying the “effectual participation of all concerned bodies.”

⁷³⁹We cannot deny that the relationship which is based on tension and lack of trust is the core reason for the lack of inclusion.

Concerning the “Distribution of tasks and responsibilities in the light of the strategy’s axes” , the “ Development of alternative mechanisms when necessary to achieve the flexibility required for dealing with any changes that may get in the way of implementing the strategy and providing national indicators to monitor the implementation of the strategy.” mechanisms, they could not be discussed due to the difficulty in accessing information in this regard.

The text of the strategy states that those mechanisms are:

- Development of work systems in a manner that stems corruption.
- Effectual participation of all concerned bodies in building a united front to fight corruption.
- Activating the anti-corruption mechanisms (organizational structure control / human resources development / application of the principles of transparency, integrity / ...).
- Setting near/medium-term goals with the possibility of achieving the target in a way that will not conflict with other goals.
- Making available all (human / material) resources for the implementation of the strategy.
- Distribution of tasks and responsibilities in the light of the strategy’s axes.
- Development of alternative mechanisms when necessary to achieve the flexibility required for dealing with any changes that may get in the way of implementing the strategy.
- Providing national indicators to monitor the implementation of the strategy

E.1- Development of Work Systems in a Manner that Stems Corruption

Developing the work system in a manner that stems corruption is a very broad term. To develop the work system in order to reduce the opportunities to engage in petty corruption in

the public sector institutions, the government has to work on simplifying and clarifying the procedures to reduce the monopoly power that the public servants hold.

Providing citizens with the requirements to issue birth certificates, driving licenses, etc. through the distribution of brochures, posting detailed procedures on the public institution website or even video streaming the steps to be followed – due to the high illiteracy rate – will result in more transparency and will empower the citizens with the required information which results in an increase in the bottom up and top down monitoring, which in turn will help holding public servants accountable in cases of deviation.

Accountability cannot co-exist with the absence of the required information. When procedures and regulations are complex or not transparent, there will be no basis to hold public officials accountable in case of abuse of power or violation of the rules and regulations.

The research suggests some measures that Egypt could have used to develop a work system in a manner that stems corruption, such as using a proactive approach to fight administrative corruption rather than waiting to receive complaints, deregulating and simplifying procedures to make the system less vulnerable to corruption, enhancing the public servants participation to avoid their resistance, developing programs to change people's perception about public servants as corrupt by praising and celebrating the public servants who value their integrity , introducing the E-government to achieve the designated goal and developing educational programs to benefit from the youth and, finally, by addressing one of the most important sectors in terms of vulnerability to corruption which is procurement.

E.1.a- A proactive Approach to Fight Administrative Corruption: Do not Wait for Complaints

Success stories have shown that policy makers can use the available resources to fight corruption instead of waiting for large amounts of funds to be available. For example, the Punjab

experience, which helped in improving the quality of the public service, showed that mobile phones can be used to monitor and reduce corruption as well as improve the quality of services in the public sector.⁷⁴⁰ The country's statistics showed that a large percentage of the population used mobile phones. To use this available resource to curb corruption, the government of Punjab started to take a proactive role. Once a citizen finished getting some service in the public sector, s/he received a text message asking for an evaluation of evaluate the service. The collected information was subsequently used to detect corrupt acts or deviation from the rules and also to improve the quality of the service. The initiative was praised and recognized on the international level.⁷⁴¹ The World Bank awarded Punjab experience the 2011 Innovation Fund Prize. This simple and inexpensive way of monitoring resulted in a decrease in the level of corruption since public servants and officials knew that they will be held accountable in cases of deviation.

A similar experience was undertaken in Seoul Metropolitan government, when they introduced a structure reform system to fight corruption.⁷⁴² Among the different measures that they undertook, they developed a system called Corruption Report Card System (CRC). The CRC allowed citizens who undertook civil application services to report misbehavior or wrongdoing. The mayor reviewed those cards personally and sent them for investigation, which lead to punishing the officials who proved to violate the rules.⁷⁴³

E.1.a.i- Using Mobile Phones to Evaluate the Quality of Public Services

⁷⁴⁰ Mohammed Rizwan, "Punjab Model for Proactive Governance: New anti-corruption drive makes waves", *Express Trib* (19 February 2012), online: <<https://tribune.com.pk/story/338621/punjab-model-for-proactive-governance-new-anti-corruption-drive-makes-waves/>>.

⁷⁴¹ Ana Bellver Vazquez-Dodero, "M-government? – Innovations from Punjab", (25 June 2013), online: *Gov Dev Worl Bank Group* <<http://blogs.worldbank.org/governance/m-government-innovations-punjab>>.

⁷⁴² Kun Goh, *A Systematic Approach To Anti-Corruption: The Case of The Seoul Metropolitan Government* (Republic of Korea).

⁷⁴³ Cho & Choi, *Supra note* 471.

Statistics show that the number of mobile phone users in Egypt is very high and is constantly increasing. According to the Central Agency for Public Mobilization and Statistics, Egypt population was 92.1 million at the beginning of 2017,⁷⁴⁴ and according to the Ministry of Communication and Information Technology, the number of mobile users in Egypt in February 2017 was 98.8 million users compared to 94.6 million in 2016.⁷⁴⁵ Therefore, the statistics show that a large percentage of the population uses cell phones.

Although each country has its particular context, successful countries experiences can help policy makers in other countries to get inspired.⁷⁴⁶ Like, Punjab in Pakistan, Egypt can take advantage of the fact that a large percentage of the population uses mobile phones and can use it as an effective and inexpensive monitoring tool. Besides realizing an important goal of providing an opportunity for more people to participate in the fight against corruption, it will make use of the citizens' legitimate interest in improving the quality of public services they receive.

The way the collected data are used is a key step in making of the experience a real success. Public servants will offer a better service when they know that the quality of their service will be evaluated, and more importantly, when they know that the results of the evaluation will bear important consequences. If the process ends at the evaluation phase, in other words, in the monitoring phase without taking actions in case of violation of the rules or in case of extortion, the experience will not reap the desired fruits.

⁷⁴⁴ "CAPMAS: Egypt population reaches 93.33 million", *Egypt Indep* (11 July 2017), online: <<http://www.egyptindependent.com/capmas-egypt-population-reaches-93-33-million/>>.

⁷⁴⁵ Mohamed Alaa El-Din, "Egypt's mobile users increase by 4.5% in February", *Dly News Egypt* (31 May 2017), online: <<https://dailynewsegyp.com/2017/05/31/egypts-mobile-users-increase-4-5-february/>>.

⁷⁴⁶ The aim is not to copy the experience but to get inspired since the circumstances in the two countries are similar. In the sense that corruption is rampant in both countries, and the percentage of population using mobile phones is high.

This proactive method of evaluating the quality of the public service in an attempt to reduce corruption is more cost effective than dealing with complaints since complaints are usually presented after the problem takes place. In addition, not all the citizens will be ready to file complaints especially when the process is long and ineffective. In this case people prefer to pay a bribe than go through a long process, where its consequences are most likely ineffective.

E.1.a.ii - The Existence of a Complaint System does not Guarantee its Effectiveness

In Punjab (before using the proactive evaluation method), there was an established system of complaints that enabled the District Coordination Officer (DCO) to initiate formal investigation in case of citizens' complaints.⁷⁴⁷ However, the system was complex and long, and required the person who filed the complaint to appear several times in front of the DCO. Public officials did not always deal with the complaints because of suspecting malicious reporting, and official anti-corruption agencies were more interested in pursuing big corruption cases rather than wasting their time with cases that involve petty corruption. For the above-mentioned reasons, citizens refrained from filing their complaints as they found it an ineffective way of redeeming their rights, getting their job done, or contributing in improving the quality of the offered service. To sum up, the existence of complaint system did not guarantee its effectiveness. The complaint system was discouraging rather than encouraging to take actions in case the public servant violates the rules and regulations.

The case is not different in Egypt. There are many channels through which citizens can file their complaints. Citizens can file their complaints in the public service institution itself where the deviation occurs, in the unified complaint service introduced by the cabinet of ministers or in the Administrative Prosecution Authority if the public institution itself does not take action. However, as in Punjab, the process is mostly complex and long, and does not yield

⁷⁴⁷ Mohammad Omar Masud, "Calling In Against Corruption" (2015) Legatum Inst, online: <<https://lif.blob.core.windows.net/lif/docs/default-source/publications/calling-in-against-corruption---curbing-corruption-series-july-2015.pdf?sfvrsn=4>>.

for the desired results. Therefore, people either refrain from filing their complaints or they do not put much hope that their problem will be solved if they file a complaint. Besides, using the citizens' feedback as a means of controlling corruption is more cost and time effective than investigating complaints.

For the above-mentioned reasons, a proactive system to evaluate the quality of public services will better help in improving the quality of the public services and reducing the level of corruption. Punjab and Egypt have similar circumstances and constraints since both countries suffer from high levels of corruption, an ineffective complaint system and limited economic resources. Hence, since the citizen feedback system proved to be successful and effective in Punjab, therefore, if the same system is implemented in the right manner in Egypt, it is expected to turn out to be a successful development of a work system in the fight against corruption.

E.1.b-Deregulation and Simplification of Procedures to Make the System Less Vulnerable to Corruption

Another important mechanism used in many successful experiences in fighting corruption in different countries is the deregulation or simplification of procedures. When procedures are complex, unclear and difficult to access, individuals become more prone to accept to pay for bribes to get their jobs done. Complex procedures also create a market for intermediaries.

One of the most effective tools in improving the quality of public services is to simplify and deregulate procedures. Fighting corruption needs an honest review and evaluation of the regulations. Policy makers should help public servants and public officials in each public institution to ask the real reason behind the presence of the regulations. Some regulations are important for the execution of work and even for curbing corruption; however, others make the system vulnerable to engage in corrupt deals (due for example to the broad and unmonitored discretionary power it gives to public servants and officials). Countries' experiences have shown the importance of the revision and evaluation of the regulations to detect the systems that are more vulnerable and conducive to corruption.

Georgia represents one of the recent successful reforms experience in fighting corruption in the public service among successes in other areas.⁷⁴⁸ Reforms that started in 2003 in Georgia showed the importance of deregulation and simplification of procedures. In Georgia, in the framework of the deregulation simplification of the procedures, policy makers also worked on empowering citizens with the information about the procedures that they needed to complete licenses, permits and certificates. The reforms were reflected in an improvement in the international measures of corruption. The deregulation and simplification changed the system structure as well as the incentives to engage in corrupt deals. Georgia's successful experience showed that "The deregulation reforms radically altered the incentive structure. Agencies were assessed by the value added they provided and the capacity they had to carry out their role."⁷⁴⁹

"Citizens gained power through simplified procedures, access to clear guidelines on time-lines and fees, and a hotline for reporting abuse."⁷⁵⁰ Therefore, the key to a successful anti-corruption strategy is to improve transparency measures to help citizens have equal power over the information. Simplifying the procedures and making them accessible in a simple way that adapts with the citizens needs and level of education proved to reduce the level of corruption.

The simplification of procedures proved to be successful in fighting corruption in Philippines too.⁷⁵¹ The anti-corruption reforms started in Philippines in 2010 when President Aquino declared power. Like Georgia, the reforms tackled many sectors, which had a strong implication in improving the international measures of corruption. Bringing more transparency, simplifying and clarifying the procedures reduced the opportunities of corruption. For example, the procedures to issue licenses, and permits were streamlined in 1,118 out of 1,634 cities to provide more accessible, and concise information and in order not give bureaucrats the

⁷⁴⁸ Georgia successful experience was fully discussed in in chapter three part one of the thesis.

⁷⁴⁹ World Bank, ed, *Fighting corruption in public services: chronicling Georgia's reforms*, Directions in development (Washington D.C: World Bank, 2012) at 62.

⁷⁵⁰ *Ibid* at 73.

⁷⁵¹ The full improvement story of Philippines in fighting against corruption is explained in chapter three part one of the thesis.

opportunity to abuse their power.⁷⁵²To attract more investment, the procedures were reduced, simplified and clarified. The reforms had remarkable results on the ease of Doing of Business measure which jumped from 114th in 2010 to 95th in 2015.

The success story of the city of La Paz in Bolivia that was led by its mayor MacLean-Abaroa in 1985 showed the importance of deregulation and simplification in fighting corruption.⁷⁵³ To protect the public servants' integrity, MacLean-Abaroa streamlined the procedures for granting licenses and permits, and published a "Manual For pascenos" which provided citizens with a clear and detailed explanation of the procedures to issue permits and licenses.⁷⁵⁴ He also reformed the revenue collection procedures and changed the evaluation process that encouraged for more opportunities of corruption.⁷⁵⁵ Another wave of reforms took place in 1999 with the election of Juan Del Granado, when he also undertook important reforms and created the "continuous improvement unit", which again aimed at simplifying and clarifying the procedures of issuing permits, licenses and other services offered by the city to better serve the citizens.⁷⁵⁶ It is true that reforms on the city level cannot be compared to those undertaken on the country level; however reviewing those experiences on the public institution level may help leaders, policy makers and employees to be inspired by the ideas and creativity in initiating and implementing reforms.

To sum up, the research shows that success stories demonstrate the importance of transparency, deregulation and simplification of procedures as an important step to improve the quality of public services and fight corruption in the public sector. However, the process itself is not an easy one and needs the collaboration of the different stakeholders involved in

⁷⁵² *The Report: Philippines 2015*, by Oxford Business Group, Google Books (Oxford Business Group, 2015), Google-Books-ID: wvYCDAAAQBAJ; Official Gazette of the Republic of the Philippines, *supra* note 602.

⁷⁵³The success of this important experience was registered in the popular book *corrupt cities*.

⁷⁵⁴ Klitgaard, MacLean-Abaroa & Parris, *supra* note 201.

⁷⁵⁵ *Ibid* at 100.

⁷⁵⁶ Heywood & Nieves, *Supra* note 628.

corruption, especially the public servants and officials. This important process also needs the possible participation of the private sector, which may represent an added value to achieving the required goals. The public servants should have a vital role in helping policy makers in better understanding the procedures involved in each activity, and the steps that are more vulnerable to create corruption opportunities. The private sector, on the other hand, can help policy makers in understanding how the parallel system works to close any loopholes in the official system. The information provided by the different stakeholders may be valuable as it may save time and efforts to find out the real defects in the system.

E.1. c- Public Servants' Participation to Avoid their Resistance and Guarantee the Success of the Reforms

Policy makers together with public servants in each institution should breakdown each procedure needed to issue licenses, permits or certificates and work on simplifying, clarifying and eliminating unneeded regulations.

The participation of the public servants and employees in each institution is paramount for the success of the evaluation of existing procedures in an attempt reduce the opportunities to engage in corrupt acts. This participative process will help employees have a sense of ownership of the reforms, instead of feeling that the reforms are imposed over them and that their role is only to obey. This will have a different implication on the implementation of the strategy. They will not work to apply it but to make it succeed, because the success of the strategy will be related to the success of their own ideas and contribution. In addition, sometimes leaders and top-level managers in public institutions are not aware of all the details and circumstances surrounding the process citizens have to go through to have their work done. Helping employees to breakdown each procedures, asking them about their opinion of how the procedure to complete a certain activity should look like, and treating them as experts in the field- as sometimes they know more about the real reasons behind the widespread of corruption- and brainstorming to know the real causes of corruption in each operation will help employees to be more honest, especially when the evaluation of the procedures take the form of a group

workshop or conference. According to Langevoort, people always want to show that they are more honest than they are.⁷⁵⁷ Policy makers should benefit from this psychological aspect and put public servants in an environment where they can demonstrate how honest they are by finding effective means to curb corruption. Engaging public servants in this process may itself be a manifestation and a tool to fight corruption as it may decrease the power distance between the top leaders and their subordinates.⁷⁵⁸

Allowing public servants to work directly with public officials and their superiors and opening channels of conversation to find effective measures to solve the problem of corruption can help to solve one of the causes of corruption, by narrowing the gap in the relationship between public servants and their superiors especially the top management and the public servants. In Egypt, most of the public institutions adopt a seniority-based promotion system.⁷⁵⁹ Some public servants spend most of their years in service without being given an opportunity to be creative or innovative, since they are usually not challenged. This makes them lose the confidence in their ability to engage in important decisions or important achievements. Most of the citizens view the majority of the public servants as seeking to serve their self-interest rather than seeking the public interest that they should be serving. Accordingly, most of the public servants are entrapped in the lack of motivation and/or encouragement.

E.1.d- Changing the People’s Perception about Employees as Corrupt and Changing Employees Self-Image

Giving employees the opportunity to contribute in such an important strategy and to be praised by the public when they know that they contributed to bring this change- controlling

⁷⁵⁷ Langevoort, supra note 189.

⁷⁵⁸ Mansour Javidan, *Culture & Corruption - Lessons from Project Globe* (Project Globe, 2007). It is worth noting that there is a high power distance in Egypt and subordinates are rarely involved in the decision making process with their superiors.

⁷⁵⁹ In some public institutions, even when the promotion is based on evaluations and reports from their direct superiors, they are more objective and depend on the person’s relationship with his supervisors.

corruption- is expected to have effective implications. It will help public servants to rebuild their confidence in their ability to be more efficient and productive. Moreover, it will help citizens to trust them and their ability to serve honestly the public interest. It is true that all stakeholders have to work hard on reforming systems but they should also work on assessing the needs of the public servants and satisfying them.

Reforms in Egypt have to aim to restore the trust between citizens and public servants, as well as their image and self-perception. In this perspective, rewarding, celebrating and disseminating news and stories about public servants' honesty and good practices may also represent an effective tool to fight corruption. In La Paz, Del Granado who was a mayor in 1999, led the city into a successful experience in curbing corruption. He worked on punishing the violators but more importantly he succeeded in restoring the trust between citizens and public servants. To celebrate the contribution of honest public servants, the city hosted ceremonies once or twice a year to award and recognize the efforts of "...the most efficient, transparent, cordial, and honest civil servants."⁷⁶⁰The experience showed that "Such measures were important above all because they contributed to a positive image in the change and self-perception of public officials.....The city residents gradually came to see local officials as public managers and, in some cases, even, as positive agents of social transformation."⁷⁶¹ In 2002, the mayor used the flood event and worked hard with the city officials and public servants to help the public overcome the disaster. The citizens met the public servants efforts with gratitude and recognition, which lifted up the public servants spirits and helped them to value more the public interest over their self-interest.⁷⁶²

The Ministry of Investment and International Cooperation in Egypt launched a program in response to the Egyptian President's request to choose and recognize the efforts of the best

⁷⁶⁰ Heywood & Nieves, *supra* note 628.

⁷⁶¹ *Ibid.*

⁷⁶² *Ibid.*

public servant or official on weekly basis.⁷⁶³This initiative is great since public servants' efforts are rarely recognized or appreciated; it is recommended that this initiative and positive experience be generalized to other public institutions.⁷⁶⁴ Public servants and officials in the state administrative body work under difficult conditions and challenging environments and their efforts need to be recognized, praised and rewarded. The reward and recognition should be celebrated on both the institutional and public level.

E.1.d.i- Rewarding Honest Employees to Motivate them: Introducing “Egypt Government Excellence Award”

In October 2018 the Egyptian government launched a similar initiative called the “Egypt government excellence award”. This initiative consists of two awards: one on the institutional level “ The Institutional Excellence Award”, and the other on the individual level “ The Individual Excellence Award.”⁷⁶⁵This represents an important initiative to celebrate successes and change the public image about public servants as corrupted.

Undermining the importance of celebrating honest behavior and conduct, and focusing only on publishing bad behavior can slow down the process of the creation of a culture that refuses corruption. In addition to publishing and promoting their achievements in fighting corruption and the measures they have taken to reduce it, it is recommended that public institutions post and publish stories of public servants and officials who refused to engage in corrupt deals. Such behavior has to be celebrated and heavily mediatised, and these public servants have to be invited to share their stories, and the challenges they faced, in order to serve as role models and inspiration to others.

⁷⁶³ “وزارة الأستثمار و التعاون الدولى - تكريم 6 موظفين ووحدة الأستثمار الأجنبي المباشر بالوزارة”, online: <<http://www.miic.gov.eg/Arabic/MediaCenter/News/Pages/>>.

⁷⁶⁴The experience may be generalized but may be at a lower frequency. It can be made quarterly for example.

⁷⁶⁵ “وزارة التخطيط و المتابعة و الاصلاح الاداري”, جائزة مصر للتميز الحكومى, online: <<http://www.egea.gov.eg/>>.

Countries' experiences have shown that there are great unknown heroes who initiated important and innovative reforms within the available resources to curb corruption. Recognizing the effort of these people helps in changing the people's perception about corruption in the country as well as helps them compete to find innovative measures to fight corruption .

E.1.d.ii- A sense of Encouragement: Replacing “the Name and Shame” by “the Name and Fame”

The accountability lab is an NGO in the U.S. that has registered entities in Liberia, Nepal, Nigeria, Mali, and Pakistan.⁷⁶⁶ The accountability lab found that searching for people who were known to have high integrity in a corrupt environment, and who contributed in fighting corruption deserve to be known and celebrated by first by their own country and also by the whole world.⁷⁶⁷

One of the interesting programs that they launched is the “integrity idol”, where they ask people to nominate a civil servant who is known to be a hero for his honesty and hard work and who contributed to fighting corruption. Citizens are allowed to vote by different means.⁷⁶⁸ A committee reviews, investigates and conducts background checks on the nominees and select the finalists.⁷⁶⁹ The finalist who is chosen as an integrity idol is celebrated in a ceremony in which high officials attend to recognise, reward and celebrate his success.

According to the accountability lab which started in Nepal, in counties where corruption is widespread in the civil service “The solution to this problem is not in “naming and shaming”

⁷⁶⁶ Accountability Lab, “Where We Work”, online: *Account Lab* <<http://www.accountabilitylab.org/what-we-do/where-we-work/>>.

⁷⁶⁷ Accountability Lab, “Integrity Idol”, online: <<http://www.integrityidol.org/>>.

⁷⁶⁸ Accountability Lab, “Voting Line opens to select the Integrity Idol 2017 from the Top 5 Finalists”, (4 December 2017), online: *Account Lab* <<http://www.accountabilitylab.org/voting-line-opens-to-select-the-integrity-idol-2017-from-the-top-5-finalists/>>.

⁷⁶⁹ Accountability Lab, *Integrity Idol*.

the rule breakers but in “naming and faming” those officials doing the right things.....A positive approach to the difficult challenge of corruption is important because it reframes the conversation around solutions and generates energy for change- and it is working”⁷⁷⁰The experience succeeded in Nepal and more people were nominated and the number of voters increased throughout the years, which showed that citizens get more and more interested in positive campaigns.⁷⁷¹The successful experience was recently replicated in other countries like Liberia, Nigeria and South Africa.

It is recommended that an accountability lab has to be replicated in Egypt. Egyptians have used social media effectively to initiate a revolution on the 25th January 2011 when they successfully reached out to a significantly large population, even before it was published in the different news channels. This proves that the social media can be used to initiate a positive campaign to nominate public servants or officials to recognize and reward their successes. This can be done through organizing respectful ceremonies where high ranked officials should participate as part of their commitment to implement the national anti-corruption strategy. It is recommended that NGOs in Egypt assist the government in designing the program and doing the review, the investigation and the background checks to enhance the principle of inclusiveness and participation. The fact that there will be a number of nominees and finalists, who can post their stories and are interviewed in talk shows so that the voters can be better informed when choosing among the candidates, will show that not everyone is corrupt and that reforms are possible. This will also help in rebuilding the trust, which has been absent for long time, between the citizens and the public servants.

⁷⁷⁰ Samita Thapa & Suresh Chand, “Why We Worship Integrity Idols”, (31 January 2017), online: *Account Lab* <<http://www.accountabilitylab.org/why-we-worship-integrity-idols/>>.

⁷⁷¹ *Ibid.* According to the accountability Lab in Nepal : “In 2014, we received 303 nominations for Integrity Idol from 33 districts and received more than 10,000 votes. This year, we received nearly 850 recommendations from 67 districts and nearly 100,000 votes from Nepali citizens eager to promote integrity within their government.”

According to Nepal's experience, the winner does not have to be a public official with a great success story; rather, the winner can be a public servant who was able to use his/her position and the available limited resources to bring reforms and change. This is a role model who is worth celebrating. One of the winners in Nepal : Dor Bikram Shrees is not a high-ranking government official- he is a school principal from a small town in Gulmi district. But the influence he could have over future generations through education is significant.”⁷⁷²

E.1.d.iii -A Paradigm Shift: Integrity is Contagious

It is true that when people talk about corruption, they usually talk about the problem, and its negative and devastating effects, but they rarely talk about solutions. When solutions are presented, they can inspire and foster innovation and competition. The conversation is redirected from the problems to the solutions.

Integrity and honesty are as contagious as corruption. A research was conducted to find an explanation for why some people engage in corrupt behavior while others do not . The researchers conducted three studies to understand whether descriptive norms (the belief that the corruption is common, widespread or that everyone is corrupt) can influence corrupt behavior.⁷⁷³In this laboratory experiment, the participants were given the opportunity to bribe a minister to obtain a construction contract. The experiment was set in a way that the participants understood that their decision to pay a bribe will benefit the bribe payer only but will have negative effects - excluding being punished for the act - on the other players. The negative effects will extend to include also the material benefits that the researchers were granting. The results showed that most of the participants (about 75%) paid the bribe because they believed

⁷⁷² *Ibid.* A full story of one of the winners of the integrity idol is discussed in the International success experiences in specific fields in chapter 3 part one of the research.

⁷⁷³ Nils C Köbis et al, ““Who Doesn’t?”—The Impact of Descriptive Norms on Corruption” (2015) 10:6 PLOS ONE e0131830.

that corruption is common even if they believed that bribe paying itself is immoral or unacceptable.

The researchers wanted test whether a change in the participants' perception about how common the other participants engage in corrupt behavior would change the way they will act. They manipulated the descriptive norms in the third study, where they gave the participants a short prompt to indicate that the frequency of the corrupt conduct was low and others received a prompt prime indicating that the frequency of corruption was high. In the third experiment the participants were less likely to engage in bribery because they believed that corruption was not a common practice. They concluded that the perceived descriptive norm (the belief that corruption is common or not) can influence the corrupt behavior and that those findings can explain the cultural variation in corrupt behavior.⁷⁷⁴ Therefore, shifting people beliefs by disseminating good behavior can result in a paradigm shift that can impact people's actions.

Another study was conducted by a group of researchers in 2005 and 2007, where the participants were students from Oxford University originating from different countries. The researchers asked them to engage in corrupt deals. According to the researchers, the likelihood that the students would be expected to accept to engage in corrupt deals was associated with the students level of corruption in their countries of origin. However, this prediction did not apply to graduate students. The research findings proved that the behavior of graduate students who spent a number of years studying in the UK was not associated with their countries' level of corruption.⁷⁷⁵ The researchers concluded that "individuals' norms, values and beliefs relating to corruption may change following a change in context."⁷⁷⁶

⁷⁷⁴ *Ibid.*

⁷⁷⁵ Abigail Barr & Danila Serra, "Corruption and culture: An experimental analysis" (2010) 94:11 J Public Econ 862.

⁷⁷⁶ *Ibid.*

Celebrating and rewarding public servants' good behavior and integrity can be one of the important measures to curb corruption though this is rarely prioritized by policy makers and leaders. This may be one of the reasons for the usual a gap between leaders' vision in curbing corruption and its implementation in the public institutions. News, social media, talk shows and public gathering usually focus more on talking about corrupt officials, corruption and punishing corrupt public officials. Honest public officials and improvements in curbing corruption are rarely celebrated and even when they happen to be known they are marginalised. This approach and tendency to magnify the importance of detecting, convicting or punishing corrupt behavior makes people feel that corruption is common even if they perceive it as unacceptable.

It should be noted that citizens are interested in knowing about corrupt officials, and how they are convicted and punished. In response, since it appeals more to the public, the media also focuses more on this type of news. This does not mean that exposing corruption is not important but it should be noted that highlighting and celebrating success stories of officials who are honest and who do not succumb to corruption is also quite important.

Egyptians have been recently eager to learn about success stories of this type as an evidence that the January 2011 revolution succeeded in achieving one of its main goals, namely was fighting corruption. However, the media has to strike a balance between publishing negative news of punishing corrupt acts on one hand and positive news of celebrating integrity acts. Jiang explains that curbing systemic corruption does not happen overnight; it is usually a long process and focusing only on corrupt behavior can have a negative effect.⁷⁷⁷

She explains that: "Achieving real progress is a "two steps forward, one step back" kind of process, and continuous public attention and positive encouragement is essential. If the media paid more attention to the progress that is being made, rather than just dwelling on ostentatious

⁷⁷⁷ Helen Jiang, "How 'Scandalizing' Corruption Can Backfire", (9 July 2018), online: *GAB Glob Anticorruption Blog* <<https://globalanticorruptionblog.com/2018/07/09/how-scandalizing-corruption-can-backfire/>>.

bad behavior by corrupt actors, this could generate positive feedback loops and mobilize wider public engagement in fighting corruption. This possibility is lost when corruption scandals steal all the limelight.”⁷⁷⁸

According to Stephenson: “When people believe that “everyone” is engaged in supposedly improper conduct, the norms against that conduct erode; people feel less shame, and are less likely to be criticized or shunned, for doing something that “everyone” is doing. So when we exaggerate the frequency of corrupt activities in a given country or organization, we may contribute to the erosion of those norms.”⁷⁷⁹

Therefore, focusing only on naming and shaming, and publishing news about corrupt conduct can discourage reformers, and depress the public, since improvements are rarely celebrated. Moreover, it can normalize the bad behavior creating a culture that accepts living in a corrupt environment since everyone is corrupt, and corruption is a common behavior while refusing corruption *per se*.

E.1.e- The E-Government to Reduce Opportunities of Corruption and the Use of Human Capital to Implement it

In order to continue achieving the goal of the Egyptian Strategy in developing work systems in a way that helps eradicate corruption, policy makers need to work on reducing the contact between citizens and public servants/officials. Even in the presence of effective monitoring systems, the probability of engaging in corruption when citizens and public servants are interacting together, the probability of engaging in corrupt deal is higher than when their interaction is minimized. Working on providing online services to citizens to issue or renew

⁷⁷⁸ *Ibid.*

⁷⁷⁹ Matthew Stephenson, “Watch Your Language: Not ‘Everyone’ Is Corrupt–Anywhere.”, (23 August 2016), online: *GAB Glob Anticorruption Blog* <<https://globalanticorruptionblog.com/2016/08/23/watch-your-language-not-everyone-is-corrupt-anywhere/>>.

their permits, licenses or certificates may substantially reduce the opportunities to engage in corrupt deals.

Besides simplifying, and clarifying the procedures, countries that undertook a successful corruption reforms strategy, such as Hong Kong, Singapore Georgia, the Philippines, and Colombia also worked on automatizing some public services by introducing E-government to reduce corruption.⁷⁸⁰

One of the experiences that illustrates the importance and benefits of reducing the contact between citizens and public officials as a means of fighting corruption was undertaken in Seoul in 1999. Seoul's mayor decided to implement a number of measures as a means of changing the system to fight corruption. One of the important changes he brought about was the introduction of the E-government system called "OPEN" Online Procedure Enhancement for civil applications in a number of governmental services that were known to be most vulnerable to corruption in an attempt to control its level.⁷⁸¹The experience proved to be very successful and contributed in reducing corruption as well as improving the quality of public services.

Using the available human resources in Egypt to fight corruption can have a very important impact. Instead of complaining of the increasing population, the country can benefit from them to help spread values of integrity. The World Bank has recently stressed the importance of investing in human capital as an important means in developing a country and achieving its economic growth.⁷⁸²

⁷⁸⁰ A full explanation about the online processes and reforms adopted is provided in the section discussing the success and improvement stories.

⁷⁸¹ Cho & Choi, *supra* note 471. The information provided about the experience was extracted from the article

⁷⁸² "Building Human Capital: A Project for the World | World Bank Group", online: *olc.worldbank.org* <<https://olc.worldbank.org/content/building-human-capital-project-world>>.

There are some government services that are known to be more vulnerable for corruption, and some of them may be easily automatized. The problem in applying a similar experience in Egypt is the high rate of illiteracy, and the difficulty in using such an online system by a certain group of the population. However, this problem may be circumvented by seeking the help of university graduates who are obliged under the law No 76 /1973 to spend one year after completing undergraduate studies in social service,⁷⁸³ especially that according to CAPMAS report issued on August 2017: “ Among Egypt’s youth, 62 percent use computers,,and 61.9 percent use the internet, while 76.8 percent of internet users use social media networks Facebook and Twitter.”⁷⁸⁴ Knowing that the youth in Egypt whose age is between 18-29 account for 23.7% of the population.⁷⁸⁵

Graduates usually complain about the compulsory social service which they see as a waste of time since it does not really contribute to achieving a motivating work that can truly benefit the society or develop their capabilities. For this reason, well-connected parents seek to find officials in important governmental positions to exempt their children from this service. Instead of ignoring their complaints and insisting that they perform this social service, the CAPMAS results may be used to choose the youth with computer knowledge, and train them to assist the people who have difficulty accessing the services due to their illiteracy or any citizens who may find it difficult to use the technology.

They may be distributed to be located in different public institutions or municipalities to achieve this goal. Engaging youth in this initiative will have a number of advantages, namely, help them gain experience, giving them an opportunity to participate in this grand national

⁷⁸³ 12) *النبأ* (June 2017), online: <<http://www.elnabaa.net/623863>>.

⁷⁸⁴ “23.6% of Egypt’s population are youths: CAPMAS - Politics - Egypt - Ahram Online”, *Ahram Online* (8 December 2017), online: <<http://english.ahram.org.eg/NewsContent/1/64/275212/Egypt/Politics/-/of-Egypt%E2%80%99s-population-are-youths-CAPMAS.aspx>>.

⁷⁸⁵ *Ibid.*

project that aims at reducing corruption, allowing them to participate in shaping the future of their country, making use of their potentials of adding their creative ideas to implementing measures of developing the system, and changing their negative attitude towards this compulsory social service. Public institutions may go a step further through recruiting qualified youth to help in developing the system and give them substantial rewards for so doing. This will create good competition among youth which in turn will develop and enhance their creativity and innovation and develop their capabilities.

Voluntary work is appreciated worldwide. A culture that values the importance of volunteer work has to be encouraged by the public and private sectors to achieve the country's goals in curbing corruption. This mindset has to be transferred to Egypt to help its youth take part in the change and to lift up their spirit.

By investing in this important and valuable human capital- the youth - countries may contribute in raising social awareness of the problems of corruption, its causes, and effects, and the successes in curbing this phenomenon. This may be achieved through adopting the “training the trainers” strategy. Instead of investing time and efforts in reaching out a large portion of the population, the government can use the educational program developed by the OECD to enhance the youth integrity⁷⁸⁶ and adapt it to the society needs, and seek the help of renowned professionals and academics to train the youth to explain to the people, and even the children in schools the values of integrity and the problems associated with living in a country where a culture of corruption prevails.

E.1.f- Developing Anti-Corruption Educational Programs and Benefiting from the Youth

According to the OECD education for Public integrity program:

⁷⁸⁶ “Building Human Capital: A Project for the World | World Bank Group”, online: [olc.worldbank.org](https://olc.worldbank.org/content/building-human-capital-project-world)
<<https://olc.worldbank.org/content/building-human-capital-project-world>>.

By teaching people about public integrity we give them the knowledge, skills and behaviors to fight corrupt practices and establish new behavioral norms and values for society. The OECD's work on education for public integrity will harness young people's natural desire of fairness and equity. The goal being sustainable cultures of integrity and a better future for all.⁷⁸⁷

Instead of investing more time, effort and financial resources in developing an educational program that promotes integrity values, it is recommended that the Egyptian government use the OECD educational program that was developed by international multidisciplinary experts and adapt it to the Egyptian society's needs and context . Training the youth will increase the likelihood that they will reject corruption, and as they become responsible for teaching this curriculum in schools as part of their social service, they will contribute to raising a population that values principles of integrity.

The International Civic and Citizenship Education study researched the impact of civic education program on students' knowledge in Asia-pacific and Latin America. The study concluded that those education programs can increase the probability that citizens reject corruption ⁷⁸⁸and break the law.⁷⁸⁹

Lithuania was struggling to fight the widespread culture of accepting that corruption was the only way to execute business. Therefore, Lithuania developed an educational anti-corruption program and found that it was a successful experience in challenging students' creativity to find effective solutions to fight corruption. The U4 –research center- developed a valuable tool to learn about the best practices in engaging youth in the fight against corruption which illustrated many successful experiences, and provided creative ideas about the ways youth can engage in

⁷⁸⁷ *Ibid.* preface

⁷⁸⁸ John Ainley, Julian Fraillon & Wolfram Schulz, "ICCS 2009 Asian report : civic knowledge, attitudes, and engagement among lower-secondary students in five Asian countries" (2012) Civ Citizsh Assess, online: <<https://research.acer.edu.au/civics/17>>.

⁷⁸⁹ *Ibid.*

fighting corruption.⁷⁹⁰ According to Sandgren, “To make progress there must be pressure from below. Popular acceptance of corruption is a powerful ally of corruption. That acceptance can be broken only if people are made aware of the societal costs that corruption causes and of what can be feasibly done.”⁷⁹¹

Through the use of available resources and fact in the Egyptian context, namely that youth represent 23.6% of the population; Egypt’s law 76 of 1973 obliges holders of university certificates to spend one year of social service. Egypt’s youth need to develop their capabilities and to prove themselves as important actors in the country’s fight against corruption; the CAPMAS research statistics show that more than half the of the youth are familiar with the computer and internet use. It is recommended that the Egyptian government seeks the assistance of its youth who have computer and technology skills to achieve two important goals. First, these youth will be able to help the people who are not familiar with the computers to use the automated public services that the country will provide to fight against corruption. Second, the Egyptian government can train the youth who are obliged to spend their civil service year to teach an anti-corruption curriculum in schools as part of achieving the country’s goal in building an anti-corruption societal culture.

E.1.G- Making the Procurement Sector less Conducive to Corruption

Procurement is another fertile environment where corruption can easily grow. Many recent corruption scandals in the world were associated with public procurement contracts. Procurement offers many possibilities that can generate opportunities to engage in grand corruption. According to Neupane et al, corruption in procurement is a problem that is widely suffered from in all countries with higher intensity in the developing world as it “influences the

⁷⁹⁰ Sofia Wickberg, “Best practices in engaging youth in the fight against corruption” (2013) U4 Anti-Corrupt Resour Cent, online: <<https://www.u4.no/publications/best-practices-in-engaging-youth-in-the-fight-against-corruption>>.

⁷⁹¹ Sandgren, *supra note* 120 at 726.

public competence and wealth in a country, increase government operation cost, corrodes the social structure and trust in government, distorts the composition of the government expenditure on different services includes education, health, operation and maintenance.”⁷⁹²

If the procurement rules and regulations are not clear, simple, supported by a system of monitoring and people held accountable when they deviate from the prescribed norms, then it may represent one of the most important vulnerable areas to engage in corrupt deals. All the countries that have initiated successful reforms to curb corruption have put fighting corruption in procurement on their priority lists. According to Susan Rose- Ackerman, “Anti-corruption reforms should focus not only on reducing malfeasance but also on improving the efficiency of government purchasing decisions.”⁷⁹³ Procurement represents a real challenge to policy makers and reformers who face the dilemma of deciding whether it is better to grant some flexibility for the business environment to boom or to increase monitoring measures with the purpose of controlling corruption. Countries’ success stories proved that procurement is one of the important areas to which reformers have to devote special attention.

E.1.g.i- A First line Defense in any Procurement Law: Watch the Allowance for Direct Purchases and Emergency Contracts

All public institutions have purchasing needs. Public officials have to abide to the procurement laws and regulations organising the purchase of goods and services. There are basic issues to be taken care of in any procurement law or regulation that present a kind of first line defence from corrupt practices: The amount of money allowed for direct purchases without going through the procurement processes and the emergency contracts. When the law allows public institutions to execute purchasing contracts with large amounts of money without going through the procurement process, it allows for loopholes that can generate corruption

⁷⁹² Arjun Neupane et al, *Role of public e-procurement technology to reduce corruption in government procurement* (United States: Public Procurement Research Center, 2012) at 306.

⁷⁹³ Rose-Ackerman, *supra note 51 at 59*.

opportunities. Similarly, when the law does not put clear limits that allow the public institution to engage in emergency contracts, it allows for public officials to abuse their power in this regard. The more the law is clear, and the regulations simple and concise, the less the likelihood that officials will engage in corrupt deals, assuming that effective monitoring measures are taken, and that public officials are held accountable, are convicted and punished when they violate the rules.⁷⁹⁴

E.1.g.ii- Key Ingredients for a Successful Procurement Managing System

The role of an effective procurement law as part of an anti-corruption strategy is undeniable. However, as previously mentioned, fighting corruption in the public procurement requires more than a well formulated legal framework. The key ingredients for any successful procurement managing system are transparency, participation, training, accountability and E-procurement whenever possible. Those ingredients have to coexist and complement each other to end up with an effective procurement system that serves its purpose. In the presence of an effective transparency system, integrity will not be a choice. Transparency also allows for more competition and participation, monitoring and accountability in case of violation. Hence, reform initiatives have to make sure to include those important ingredients.

The following section of the research offers an analysis of the procurement system as an important sector that is continuously threatened by corruption practices. A discussion of how international model laws have been developed to deal with the problem is included. Important features of other countries' success stories in this area are referred to. The research analyses the

⁷⁹⁴ Applying effective monitoring and accountability measures to fight corruption is very important. However, those measures do not have to serve as a window dressing (when public officials are held accountable, and convicted for violating the rules but never punished.) The law and the measures taken will not serve their purpose. It is not only about the text of the law and the measures taken, it is all about the implementation. The law has to serve its full purpose to be respected by the citizens.

state of the laws governing the procurement sector in Egypt and how Egypt can reduce the opportunities of corruption and recommendations to follow.

The UNCAC is the first international agreement to fight corruption. To draft effective procurement laws that can fight corruption and protect the public finances, governments are expected to get inspired or follow the UNCITRAL Model Law, The Government Procurement Agreement by the WTO, and the EU public procurement directives.

Article 9(1) of the UNCAC deals with the measures members are expected to take to prevent corruption in the procurement sector. The measures to be taken are based on three main principles: transparency, competition and objective criteria in decision making. Article 9 reads as follows:

Each State party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

- (a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;
- (b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;
- (c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;
- (d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;
- (e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

Therefore, according to the UNCAC, to ensure an effective procurement system that reduces opportunities to engage in corruption, an appropriate procurement system based on principles of transparency, competition and objective decision-making in procurement has to be established. It also has to allow a domestic review system, ensuring the integrity, professionalism and training of the officials responsible for the administration of the public procurement in public sector institutions.

E.1.g.iii- Unavoidable Steps with Avoidable Risks: The Importance of Understanding the Important Stages in the Procurement Process and the Risks Associated

The problem with the public procurement is that each stage is associated with its own risks of corrupt deals. Assessing, identifying and understanding each stage of the procurement process and the associated risks represents the first and most important step in finding effective solutions to counteract the effects of those risks. The procurement process is usually composed of three important stages: the pre bidding stage, the bidding and the post bidding stage that are also decomposed into several steps. Each stage presents its own risks and challenges and needs to be supported by prevention and review systems.

Each procurement contract includes a number of unavoidable steps that, if properly assessed, can be governed with avoidable risks. Some of the risks associated with the pre-bidding phase may take the form of failure to properly assess the public institutions' needs. This process needs well trained personnel who can properly analyse and assess the needs presented by the officials as well as the mechanism of the market. Some of the risks associated at this stage can be manifested in the failure to examine the viability of the needs, or to create tailored needs to fit special bidders.

Sometimes also the problems arise from the absence of well-trained officials who understand the market and are able to conduct market studies, or the proper choice of the procedure to allocate the contract. In some cases, the public officials are of high integrity but

lack the knowledge and training to assess the needs and to conduct in depth training, in this outsourcing will be a viable option. In this regard, outsourcing has to be diversified to reduce the risk of corruption. Consultants and bidders, who have to be bound by the code of ethics can be recruited. One of the risks associated at this stage is the way the contract is to be allocated; for example, in the form of abusing the use of emergency contracts in purchasing items. The time frame also allowed to prepare the bids is also important, all bidders must have equal opportunities by reducing the risks of information leakage.

Needs assessment also requires determining the budget. Determining the budget also requires an in depth research especially in infrastructure and information technology project. An in depth and expert market research should uncover collusions by the bidders if all the offered prices are higher than the pre-determined budget based on market research. Another important step is the choice of the procedure for granting the contracts, the timing allowed which must be reasonable, and the specific types of documents needed which should always ensure abiding by the principles of competition.

One of the important risks that also may represent an alarming indication of corruption risks is the abuse of the non-competitive means of granting the contracts. The open bidding must be the default procedure chosen by the public institution. The abuse in using restricted or negotiated bidding can elevate the likelihood of corrupt practices as well as the use emergency contracts. Therefore, the national laws have to be set on the principles of transparency, and competition to protect the procurement process at each stage.

According to Klitgaard et al. some of the risks associated at this stage is either the over specifications of the needs so that it fits only a specific supplier, or the vague or non-existent specifications, or that the government fails to specify its needs especially in high technology products due to the lack of training to its employees.⁷⁹⁵ Klitgaard et al. suggests that in this case,

⁷⁹⁵ Klitgaard, MacLean-Abaroa & Parris, *supra* note 202 at 119.

the public institution should seek the help of consultants or high level officials known for their integrity standards.⁷⁹⁶

The second stage in the procurement process is the bidding stage. At this stage the public institution must invite the public to bid for its needs. To respect the transparency principles, the public institution is expected to publish a public notice to notify the potential bidders of its needs, the notice has to include basic information about the requirements, and the deadline for submission. The public notice should be published so as to reach as much potential bidders as possible to reinforce the principles of transparency, and competition. Once the bidders submit their offers the tenders has to be opened publicly and in the presence of the bidders and the prices offered must be acknowledged. Then, a committee must review and evaluate the offers and award the contract to the best offer which meets the specifications and needs. E-procurement systems offer a unique kind of protection against corrupt practices in the procurement processes, due to the high level of transparency it integrates.

In case of abiding to the classic procurement procedures, and to protect against the risks of corruption the procurement committee must keep a record of the evaluation and award procedures to ensure the principles of transparency, integrity, competition, and to allow for monitoring, and accountability in case of violation of the rules and regulations. Requiring also the committee to provide a written justification for the reasons behind its award of the contract to a specific bidder may decrease the probabilities to engage in corrupt practices.

E.Ig.iv- The Post Bidding phase: An Important yet Neglected Phase by International Agreements

The last important and neglected phase in the international agreement is the post-bidding phase or the implementation of the contract phase. By reviewing the UNICETRAL, the GPA,

⁷⁹⁶ *Ibid.*

the EU directives and the UNCAC, the research has found that the international agreements have approached the pre bidding and the bidding phase but has not approached the post bidding stage. The post bidding stage also offers its own risks that needs to be carefully assessed and dealt with. At this stage, risks associated with the delivery of poor-quality goods or services, or agreement with sub-contractors that do not meet the project requirements, or unexplained request for contracts extensions, or price modifications can threaten the procurement implementation stage if not professionally administered. The effective administration at this stage needs the implementation of an effective monitoring system to detect any deviations from the contracts terms or specifications during the execution of the contract. Monitoring of complex procurement contracts needs well trained experts. However, countries experience like Philippines has shown that more civil society participation can assist in enhancing principles of transparency, monitoring, and accountability.⁷⁹⁷

Due to the importance of protecting the implementation stage of the contract against corruption, The Technical Guide to the United Nations Convention Against Corruption suggests the creation by law an independent body for the monitoring and execution of public procurement.⁷⁹⁸Such body will be responsible for:

- Monitoring the bidding and application procedure.
- Identify indicators that may raise the suspicious of any corrupt activities at an early stage.
- Collecting, and analysing data on procurement fraud, and corruption.
- Monitoring specific awards that were not based on open bidding, like single awards contracts.
- Developing and overseeing integrity pacts.

⁷⁹⁷ The Philippines experience was studied in chapter three part one in this research

⁷⁹⁸ UNODC, *Technical Guide to the United Nations Convention against Corruption* (United Nations and the Rule of Law, 2009) at 32.

- Enhancing prevention strategies through education, and training initiatives, assisting and providing guidance on internal audit, providing advices on corruption risks, and anti-corruption measures, preparing and maintaining debarment lists.
- Enhancing transparency by promoting freedom of information act.
- Promoting the procurement staff and specialist training, and incorporating effective measures to protect their integrity by requiring the staff to abide by a code of conduct and declare their assets.

Therefore, according to the UNCAC technical guide, the creation of an independent body for monitoring and execution of procurement by law may represent an effective measure to reduce corruption risks in public procurement.

E1.g.v- The Right to an Information Act as a Cornerstone in an Effective Procurement Law

It is worth noting that the legislative framework of countries that wish to benefit from and implement the requirements of a technical guide to avoid corrupt practices in the procurement section should encompass an Act for freedom of information to allow more transparency, monitoring to detect any deviation from the rules or lack of objectivity in the decision making process, and also allow the citizens and the civil society to review the procedures and to detect any violations. In the absence of a freedom of information Act, it is difficult for the government to guarantee the respect of the principles of transparency, competition, objective decision making, monitoring, accountability, and effective training. Therefore, freedom of information Acts, and principles of transparency are the cornerstone for any successful procurement legislation whose purpose to reduce the corruption risks.

Although Egypt has ratified the UNCAC and accordingly, it became binding as part of its legal system, it hasn't enacted a freedom of information Act that can allow for more transparency to reduce the risks of corruption. Countries' experiences show that incorporating

more transparency measures in their procurement system has helped in creating successful experiences.

Accepting and developing an E-procurement system in governments considerably reduce the risks of corruption associated with this type of activity. A research that studied the role of E-procurement technology to reduce corruption has used published case examples from fifty countries to study the effect of using public E-procurement in reducing corruption in developed and developing economies.⁷⁹⁹ It relied on studying 12 anti-corruption factors of E-procurement in developed and developing countries. The findings asserted that among the most important benefits from public E-procurement are transparency and accountability. Other important advantages of using public E-procurement included the increase of competition among bidders, the delivery of best quality of goods, and services, increasing consistency in government procurement which substantially helped in reducing corruption. The study also showed that the driving factor behind using the public E-procurement in developing countries was to enhance and improve transparency, accountability, timely access to information, and improve competition among bidders which resulted in a reduction in the level of corruption. Therefore, experience has shown that developing public E-procurement systems is an effective way to fight against corruption in the procurement sector.

Two examples of countries successful in implementing E-procurement reforms are South Korea and Georgia. As a matter of fact, South Korea represents one of the success stories in implementing the E public procurement system through all its stages from the bidding, payment to the implementation of the contract and the auditing which substantially reduced corruption opportunities and improve the government finance management due the improvement of the transparency measures.⁸⁰⁰ Georgia also represents one of the recent successful efforts to curb corruption in the public procurement system through the

⁷⁹⁹ Neupane et al, *supra* note 792.

⁸⁰⁰ K S Chang, *Enhancing transparency through e-procurement. The Republic of Korea* (2011).

implementation of e-procurement reform system. The World Bank has praised Georgia's efforts in curbing corruption by implementing the e-procurement system. According to the World Bank "by bringing processes online, it has made the procurement system more transparent, less bureaucratic, and less discriminative. As a result, the system has significantly minimized corruption risks and brought substantial savings to the government and Georgia's citizens."⁸⁰¹ Therefore, E-procurement resulted in more transparency which resulted in more competition and accountability.

According to the World Bank there are clear demonstrated benefits from using the E-procurement system. Besides being environmentally friendly because bidders can submit their bids online, it also offers more transparency, it requires bidders to pay a nominal fees to participate, so it reduced the required participation fees, and allowed for more participation, and hence more competition since it reduced it omitted the transportation costs.⁸⁰² Another important advantage of Georgia e-procurement system is that it allowed the public and the bidders to access the whitelisted and blacklisted companies based on previous work. It also allowed the potential bidders to request clarification concerning the required documents and the officer can submit his reply using an online system. This system may help in reducing the interaction between the bidders and the officers, therefore reducing the corruption risks.⁸⁰³

According to Lopez Claros

Chile is one country that has used the latest technologies to create one of the world's most transparent public procurement systems in the world. ChileCompra was launched in 2003, and is a public electronic system for purchasing and hiring, based on an Internet platform. It has earned a worldwide reputation for excellence, transparency and efficiency. It serves

⁸⁰¹ World Bank, "Georgia: An E-Procurement Success", (18 February 2015), online: <<http://www.worldbank.org/en/news/feature/2015/02/18/georgia-an-e-procurement-success>>.

⁸⁰² *Ibid.*

⁸⁰³ Mathias Huter & Giorgi Chanturia, "How Georgia is handling procurement transparency", (3 February 2014), online: *Open Contract Partnersh* <https://www.open-contracting.org/2014/02/03/how_georgia_is_handling_procurement_transparency/>.

companies, public organizations as well as individual citizens, and is by far the largest business-to-business site in the country, involving 850 purchasing organizations. In 2012 users completed 2.1 million purchases issuing invoices totaling US\$9.1 billion. It has also been a catalyst for the use of the Internet throughout the country.⁸⁰⁴

By reviewing the law that governs the public procurement in Egypt, we find that in 2013, some amendments were introduced to the law 89 of 1998 by the law 139 of 2013, where Article 38 allows for direct contracting, which makes the procurement process more vulnerable to corruption. We cannot deny the importance of this article as sometimes there are emergency contracts. However, the legal framework has to have clear measures in order not to abuse the use of this article under the umbrella of emergency needs. The article states that this procedure will be chosen in case of emergency whereby it becomes impossible to choose the open bidding” This condition is very vague and difficult to assess. The emergency contracts needs to be supported by a strong justification for forgoing the advantages associated with the transparency and competition. Moreover, direct contracting needs a strong system of monitoring from the negotiation stage till the implementation and the finalization of the contract.

E.1.g.vi- Integrity pacts: An effective therapeutic tool for all stakeholders

Integrity pact is an effective and powerful tool developed by Transparency International to help all stakeholders involved in the public procurement process to collaborate together to fight corruption in this sector by enhancing principles of transparency and accountability. According to transparency international, Integrity pacts (IP)

Consists of a process that includes an agreement between a government or government agency (‘the authority’) and all bidders for a public sector contract, setting out rights and obligations to the effect that neither side will pay, offer, demand or accept bribes; nor will bidders collude with competitors to obtain the contract, or bribe representatives of the authority while carrying it out. An independent monitor who oversees IP implementation and ensures all parties uphold their commitments under the IP brings transparency and

⁸⁰⁴ Augusto Lopez-Claros, “Six Strategies to Fight Corruption”, (14 May 2014), online: *Future Dev* <<http://blogs.worldbank.org/futuredevelopment/six-strategies-fight-corruption>>.

invaluable oversight to all stakeholders in a contracting process, from the authority to the public.⁸⁰⁵

By applying this tool all stakeholders commit to abide to the governing law and to respect principles of integrity and agree to open their books and records to prove their commitment. More transparency, monitoring, and accountability will create the integrity practices. Without the implementation of similar tools and just urging parties to act with integrity will not bring the desired results. Integrity requires enhancing principles of transparency, Monitoring, and accountability. Similar to Klitgaard equation $C = M + D - A$ we can use this equation for integrity $I = T + M + A$ where Integrity equals transparency plus monitoring plus accountability.

When the government accepts to initiate a similar program it reflects its deep intention to change the corrupt practices and trade them off with honest one, the government as an authority can also influence the private sector practices, because if the government commits first not to accept or demand bribes and to offer transparent records to whom shall the private sector pay the bribes?

Integrity pacts may represent one of the effective and quick solutions to curb corruption as it involves all the stakeholders in the new rules of the game. One of the successful stories that reflected the effect of using integrity pacts took place in Honduras. In 2013, the transparency International partners in Honduras presented a report to the government about corruption in the health sector. The report revealed how corrupt practices were widespread in the purchase, distribution, and sale of the medications, and how they were distributing expired medications to the hospitals and endangering the lives of the population. The government took strict measures to uncover the corrupt practices and after finding evidence that proved that the report was true,

⁸⁰⁵ *TI Publication - Integrity pacts in public procurement: an implementation guide* (Transparency International, 2014). <https://www.transparency.org/whatwedo/publication/integrity_pacts_in_public_procurement_an_implementation_guide>.

they convicted and punished those involved in the corrupt behavior.⁸⁰⁶ However, punishment was not the end of the story, fighting corruption aim at *fighting against corruption in the system and not the people to maintain sustainable results*. Therefore, the Ministry of health decided to sign an Integrity Pact with major pharmaceutical companies to better monitor the purchase and the distribution of the medication in the country. To make the measure and commitment taken more effective, the Ministry of Health employees, and entities that provide services to the Ministry such as the College of Chemists and Pharmacists of Honduras and Banco de Occidente have also signed an ethic statement to ensure that all those involved in the game share the same vision which is creating a culture of integrity and changing the rules of the game. The IP came in effect in 2017. Such measures to respond to major corruption cases represent the perfect timing to undertake major turning point. The result of introducing the IP was an increased access to information, and compliance to the open data principles.⁸⁰⁷

Therefore, the perfect ingredients for a public procurement system that aims at a better money management and allocation of resources will introduce integrity pacts as part of its system, and e- procurement to increase transparency, monitoring and accountability

Moreover, the participation of the civil society and the NGOs to help in monitoring contracts, and raising people awareness of the risks of corruption can be one of the most effective ways a country can use to fight corruption. NGOs are able to reach out to a large section of the population and they are trained to use the audience language which makes it easier for them to convince the public making them comply with the rules. Countries experiences have shown that civil society's effective participation resulted in better monitoring control of corruption.

⁸⁰⁶ Transparency International (last), "Exposing health sector corruption saves lives in Honduras", online:

www.transparency.org

<https://www.transparency.org/news/feature/exposing_health_sector_corruption_saves_lives_in_honduras>.

⁸⁰⁷ Transparency International, *Tools - Integrity Pacts* (Transparency International).

https://www.transparency.org/whatwedo/tools/integrity_pacts/5

According to Transparency international, the benefits of introducing of integrity pacts are not limited to executing uncorrupted and clean projects. It also allows better transparency measures and access to information to all the parties of the contracts, hence increasing the level of accountability and people's trust in the way the government allocates its resources and directs its expenditures. Introducing Integrity pacts increases competition among bidders and most importantly decreases the disputes that may arise from the public procurement contracts in all its stages.⁸⁰⁸

Integrity pacts can represent a powerful preventive and therapeutic tool in fighting corruption. They can decrease the need of communication and negotiation between the contractors and the public officials to agree on corrupt deals. Decreasing contacts between officials and the private sector decreases opportunities of corruption- yet they help in improving communication and collaboration among all parties involved in the public procurement by increasing trust through committing to share the same vision and goals and abide to the integrity rules. Integrity pacts can thus help in saving time, money and complex conflicts that can lead to the need to resort to courts or arbitration. Finally, they assist in creating a power balance between all parties of the contract by creating equal commitments to act with integrity and transparency and therefore reducing the opportunities for corruption. The more policymakers reduce the opportunities to engage in corrupt deals, the more the system succeeds in fighting corruption in the system.

The key remains to apply the rules and especially the integrity pacts on all parties of the game, so that those involved in the pact do not feel that they have lost a competitive advantage.

E.1.g.vii- Striking the Right Balance Between Control and Efficiency

⁸⁰⁸ *Ibid.*

A group of researchers ,Banderia et al. distinguished between “active” waste due to corruption and “passive” waste due to incompetence as determinants of the cost of public services in Italy.⁸⁰⁹ Their findings showed that at least 82% of the estimated waste was found to be passive, and half the waste was found to be passive in about 83% of the studied public institutions. They concluded that “ our results about the importance of passive waste also indicate that economists should not limit their attention to active waste: they should view sheer inefficiency as a problem which is potentially even more important than corruption.”⁸¹⁰

Therefore, developing the work system in a manner that aims at curbing corruption should not only focus on reducing the corruption opportunities but also on providing public servants with the necessary training to develop their capacities to allocate effectively the public funds. According to Picci:

[C]orruption cannot be considered in isolation...It follows that anti-corruption policies which focus narrowly on corruption issue will miss the complexity of the relations and are therefore more likely to fail. More appropriate, then, are policies which aim to suitably reform prevailing governance systems.... This understanding tells us that it does not make much sense to propose narrowly designed anti-corruption policies. On the contrary, both analysis and policy recommendations ought to be forged at a higher level, that is in terms of general governance.⁸¹¹

Corruption as a problem can't be viewed narrowly, instead designing anti-corruption policies have to be viewed as part of changing the system structure to reduce the corruption opportunities, and to work on improving the system to run in a more effective way. Therefore, “The development of the work system in a manner that stems corruption” as one of the mechanisms for drawing up the strategy should be interpreted in a wider context. Policy makers

⁸⁰⁹ Oriana Bandiera, Andrea Prat & Tommaso Valletti, “Active and Passive Waste in Government Spending: Evidence from a Policy Experiment” (2009) 99:4 Am Econ Rev 1278.

⁸¹⁰ *Ibid* at 1305.

⁸¹¹ Lucio Picci, *Reputation-Based Governance* (Stanford, CA: Stanford Economics and Finance, 2011) at 116.

should focus on restructuring the system to reach the balance between improving the work system to make it more efficient and regulating the areas more vulnerable to corruption.

The “development of the work systems in a manner that stems corruption” as a mechanism to for drawing up the Strategy has to aim at controlling corruption in the work system while improving its efficiency and effectiveness. According to Osborne and Gaebler,

“Efforts to control what went on inside government-to keep the politicians and bureaucrats from doing anything that might endanger the public interest or purse [may have] cleaned up many of our governments, but in solving one set of problem of problems it created another. In making it difficult to steal the public money, we made it virtually impossible to manage the public’s money ...In attempting to control virtually everything, we became so obsessed with dictating how things should be done that we ignored the outcomes, the results.”⁸¹²

Policy makers have to assess the reforms strategy they plan to initiate to consolidate principles of transparency, integrity, monitoring, accountability, monitored discretion while improving the quality of the service provided, and the work environment to ensure better performance.

E.2- Effectual Participation of All Concerned Bodies in Building a United Front to Fight Corruption

This section explains the meaning of “effectual participation”. It presents the list of the concerned bodies in the execution of the Strategy and the role they could have played to achieve better results in “building the united front to fight corruption.” The research also questions the reason for the absence of the private sector in the list of participants in the execution of the Strategy, knowing that it is an important stakeholder in the fight against corruption.

⁸¹² David Osborne & Ted Gaebler, *Reinventing government: how the entrepreneurial spirit is transforming the public sector* (Reading, Mass.: Addison-Wesley Pub. Co., 1992) at 14.

E.2.a- The Meaning of Effectual Participation

The choice of this mechanism to draw up the strategy is very successful and effective if applied in the same way it is formulated in the text of the Strategy. To understand the meaning of this mechanism, it is important to have a clear definition of the terms used, namely “effectual participation”, “all concerned bodies” and “building a united front.”

Effectual participation:

A search for synonyms for the word ‘participation’ in any thesaurus yield words such as “cooperation, sharing, assistance, attendance” while antonyms include “absence and blockage.”⁸¹³ The word ‘effectual’ is defined as “Producing or capable of producing an intended effect.”⁸¹⁴ It also means “influential”. Our hypothesis/recommendation of effectual participation within the context of Egypt’s national anti-corruption Strategy means “a true participation or cooperation that aim at generating the desired goals.”

All the concerned bodies:

The concerned bodies in the context of a “national” strategy to fight corruption should not be limited to the participation of the list of “authorities participating in its execution” as listed in the text of the Strategy. It should also include the private sector and the schools and education system in general in order to build a generation that values an “anti-corruption culture.”

“Building a unified front to fight corruption”, “ a united front”

⁸¹³ Thesaurus, “I found great synonyms for ‘participation’”, online: www.thesaurus.com <<https://www.thesaurus.com/browse/participation>>.

⁸¹⁴ “the definition of effectual”, online: www.dictionary.com <<http://www.dictionary.com/browse/effectual>>.

These terms refer to an alliance of groups against their common enemies.⁸¹⁵ They also mean “a group of people or organizations that join together to achieve a shared goal.”⁸¹⁶ The choice of the terms and the meaning behind them is powerful. It implies that one of the mechanisms that the strategy will use is to bring the concerned bodies together to cooperate against their ‘common enemy’, i.e., ‘corruption’. In the context of a national strategy, it should mean that all the concerned bodies should participate in blocking their common enemy.

In the literal meaning of building a front, each worker must contribute with his capabilities to construct the desired front. Some will be responsible for holding the blocks, putting them together, applying the cement, painting, and finishing the work. Each contribution, and each stage, is important for the execution of the work and for building the desired wall. If all the workers decided to build the wall, they will not be able to do the work unless each participant knows exactly what s/he has to do to avoid overlapping specialities and wasting time and effort. The same applies for the Strategy. Each participating authority has to know exactly how it is expected to contribute in the execution of the strategy. Moreover, the information about the role of each participant has to be shared with the public for effective monitoring and accountability measures.

Two pre-requisites for the effectual participation of all concerned bodies: Vision and communication

There are two pre-requisites to achieve the goal of effectual participation: vision and communication. Communicating the Egyptian political leader’s vision towards “ building an anti-corruption societal culture” as it appears in the main goal of the Strategy by “building a united front to fight corruption” as one of the mechanisms for drawing up the strategy to all the concerned bodies is paramount. This communication process has to lead the whole society to view corruption as a common enemy that everyone needs to fight. Some people -though a small

⁸¹⁵ *United front* (2018). wikipedia

⁸¹⁶ “Definition of UNITED FRONT”, online: <<https://www.merriamwebster.com/dictionary/united+front>>.

but powerful group- will resist the anti-corruption reforms because it threatens their interests. Some people –usually a minority- benefit from corruption. However, the vast majority suffer from corruption effects. Therefore, the greater the participation of the concerned bodies, the easier it will be to counteract the effect of the resistance of this interest group. Success stories such as those of Colombia, the Philippines and Georgia have always proved that an inclusive culture is the key to achieve the strategy goals in fighting corruption.

The Need for a Mission Statement for Each Participant in the Execution of the Strategy

Egypt's anti-corruption Strategy does not provide information on the ways by which the different authorities listed participated in planning the strategy, and how they are expected to participate in its execution. Each authority has a general mission that must be clear to all leaders, employees and the public. However, the Strategy needed a specific mission statement from each participant to cooperate in its execution. Applying the general goal of the Strategy appears to be quite vague. This research stems from the belief that participants must invest their capabilities to diversify the efforts to fight corruption. Without specifying the tasks of each authority, it is difficult to track and/or evaluate the progress made. There was no evidence of the existence of pathways that gave citizens and the civil society tools to participate in the execution of the Strategy.

How this Mechanism⁸¹⁷ was Applied in the Light of the Strategy?

The effectual participation of all concerned bodies needs an effective communication strategy. It needs a campaign type strategy similar to the ones used in presidential and parliament elections. It requires a strategy that aims at achieving a wide dissemination of the anti-corruption campaign benefits. How did the government of Egypt attempt to apply the participation mechanism to achieve the Strategy goal? As mentioned earlier, the text of the Egypt's anti-corruption Strategy does not appear except on the website of the ACA. Although posting the website of the Strategy does not mean that it is implemented, it at least means that leaders view

⁸¹⁷ Effectual participation of all concerned bodies in building a united front to fight corruption

it as a commitment for application. It implies substituting the culture of corruption with an anti-corruption one.

Who are the Concerned Bodies as per the Strategy's Text?

- First : The National Coordinating Committee for Combating Corruption, and its subcommittee.
- Second: The Parliament and the Local Councils in different governorates.
- Third: The government (ministries / bodies / offices) and public business sector units.
Fourth: Corruption combating and prevention offices and law enforcement authorities.
- Fifth: The control authorities over financial institutions, the banking system units, and the non-banking financial institutions (the Egyptian Central Bank, Financial Control Body).
- Sixth: The national councils, universities, and specialized research institutes.
- Seventh: Media and journalism institutions.
- Eighth: Civil society organizations.
- Ninth: The Islamic and Christian institutions.

The Need for a Collective Mindset Change Towards Corruption

As Rotberg has written:

In the battle to cure corruption, sensitive and honest political leadership, like esteemed medical leadership (possessing knowledgeable diagnostic abilities, and talented surgical hands) is key. But the objective of effective leadership action is less the sidelining or imprisonment of sets of alleged offenders than it is the wholesale transformation from a society from tolerance to intolerance of corruption. This disruptive, normative, narrative was responsible more than legal instruments, stronger institutions, and fuller accountability for the transformation of Denmark, Sweden, Norway, Finland.....from

corrupt to non-corrupt in,...and for the kinds of wholesale anti-corruption investigations now taking place in Brazil, Croatia,...and a host of unrelated countries.⁸¹⁸

In the above passage, Rotberg highlights the importance of the fact that corruption can only be terminated through reaching a collective awareness that corrupt behaviors are unacceptable. This statement proves to be quite true in studying the experiences of countries that succeeded in curbing corruption; one of the most important common factors was building a societal culture that ‘refuses’ corruption. Rotberg further explains that the most well-designed anti-corruption reforms cannot achieve countries’ goals in curbing corruption in the absence of a *collective mindset* change towards corruption. He argues that:

Each of these improved instruments is important, but none on its own can curb corruption completely. Even an overall goal of improving political institutions, a positive aim, is necessary but rarely sufficient. Whole societies not their various parts, must be transformed if ethical universalism and a norm of non-corruption are to replace the many kinds of compromises that permit or facilitate the corrupt default impulse to take hold or to remain embedded in today’s nation state.⁸¹⁹

Elster describes social norms as the ‘cement of the society’⁸²⁰ that shapes human beliefs and behaviors. Therefore, we can conclude that in countries where corruption is widespread, the social values normalize corrupt behavior since everyone does it; whereas in countries where principles of integrity prevail, the social norms help in consolidating those principles.⁸²¹ Thus, changing the social norms from one tolerating corrupt behavior to one that refuses corruption is paramount in for implementing a successful national anti-corruption strategy.

⁸¹⁸ Robert I Rotberg, *The Corruption Cure: How Citizens and Leaders Can Combat Graft* (Princeton University Press, 2017) at 299–300.

⁸¹⁹ *Ibid* at 292.

⁸²⁰ Jon Elster, *The Cement of Society: A Survey of Social Order* (Cambridge University Press, 1989).

⁸²¹ Normalising corrupt behavior does not mean that people accept corruption. They just think that there is no other way to deal, and there is nothing to be done about it.

Egypt's Strategy to fight corruption was aware of the need for this transformation to a collective mindset valuing integrity over corruption, and gave the responsibility to making sure that this goal will be achieved to a body that it named the National Coordinating Committee for Combating Corruption (NCCCC).

E.2.b. The Role of the Concerned Bodies

The National Coordinating Committee for Combating Corruption and its Subcommittee (NCCCC)

Egypt's NCCCC is responsible for coordinating the different parties concerned with fighting corruption and following up the execution of the Strategy. As a matter of fact, it is the committee responsible for following up the execution of the Strategy.

The Role of the NCCCC

According to the text of the strategy when listing the participants,

The importance of the national coordinating committee for combating corruption is clear in playing effective roles, the most prominent of which is crystallizing the strategy as a national aim for the society, determining the anti-corruption participants and preparing a homogeneous mechanism to execute such roles, clearly putting the responsibilities and tasks of the participants into consideration.⁸²²

From the above, it can be concluded that the role of the NCCC can be summarised in dissemination, selection, and coordination. The foundation for the execution of the strategy is the dissemination, and the crystallisation of the strategy as a national aim for the society. The crystallisation of the strategy as a national aim guarantees the sustainability of the results attained from the execution of the strategy. Describing “the crystallisation of the strategy as

⁸²² NATIONAL COORDINATING COMMITTEE FOR COMBATING CORRUPTION, “NATIONAL ANTI-CORRUPTION STRATEGY”, online: <http://www.ncccc.gov.eg/Pages_en/Home.aspx>.

national aim” as one of the most prominent roles the NCCCC can play shows that the participants and the policy makers are aware of the main ingredients of a successful anti-corruption strategy and policy reform.

NCCCC Website:

The NCCCC has its own website, where messages are posted addressing the Egyptian citizens and encouraging them to participate in the fight against corruption. On the website homepage is a message from the Egyptian President addressing the citizens. It states:

Due to the importance of the role of Egyptian National Committee for Combating Corruption, it has been established by the Prime Minister’s decree No. 2890 for the year 2010, and amended by Prime Minister’s decree No. 493 for the year 2014 , to provide justice and equality and equal opportunities in the distribution of development gains through a national strategy (the Strategy) to combat and prevent corruption institutionalized, in order to ensure detection of corruption and investigation of all the issues associated with it.⁸²³

The website is not a perfect solution. On the positive side, it includes news and pictures about events, workshops and seminars that were held in an effort to fight corruption. It also gives people the opportunity to post their claims online and to upload supporting documents, which represents an important, convenient and easy-to-use tool for citizens. However, there are a number of factors that makes this website less effective than expected. First, it does not give enough details related to the Strategy to fight corruption 2014-2018, except in the words of the President on its homepage. Second, the text and the duration of the Strategy does not appear on the website. Third, the website does not provide enough channels to allow people to participate, although it “hopes for a positive and effective participation in combating corruption...and to strengthen communication with the public.”

The website is a credible tool and a step in the right direction. Providing opportunities for the citizens to participate in fighting corruption has proven to be a powerful and effective

⁸²³ NATIONAL COORDINATING COMMITTEE FOR COMBATING CORRUPTION, “NATIONAL ANTI-CORRUPTION STRATEGY”, online: <http://www.ncccc.gov.eg/Pages_en/Home.aspx>.

tool in all the studied countries' success stories. However, citizens expect to understand how they can participate actively and positively. Is it only through posting their complaints? Will they get feedback about the way their complaints were dealt with? Or there could be other tools where they can positively participate by monitoring the execution of public projects like in Indonesia ⁸²⁴or Philippines. Or they can participate by presenting and discussing problems encountered and suggesting solutions to the problem of corruption through public hearings as one of the tools to communicate with the public?

The website states that it allows posting suggestions, but it does not specify the tools whereby the citizens can post their suggestions. The website does not dedicate a form to serve this end. There is a "contact us" button, which says by clicking on this button, the user can write their name, Email and message. However, it is not clear if this platform is offered for citizens to post their suggestions or to communicate with the committee. The website does not provide information on how the claimant can follow up the way his claim is managed and the ways of communication.

The website does not provide information on the ways by which the claimant's personal information and claim will be confidential and protected to encourage them to participate, given the fact that Egypt's legal framework does not have a law that protects whistleblowers. One of the main important reasons for Hong Kong's success in fighting corruption was the strict measures that ICAC took to protect the confidentiality of the those reporting corruption incidents.

In spite of the fact that the website includes a list of documents, and a report about the committee's activities in 2013, there is no reporting about the NCCCC activities of the duration period of the execution of the Strategy (2014-2018). Therefore, the website was not updated

⁸²⁴ Olken, supra note 142.

constantly to provide its users with important information about the progress in the implementation of the Strategy.

NCCCC addresses messages to the citizens in way of encouraging them to participate in the fight against corruption. One in particular , as show below,

Dear Citizen:

We are pleased to welcome you to the website of the National Committee for Combating Corruption, which is a way to spread awareness of the corruption dangers on individuals and society, hoping for the positive and effective participation in combating corruption, to prevent it and to strengthen communication with the public, and open new communication channel in addition to other channels currently available to receive suggestions and complaints and notifications from the public in order to improve performance and reinforce the sense of responsibility and community participation, and to intensify efforts in the fight against corruption and drain its resources.⁸²⁵

Another message on the NCCCC website includes an explanation of its objectives and commitment.

“Dear Citizen,

Objectives and Responsibilities of the Committee: The committee aims to protect integrity, promote the principle of transparency, and combat financial and administrative corruption in all its forms, aspects and methods, and in order to achieve these objectives, it has several responsibilities”⁸²⁶

and it lists the responsibilities.

The aforementioned message that the NCCCC addresses and shares with the citizens is a very important one as it clarifies for them its objectives and responsibilities. Hence, considering the importance of the role played by the NCCCC in following up and working on implementing the Strategy to fight corruption, it was expected to find more details about the Strategy, more updates or simplified progress reports that are understandable for the wide

⁸²⁵ National Anti-Corruption Coordinating Sub-Committee, ed, *National Anti-Corruption Strategy* (2014). <http://www.aca.gov.eg/arabic/AntiCorruption/Documents/Strategy.pdf>

⁸²⁶ *Ibid.*

population especially that it is mainly addressed to the average citizens. It is concluded that in spite of the fact that NCCCC website is a great initiative; yet it could have played a more effective way by considering the aforementioned points.

How the Participants contributed in building “the united front to fight corruption”?

In the following section, the research discusses how the other participants were involved in crystallizing the importance of the Strategy in their relative bodies/authorities/institutions within the framework of their jurisdictions and how they could/could not activate their “effectual participation...in building a united front to fight corruption.” It was expected that each participant would allocate its available resources (human, capital, or expertise) to build its part “in the united front to fight corruption,” so that the end result would have been a strong front or that protects the country against the devastating effects of corruption.

-The parliament and the local councils in different governorates

-The Parliament

The parliament has always put the problem of corruption in its discussion agenda. However, there was no proof that it required the NCCCC to provide a progress report about the advancement of the strategy and the contribution of the different participants. The parliament is considered to be the citizens’ voice since its members are representatives of the public and they can hold the government accountable. Egypt today shows that the MPs have requested a more serious implementation of the National anti-corruption strategy after ACA arrested Head of Egypt’s customs Authority. According to the news

[..]undersecretary of the Economic Affairs Committee of the Parliament, said that the national strategy to combat corruption has been adopted by Parliament since 2014 during the tenure of former Prime Minister Ibrahim Mahlab but then was overlooked by his successor Sherif Ismail⁸²⁷

⁸²⁷ Egypt Today Staff, “MPs push for national strategy against corruption”, *EgyptToday* (7 October 2018), online: <<http://www.egypttoday.com/Article/2/53704/MPs-push-for-national-strategy-against-corruption>>.

The effectual participation of the parliament necessitates its members to oblige the government to present a report on the innovative measures taken to activate the strategy and even the challenges they encounter. Sherif Ismail served as the Prime Minister of Egypt from the 19th of September 2015- 7th of June 2018. Thus, he served as Prime Minister for three years and the duration of the strategy is four years. If we assume that he overlooked the National strategy to fight corruption, why he was not held accountable or asked to present a progress report since he presides the NCCCC? Enhancing the measures taken to activate the strategy is important especially that according to CPI measures Egypt's score deteriorated from 2014-2017. In 2014 it scored 37 whereas its score kept deteriorating to reach 32 in 2017.⁸²⁸

- The Local Councils:

Local councils were dissolved following the 2011 revolution by a court ruling. The local councils elections did not take place until the end of the duration of the execution of the Strategy (December 2018). According to the Local Administration law, the dissolution of the local councils is prohibited. However, the Administrative court ruling stated that due to the exceptional circumstances that the country was going through with the fall of its president Mubarak administration and his party, the National Democratic party (NDP), the local councils can be dissolved because the NDP used those councils to consolidate their power through corruption, nepotism, and vote-rigging.⁸²⁹ Therefore, they did not have any active role in the execution of the strategy since they were dissolved from 2011.

- The Government (Ministries/Bodies/Offices) and Public Business Sector Unit.

A simple search on the thirty-three ministries in Egypt, the different bodies, and authorities found that neither the text of the strategy was posted on their websites or even news on trainings or seminars to develop their employees, and officials to fight against corruption.

⁸²⁸ Transparency International, *supra* note 3.

⁸²⁹ 4, (July 2011), online: <<http://eccsr.org/?p=4051>>.

This does not mean that the research assumes that they did not play a role in the execution of the Strategy. However, the role they were expected to play was not clear to the public, which is also questionable.

- Corruption-Combating and Prevention Offices and Law Enforcement Offices.

By visiting the websites of the other authorities and bodies that are responsible to fight corruption, it was found that there is not enough information about the Strategy, its execution, the achievements, or special training programs to its members. The only website where the text of the strategy was found, the ACA approaches to fight against corruption, and the list of trainings offered to its members and their durations. Moreover, users of the websites can send their complaints, follow their complaints or use the short number.⁸³⁰ They can also find the latest news of the ACA contribution in fighting against corruption. There is news on the detection, conviction and/or punishments of public officials and public servants, which is also an important contribution to the success of the strategy, however the success of an anti-corruption strategy cannot only rely and focus on punishing public officials.

Convicting and punishing public officials is an important step in fighting corruption, especially in Egypt where it was rarely heard of before the Egyptian revolution 2011. However, it should not, as it was mentioned earlier, be considered the most important measure because the countries' successful experiences showed that a strategy to fight corruption has to be comprehensive. It can never rely on attacking solely the people because the real target is the corrupt system and not only the corrupt people. Therefore, one of its pillars can be punishment but not the only pillar. Other important pillars are prevention, education, transparency and accountability. An effectual participation of all concerned bodies means relying on the different pillars to build the "united front against corruption" which sustainability will rely on creating culture that values integrity and refuses corruption.

⁸³⁰ Administrative Control Authority, "ARB REPUBLIC OF EGYPT Administrative Control Authority", online: <<http://davidwalsh.name/facebook-meta-tags>>.

It is true that posting the Strategy does not guarantee its execution. Our hypothesis is that the importance of posting the strategy and providing news, and reports about the public institution, body, authority contributions reflects the importance that the institutions leaders give to the strategy. The message does not only target the general public but also the members, public servants, and public officials to stress upon the importance of the national movement towards fighting against corruption. The effectual participation starts with communication and the repeating the important message.

The Control Authorities over Financial Institutions, the Banking System Units, and the Non-Banking Financial Institutions (the Egyptian Central Bank , Financial Control Body).

The participation of the financial institutions is important since they are always in contact with both the general public and the private sector. Their participation means that they are aware of the new set standards and that corruption will not be tolerated. Some of the big corruption scandals happen within the financial institutions and including them in the execution of the Strategy implies that they hold equal responsibility to fight corruption. Unfortunately, though, the Central Bank website does not include the text of the Strategy or any reports about the progress in this regard.⁸³¹

The involvement of the banks could be an excellent tool and resource so that the vast majority of people have an idea about the existence of the strategy even if they did not read the full text. People from different economic and social levels, and age groups have to make frequent bank visits due to the limited use of mobile banking. People wait for hours in the national banks; they could have used the available TV screens for awareness raising or so that people know about the Strategy in a simple and clear way. Moreover, the Central Bank could have helped in raising the awareness of the employees in the commercial banks of the importance of applying the Strategy. Using the authority it has, the Central Bank could require

⁸³¹ Central Bank of Egypt, “Central Bank of Egypt”, online: <<http://www.cbe.org.eg/en/Pages/default.aspx>>.

them to post the Strategy via their websites and on their TV screens or distribute summarized copies. Using financial institutions as an important platform in raising citizens and employees' awareness about the importance of fighting corruption is not just because they can help in achieving a wide exposure. This is also because behavioral ethicists have stressed the importance of giving constant constructive messages to remind people of their ethical obligations. Reminding employees, officials and the bank services seekers of their ethical obligations is quite important. The messages may include posting the Ten Commandments (even for non believers), posting eyes picture in the room.⁸³²

The effectual participation of financial institutions in its different forms means that the employees and officials will receive the appropriate training that will equip them to overcome the challenges they face to act with integrity within the particular context of their work. According to Lager Training employees to take ethical decisions is very important in setting a value based organizational culture.⁸³³ Therefore, to achieve an effectual participation within the framework of the strategy effective training, knowledge, and dissemination of the strategy needed to be taken so that people adapt to the new ethical and integrity-based environment. Financial institutions have to edify themselves internally so that they can effectively participate in building the united front to fight corruption.

The question remains how did the Central Bank and the financial institutions adapted to execute their roles in participating in the execution of the strategy? Our hypothesis is that the effectual participation would have reflected effective tangible observable measures at least at the end of the duration of the application of the Strategy. This does not mean that we are

⁸³² Dr Dan Ariely, *The Honest Truth About Dishonesty: How We Lie to Everyone--Especially Ourselves* (Harper Collins, 2013).

⁸³³ Lager, *supra* note 113.

assuming that there was no participation; but the question is how effective was this participation within the spirit of the Strategy?⁸³⁴

The National Councils, Universities, and Specialized Research Institutes.

The participation of the national councils, universities and specialized institutes in the execution of the Strategy can play two important roles: raising people awareness and conducting studies and researches about the implementation of the Strategy which can help in setting guidelines to improve its application. There are a number of important national councils in Egypt like the National Council for Women, the National Council for Human Rights.

Article 214 of the Egypt Constitution 2014 organizes the role and the composition of the national councils. It stipulates that:

The law specifies independent national councils including the National Council for Human Rights, the National Council for Women, the National Council for Childhood and Motherhood, and the National Council for Persons with Disability. The law sets out their structures, mandates, and guarantees for the independence and neutrality of their members. They have the right to report to the public authorities any violations pertaining to their fields of work. These councils have legal personalities and enjoy technical, financial, and administrative independence. They are to be consulted with regards to draft laws and regulations pertaining to their affairs and fields of work.⁸³⁵

- The National Council for Women (NCW)

The NCW helps in raising women's awareness, developing their capacities and education, ending all sorts of violence and discrimination against women, conducting legal, social and economic studies that attract women's interests, and hosting conferences and seminars and events that help empower women in the different aspects of life, and encouraging them to have an active role in the political life. The NCW has a wide geographical coverage

⁸³⁴ The study discusses the role of the Central bank as one of the regulatory bodies according to the 2014 Egyptian Constitution when discussing the main aims of the anti-corruption national strategy.

⁸³⁵ https://www.constituteproject.org/constitution/Egypt_2014.pdf p54 copied link

since it has offices in 27 governorates, and 527 members in its different branches.⁸³⁶ Accordingly, it should be assumed to have an effective role in raising women's awareness about the existence of the national Strategy to fight corruption, and help them find ways so that they can contribute in its implementation.

Looking at the website of the NCW proves that it is one of the most active national councils in Egypt, and that it has an active role in empowering women.⁸³⁷ It shows that it succeeded in playing an "effectual role in empowering women." Different workshops, seminars, publications and conferences were held to help improve women's capacity, economic status and participation. Moreover, it always presented successful women's achievements and contributions from sports to leading social, political, executive, and judicial positions to serve as role models and to encourage for further successes. It also organised different conferences where women came from different parts of the world to exchange their successful experiences. The national strategy 2015-2020 to fight all sorts of violence against women was posted on its website due to the importance of the problem for the NCW.⁸³⁸ It also receives complaints about women harassment and helps women follow up the measures taken by the police to control this phenomenon. Hence it is clear that NCW succeeded in reaching its goal of achieving women empowerment and raising their awareness about their rights. The question remains about whether or not NCW's success in improving women's quality of life has been used to help them contribute in fighting corruption as a way to achieve social, political and economic development?

The website does not show that there were enough workshops designed in the different branches of the NCW or in its headquarter to familiarise women with the Strategy or to help

⁸³⁶ "المجلس القومي للمرأة", online: <<http://ncw.gov.eg/ar/>>.

⁸³⁷ National Council for Women, "The National Council for Women", online: <<https://www.facebook.com/ncwegyptpage/>>.

⁸³⁸ "المجلس القومي للمرأة", online: <<http://ncw.gov.eg/team/>>.

them discover effective ways to participate in it, and in realising its goal in “ building an anti-corruption societal culture”⁸³⁹ according to the role they play as (mothers, workers, public servants, public officials, or entrepreneurs, members of Parliament...). Only two symposiums were held in North Sinai and in Assuit Governorates to highlight the role of women in fighting corruption.⁸⁴⁰

The NCW exposure on the national and international levels could have been used as one of the most powerful tools to enhance women’s participation. Women are more vulnerable to suffer from corruption effects due to the higher level of illiteracy and poverty, and to their inability to defend their rights compared to men. A report issued by the UNDP&UNIFEM explains how corruption can affect women in particular, it explains that:

The data suggests that ‘Petty’ or ‘retail’ corruption when basic public services are sold instead of provided by right) affects poor women in particular and that the currency of corruption is frequently sexualized- women and girls are often asked to pay bribes in the form of sexual favours. Women’s disempowerment and their dependence on public service delivery mechanisms for access to essential services (e.g., health, water and education) increase their vulnerability to the consequences of corruption related service delivery deficits. In addition, women’s limited access to public officials and low income levels diminishes their ability to pay bribes, further restricting their access basic services. Therefore, corruption disproportionately affects poor women because their low levels of economic and political empowerment constrain their ability to change the status quo or to hold states accountable to deliver services that are their right.⁸⁴¹

Therefore, since NCW has successfully organised several programs to raise women’s awareness and to protect them against sexual harassment and has also provided channels so that women can submit their complaints, it could organise similar programs to include corruption as one of the causes of sexual harassment. Fighting corruption can be considered an important part of protecting women against sexual harassment, besides all the other benefits. . Studies show

⁸³⁹ NATIONAL COORDINATING COMMITTEE FOR COMBATING CORRUPTION, *supra* note 815.

⁸⁴⁰ (12) *الوطن* (2017 May), سعاد أحمد, “المركز الثقافي الإسلامي بأسسيوط يناقش ”دور المرأة في مكافحة الفساد”, *الوطن* (12).

⁸⁴¹ Naomi Hossain, *Corruption, Accountability and Gender: Understanding the Connections* (United Nations Development Programme (UNDP) and United Nations Development Fund for Women (UNIFEM), 2010) at 7.

that women are characterized by exhibiting a “helping behavior”; “Vote based on social issues”, realized higher scores in “integrity tests”, take firmer stances on ethical behavior, and tend to behave more generously when faced with economic decisions.⁸⁴²

The “effectual participation” of NCW could have used to take active measures to empower women and enhance their roles in the fight against corruption. It is the belief of this research that the absence of workshops, and publications about the efforts to fight corruption implies that measures were not taken to allow women in general or the NCW in particular to participate and have an active and influential part in the execution of the Strategy.

- The National Council for Human Rights (NCHR)

Egypt’s NCHR is another important and active entity that should have been one of the effective participants in fighting corruption since curbing corruption represents one form of protecting human rights. Arone and Borlini argue that corruption can represent a violation to human rights including civil, political, economic and social rights in the sense that:

Since corruption generates discrimination and inequality, this relationship [the relationship between governmental corruption and human rights] bears on civil and political rights. For instance, it strengthens the misappropriation of property in violation of legal rights...it likely leads to the rise of monopolies which either wipe out or gravely vitiate freedom to trade. Corruption strikes at economic and social rights as well: the commissioning by a public entity of useless or overpriced goods or services, and the choice of poorly performing undertakings through perverted public procurement mechanisms are mere examples of how corruption can endanger the second generation of human rights.⁸⁴³

NCHR is an important and renowned council, and the role it plays is appreciated not only on the national level but also on international level. On the 30th of May 2018 the president of NCHR announced that the council succeeded in maintaining its status “A” by the Global

⁸⁴² David Dollar, Raymond Fisman & Roberta Gatti, “Are women really the ‘fairer’ sex? Corruption and women in government” (2001) 46:4 J Econ Behav Organ 423.

⁸⁴³ Marco Arnone & Leonardo S Borlini, *Corruption: Economic Analysis and International Law* (Edward Elgar Publishing, 2014) at 170.

Alliance for National Human Rights Institutions.⁸⁴⁴ The status NCHR maintained indicates that it succeeded in protecting and promoting human rights in various aspects in compliance with the Paris principles that set out special criteria that the NHRIs has to meet.⁸⁴⁵ This recognition on the national and international levels increases the expectation of its ability to play a vital role in raising people’s awareness about the problem of corruption as a violation to the human rights.

According to Law No 94 of 2003 promulgating the National Council for Human Rights, Article 3(6) (9) (10) and (11) (12) stipulates that:

“To achieve its goals, the Council shall:

6. Coordinate with international and local organizations and agencies concerned in human rights in matters that would help achieve the objectives of and promote the relationships of such organizations and agencies with the Council.

9. Coordinate with public agencies concerned with human rights, and cooperate with the National Council for Women, the National Council for Children and Motherhood, and other interested councils and agencies.

10. Disseminate and raise public awareness on the culture of human rights through the assistance of institutions and organs related to education, culture, media and information.

11. Hold conferences, symposia, and seminars on subjects related to human rights issues or related matters.

12. Make the recommendations necessary to support institutional and technical capacities in the fields of human rights, including the technical education and training of employees of the state bodies related to civil liberties, and economic, social, and cultural rights, with a view to increase the efficiency of such employees.”⁸⁴⁶

The law that determines the function and responsibilities of the NCHR has given it vast privileges. Among others, the Law gives NCHR the right to coordinate with other important national councils like National Council for women, and the national council for motherhood and

⁸⁴⁴ mohamedlail, “The National Council for Human Rights maintains its status”, online: <<http://www.nchregypt.org/index.php/en/media-center/news/2015-the-national-council-for-human-rights-maintains-its-status-a-by-the-global-alliance-for-national-human-rights-institutions.html>>.

⁸⁴⁵ Global Alliance of National Human Rights Institutions, “Sub-Committee on Accreditation (SCA)”, online: <<https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Pages/default.aspx>>.

⁸⁴⁶ NCHR, “Establishment - NCHR”, online: <<http://www.nchregypt.org/index.php/en/about-us/establishment.html>>. (unofficial translation)

childhood to achieve its mission and raise people's awareness on issues related to human's rights. The Law also gives NCHR the right to communicate with international organizations and to accept funds provided this is accepted by at least two thirds of its members.

One of the important activities that the NCHR executes is related to the preparation of annual reports about the country's progress in protecting civic, social and economic rights and the council's activities. In its 2013-214 annual report, NCHR argued that among the rights people are meant to enjoy, are the right for development and the right to fight corruption.

The NCHR 2015-2016 annual report that was issued in December 2016 gives a list of recommendations to fight corruption. It recommended reviewing best practices and success stories of other in fighting corruption to improve the country's performance in this regard. It also requires the authorities to enact laws to improve transparency and protect whistleblowers. It also recommended that Egypt becomes a member in the African Union Convention to fight corruption.⁸⁴⁷

In the NCHR 2016-2017 report's, there is mention of the efforts made and the challenges met.⁸⁴⁸ The report shows that the country intensified its efforts to fight corruption, and granted vast authority to its regulatory, and law enforcement authority to execute their roles. This granted authority helped the ACA (one of the regulatory authorities) in the detection and conviction of more corruption cases especially in the period between September 2016 and April 2017. The NCHR report adds that Egypt's ranking according to CPI measured by TI deteriorated in 2016 according the report issued by the organization in 2017. The reason for this deterioration according to NCHR is that the leaders do not react to the CPI report critics besides not providing the required information. The report also highlighted the challenge of the non- existence of an

⁸⁴⁷ المجلس القومي لحقوق الإنسان - تقارير سنوية - NCHR, Annual Report, by NCHR, Annual Report (Egypt, 2017). <http://www.nchregypt.org/index.php/activities/2010-02-07-16-22-57/2010-02-07-16-23-32.html>

⁸⁴⁸ *Ibid* at 32–33. (unofficial translation)

organization that can evaluate and report about all the efforts and measures taken to fight corruption. The report recommended that the authorities take prompt measures to issue the Right to Information Act to enhance transparency and facilitate the access to information. It also recommended issuing a law to protect the whistleblowers and witnesses in corruption cases and improve the efforts to control the monopolistic practices especially in the basic food products. The report recommended taking active measures to enact laws that will further enhance fighting corruption to improve Egypt's international ranking in this regard.⁸⁴⁹

Corruption in itself is a violation of human rights. This is the reason why the NCHR always insisted on focusing on the problem of corruption in its yearly reports and issuing recommendations to deal with it. The roles, responsibilities and privileges granted by the law are meant to be used by the council to play its role effectively and to better serve the country's strategy and initiative in fighting against corruption.

From the above, we can conclude that the NCHR is one of the most important national councils in Egypt that has played a role in evaluating, and recommending measures to fight corruption in Egypt. The provision of annual reports to evaluate the yearly progress in protecting and granting citizens their economic, civic, social, and economic rights is a very important step towards developing the areas where discrepancies exist. Although, it only recommended the coordination between the different authorities to implement the National strategy to fight against corruption in its 2013-2014 annual report, however, it never provided a follow up report on the implementation of its recommendations to implement the Strategy. Moreover, the NCHR didn't recommend raising people's awareness about their rights in fighting corruption and holding the government accountable whenever needed.

This research cannot deny the importance of the provided reports. However, "an effectual participation ----in building a united front to fight against corruption" requires more than issuing progress report. We are aware that the NCHR can only issue recommendations but

⁸⁴⁹ *Ibid* at 179.

it can still exercise lobbying and it can put pressure on the government to implement its recommendation at least through the MPs especially that it urged the government in each report to facilitate the access to information and to enhance principles of transparency.

Our hypothesis is that effective coordination with the national councils and international organizations within the limits of the role of the NCHR could have allowed the design of better programs to raise people awareness on their role and rights in fighting corruption. This could have helped in achieving “the effectual participation” of the NCHR and the other councils in fighting corruption. National councils could have played an unbeatable role in raising public awareness since they own the expertise, and can raise funds and accept international funds to achieve their goal. Besides, they could have helped in boosting the civil society to achieve their role in fighting corruption knowing that there is a problem of trust between the government and the civil society. It is not meant that the national councils will replace the role of the civil society but they can help in raising public’s awareness to fill the gap while also finding effective measures to redeem the trust between the government and the civil society.

-Research centers and universities

The role of the specialized research institutes is very important in conducting studies, surveys and researches on the status of corruption in Egypt, and in presenting the efforts and steps taken to solve the problem of corruption, in addition to providing important recommendations on the different measures that can be taken on a scientific basis. Developed countries have always highlighted the importance of scientific research and have allocated funds so that they can execute their work efficiently.

In Egypt, there is a number of important research centers however, the Strategy mentions only the specialized research institutes. Accordingly, this section of the research will concentrate on Al Ahram Center for Political and Strategic Studies and the National Council for Social and Criminology Research. These two research centers provide the most important scientific publications about Egypt’s social, economic and political challenges and development

among other publications that cover other countries in the region. However, the website of Al Ahram center for Political and Strategic studies, which provides a briefing about all the publications, does not mention any research conducted about the Strategy in Egypt, although there were a limited number of publications dealing with the problem of corruption in general.⁸⁵⁰ The website of the National Council for Social and Criminology Research and its library also have no research or publication dealing with the execution of the Strategy.⁸⁵¹

Why is the research concerned about finding published research about corruption? Aren't researches on the subject of corruption enough?

We cannot deny the importance of the research on the subject of corruption. Drafting the strategy had to take the research about corruption to another level of importance, since the country's political leaders were not only satisfied by having laws that criminalise corrupt practices, and that Egypt is a member of the UNCAC; instead the leaders wanted to take the country another step forward towards more control of corruption. The Strategy represents a real expression of the political leaders' vision and it was the responsibility of the important research centers to help the country in conducting the needed researches and surveys. The lack of studies concerning the national anti-corruption strategy reflects the lack of dissemination of the research.

- The Media

The media can play an active role in fighting corruption and in assisting the civil society in raising public awareness about corruption as a problem and in presenting the strategy in a simplified way that can appeal to the public.

⁸⁵⁰ مركز الأهرام للدراسات السياسية والاستراتيجية، "بحث عن مكافحة الفساد"، online: <http://acpss.ahram.org.eg/Portal/28/.aspx>.

⁸⁵¹ The last visit to the library was on the 16th of August 2018

By following some of the most important talk shows (in terms of the number of people who watch the shows), and the national newspapers, the research did not find an active discussion and participation about the Strategy. There were discussions about important corruption cases where public officials were convicted. However, there were no proposed solutions or even news on the advancement of the Strategy. Keeping citizens updated and informed about the advancement of the strategy make them aware that the strategy serves more than a window dressing and that there is a true political will to implement the strategy and present the progress. For example, in Georgia the president showed up in person every week to update the citizens about the advancement and the progress made to achieve the country's goal in fighting against corruption.

- The Civil Society Organizations

The civil society organizations represent another important participating actor in assisting the government to fight corruption. The Strategy recognised the importance of the role of the civil society in using its skills and tools to help the government achieve its goals in fighting corruption. Therefore, it included the civil society among the list of authorities participating in the execution of the strategy.

Emphasizing the role of the civil society organizations in fighting corruption is a paramount in admitting the important role they can play in this regard. The UNCAC that Egypt ratified in 2005 emphasized the importance of the role played by the civil societies in a country's efforts to curb corruption. Christiaan Poortman, a Senior Advisor for Transparency International, said that:

The events of the Arab Spring make clear that an effective fight against corruption requires citizen participation at all levels and that governments ignore civil society at their own risk. That is why we are calling for governments to honour their commitment to

include civil society in the Convention review process, a role guaranteed by the Convention itself.⁸⁵²

Therefore, including the civil society in the fight against corruption within the framework of the national strategy represents a step forward in fulfilling its UNCAC international commitment.

The problem resides in the fact that there always existed a kind of tension and lack of trust between the Egyptian government and the civil society organizations. Therefore, developing participative measures and tools to include the civil society can be a key step in achieving the country's goal in fighting corruption. It is paramount to make this participation practically work. An active and effective participation is expected to accelerate the attainment of the national anti-corruption strategy goals.

According to the OECD CleanGovBIZ⁸⁵³

Civil society has a key role to play in fighting corruption, from monitoring public services, denouncing bribery to raising awareness of all economic and political actors. Since most cases of corruption involve public officials and private companies, civil society as an independent actor representing the interests of the general public is uniquely positioned to denounce and expose corruption cases and put pressure for reform. Governments therefore have to take measures to enable and strengthen civil society participation, and civil society has to be aware of its role and make use of its potential leverage.⁸⁵⁴

Therefore, according to the OECD Biz, which aims at promoting integrity, civil society organizations can play an active role in putting pressure on the governments to implement reforms. It also stresses the importance of enabling the civil society to play their roles, and more

⁸⁵² Transparency International (last), "Civil society role crucial to success of global anti-corruption convention", (24 October 2011), online: www.transparency.org

<https://www.transparency.org/news/pressrelease/20111024_Civil_society_role_in_anti_corruption>.

⁸⁵³ Clean GovBiz is an initiative that supports governments to reinforce their fight against corruption and engage with civil society and the private sector to promote real change towards integrity.

⁸⁵⁴ CleanGovBiz, *Civil society empowerment* (OECD, 2013).

<https://www.oecd.org/cleangovbiz/CivilSocietyEmpowermentDraft.pdf>

importantly that the civil society organizations have to be aware of the power it holds in bringing the desired reforms.

The role of the civil society in boosting and improving the anti-corruption reforms is undeniable and well tested. Countries' experiences have showed how the civil society contributed in better applying anti-corruption measures and in holding the government accountable. Although NGOs were not well organised in Egypt before the 2011 revolution, they still played an important role in achieving their freedom and dignity goals. The true and effectual participation of the civil society as an important participant in helping the Egyptian government to fight corruption starts with an effectual redemption of the trust between the government and the civil society. NGOs in Egypt have to encourage and publicize the efforts taken by the government to fight corruption. The civil society has to assist rather than resist the government in fighting corruption. To build a new type of relationship, both civil society and the government have to alter the rules of the game: the government and the civil society need to cooperate. The civil society has to provide constructive critics to help the government in improving the reforms and the government needs to provide the civil society with the needed information and tools to execute their roles. When the public interest is at stake, the civil society and the government need to concentrate on achieving the reforms rather than competing to gain public support. The government's role can surpass the provision of information, it can even offer training assistance to help NGOs members achieve their roles. This type of partnership and dialogue between the government and civil society can help them better understand how to implement better reforms strategy.

A research was conducted to study the power of the social media in serving as a virtual civil society in Egypt that aims to mobilise "Egyptian activists across generations, and particularly in reaching out to people under the age of 35 who constitute around 50 per cent of

the population” especially in the aftermath of the Egyptian revolution in 2011.⁸⁵⁵ According to the research, although “social media have been instrumental in raising their awareness about diverse political movements and educating them about the political process, after decades of political apathy under Mubarak’s regime.”⁸⁵⁶ However, one important problem associated with the online campaigns is the lack of sustainability. The research concludes that the “online campaigns should convert to offline collective action.”

The effectual participation of the civil society does not only lie in helping the citizens by criticizing the government and holding officials accountable, which is usually the image most of the Egyptians have about the role of the civil society. It can also help citizens understand their roles in curbing corruption by showing them for how corruption can directly affect their lives.

In reviewing different resources, websites, articles, Egyptian research centers publications, no evidence of any “ Active participation in combatting corruption” or a collaboration between the government audit authorities and the civil society organizations was found.⁸⁵⁷ An active participation would have resulted in finding success stories in assisting the government to curb corruption. The problem is that the Law No 70 for the year 2017 restricted the civil society power to contribute in fighting against corruption

- Islamic and Christian Institutions

Including the Islamic, and Christian institutions as part of the list of authorities participating in the execution of the Strategy was a very successful decision. This is what is scientifically called formulating a strategy within a country’s particular context. Some may be

⁸⁵⁵ Abdulaziz Sharbatly, *Social media: a new virtual civil society in Egypt?* University of Bedfordshire, 2014) [unpublished].

⁸⁵⁶ *Ibid.*

⁸⁵⁷The only collaboration was in the two mentioned above conferences held under the presidency of the Minister of solidarity in July 2017, and March 2018.

surprised for the reason why this research stems from the belief that religious institutions should be included in Strategy. However, a closer look at Egypt's social history will reveal the important role religious institutions play in shaping its public opinion.

A survey was conducted by the US news and World report with 21,000 global citizens respondents. In this survey respondents were asked to evaluate how closely they relate the 80 studied countries to the term "religious", which is defined in Merriam Webster dictionary as "faithful devotion to an acknowledged ultimate reality or devotion". The results show that Egypt ranks number 7 among the most religious countries.⁸⁵⁸ Another study mapped the 20 World's most and least religious countries in the world based on the results of the Win/Gallup international Polls in 2008, 2009, and 2015. The research ranked Egypt as number 12 from the World's most religious countries.⁸⁵⁹ According to the WIN/Gallup report in 2018 97% of the population identifies itself as religious in the sense of their "adherence to a certain set of beliefs." Therefore, the importance of the role of religion cannot be denied and can be one of the effective tools in fighting corruption if well-coordinated to achieve the political leaders' vision to fight corruption.⁸⁶⁰

Roberto Laver explained that religion can be a cultural force in society. This force can influence how the societies may react to governmental corruption.⁸⁶¹ Laver explains that the

⁸⁵⁸ US NEWS, "The 10 Most Religious Countries in the World, Ranked by Perception", online: *MSN* <<https://www.msn.com/en-us/news/world/the-10-most-religious-countries-in-the-world-ranked-by-perception/ar-AAwYeoW>>.

⁸⁵⁹ Oliver Smith, "Mapped: The world's most (and least) religious countries", *The Telegraph*, online: <<https://www.telegraph.co.uk/travel/maps-and-graphics/most-religious-countries-in-the-world/amp/>>.

⁸⁶⁰ It is important to coordinate well when allowing the religious institutions to participate as partners in the execution of the strategy because it is also imperative to separate the role of the state and the religion. Moreover, it is important to agree on the content presented in the religious program and to agree on the messages that will be used, because at the end religious institutions can help the government in this regard but cannot circumvent its role.

⁸⁶¹ Roberto Laver, "'Good News' in the Fight Against Corruption" (2010) 8:4 *Rev Faith Int Aff* 49.

role of religion that is always neglected in anti-corruption efforts can be used as “an entry point” for a “second generation” of reforms to tackle widespread corruption.⁸⁶²

According to this view, religious institutions can help in framing corruption and understanding it from a different perspective that can help people to take a more active role in curbing corruption. It can help in building a cultural society that refuses corruption. According to Marquette “Membership of a religious community that rejects behavior seen as being ‘corrupt’ seems more likely to have an impact, but a lot depends upon whether members of the community are encouraged to use religious principles to think through moral issues, or to interpret religious teachings literally.”⁸⁶³

Religious institutions can help in designing programs that can emphasize the religious interpretation of corrupt behavior. This idea may seem rhetoric to some, but when taking into consideration the country’s particular context it can make sense.

This research does not assume that there is a relationship between corruption and religion. However, within a particular country’s context such as in the case of Egypt, religious institutions are influential, and can be used as a tool among others in the implementation of the Strategy. It can be used to fight all aspects of corruption in the Egyptian community (social, educational, religious, political,...).

Individuals exist within multiple communities – religious, family, friends, colleagues, professional and personal networks and so on. Although messages from these various communities may very well conflict, it is clear that the communities will all, in some way or another, impact upon individual attitudes towards corruption.⁸⁶⁴

⁸⁶² Roberto Laver, *Systemic Corruption: Considering Culture in Second-Generation Reforms*, SSRN Scholarly Paper ID 2446657 (Rochester, NY: Social Science Research Network, 2014).

⁸⁶³ Heather Marquette, “Corruption, Religion, and Moral Development” Relig Dev Res Programme, online: <<https://berkeleycenter.georgetown.edu/publications/corruption-religion-and-moral-development>> at summary.

⁸⁶⁴ *Ibid* at 15.

It can be concluded that the decision to include religious institutions in the list of participating authorities was a successful one to help fight corruption by approaching and dealing with the problem from all aspects. However, it should be noted that the participation has always to be within an approved governmental educational and development program to avoid the emergence of any extremist behavior. The question to be asked is how did the Islamic and Christian religious institutions effectually participate in building a united front to fight corruption within the context of the Egypt national strategy to fight against corruption in Egypt?

By searching for information on the news, websites of the religious institutions, and asking members of the Islamic and Christian institutions, the research did not find that there were any obvious designed program set by those institutions in partnership with the government to play their designated role in fighting corruption. It is the belief of this research that the real involvement of the religious institutions to fight corruption would have been more widely talked about by the population. The partnership with the religious institutions- in a structured and agreed upon program to avoid deviation from the goal would have been a very influential and effective tool due to the wide geographic coverage and the existence of those institutions even in rural areas. This geographic coverage could have helped the national councils and the civil societies organizations in general and the NGOs in particular to implement a predesigned and agreed upon program to raise people's awareness about the destructive effects of corruption and the political leaders commitment to curb this phenomena and how they can contribute as citizens in reaching the Strategy's goals.

- Is the Private Sector on the List?

Applying this mechanism needs the participation of all the stakeholders as they are affected and concerned by its implementation. However, the private sector does not appear on the list of the authorities participating in the execution of Egypt's anti-corruption Strategy.⁸⁶⁵ This may not indicate that they are excluded. However, there is no evidence of exerting efforts

⁸⁶⁵ "هيئة الرقابة الإدارية", online: <<https://www.aca.gov.eg>>. "الاستراتيجية الوطنية - هيئة الرقابة الإدارية - الاستراتيجية الوطنية"

to communicate with the private sector and share the country's vision with them. This research claims that all the stakeholders will be affected by the implementation of the strategy whether positively or negatively, and therefore they have the right to participate in designing and executing it.

Wrapping up the Participant Bodies

Finally, we can conclude that the research cannot deny that the choice of the participants in the execution of the strategy was a very successful and inclusive (except for the absence of the private sector which is an important actor), however the implementation of their “effectual participation” within the context of the strategy was not well applied. This does not mean that the different participants in the execution of the strategy did not contribute in a way or another in fighting corruption in general. However, some of those institutions outperformed in the execution of the strategy like in the case of the ACA, others did not play an effective role within the duration and the goal of the strategy. The Ministry of Planning, Monitoring and Administrative Reforms also played an important role in raising the performance of the state administrative body and improving the public services to curb corruption. The research does not aim at comparing and evaluating the performance of the different participants due to the difference in the resources. However, a proper coordination between the different participants would have enabled all the actors to participate effectively and would have allowed for better results from the implementation of the strategy.

Chapter Three: Integrated, Customized and Recommended Legislative and Non- Legislative procedures towards the successful implementation of Egypt’s Strategy to Fight Corruption

This section of the research reviews the extent to which the implemented policies were likely to achieve the Strategy’s ten short- and medium-term goals. The main aim is to recommend effective reform policies in light of the interdisciplinary reform strategies studied, and the successful experiences of other countries in tackling corruption.

A - Evaluation of the Execution of the Ten Main Goals of the Strategy

Egypt’s National anti-corruption Strategy set ten main objectives that have been clearly and carefully formulated, and for each objective it specified the implementation policy, the entities responsible for the implementation, the duration for implementation, the authorities responsible for the follow up and the performance indicators.

The ten main objectives that will be studied within this research are:⁸⁶⁶

- (i) Raising the level of performance in government.
- (ii) Establishing transparency, and integrity principles among public officials.
- (iii) Promulgating new anti-corruption laws and updating the existing ones.
- (iv) Strengthening judicial procedures to achieve prompt justice.
- (v) Raising the level of performance in government.

⁸⁶⁶ NATIONAL COORDINATING COMMITTEE FOR COMBATING CORRUPTION, *supra* note 823.

- (vi) Establishing transparency, and integrity principles among public officials.
- (vii) Promulgating new anti-corruption laws and updating the existing ones.
- (viii) Strengthening judicial procedures to achieve prompt justice.
- (ix) Building the capacity of the anti-corruption bodies
- (x) Raising the citizens' standard of living and achieving social justice.
- (xi) Raising the citizens awareness on the destructive effects of corruption, and the importance of fighting against it and restoring the trust in the government's institutions.
- (xii) Strengthening the national cooperation to fight against corruption.
- (xiii) Enhancing the regional and international cooperation to fight against corruption.
- (xiv) The participation of the civil society in fighting against corruption.

The question that will be answered in this part is: How did the Strategy succeed in getting “closer” to the ten main goals it perceived? The research studies the short- and medium-term goals as stated in the Strategy. The research also studies each goal's implementation policies but does not take the performance indicators as the ultimate evidence of the execution of the related goal. The reason is that most of the performance indicators are related to the promulgation of certain laws. Although the promulgation of the indicated laws represents a step forward towards achieving the goals, the promulgation of the law does not necessarily guarantee its execution, so it is not necessarily an objective measure. The research would rather rely on international indicators to measure the improvement in performance in general and in advancing the country's goal in curbing corruption. The research is limited to the information that was possibly accessed through the desk review, meetings with some officials, informal field observations, frequent visits to the country and its public institutions, while taking into consideration that there is no right to information Act in Egypt's legal framework. In addition, some information is related to public security, for example, realizing goals four and five which aim at: “Strengthening judicial procedures to achieve prompt justice and building the capacity

of the anti-corruption bodies.” Therefore, the research will be limited to the accessed information. The aim of the research is to analyze Egypt’s experience to celebrate the successes and to find effective measures adapted to Egypt’s context to make the future anti-corruption strategies more effective. Although each objective is independent of the others, it also has to align with the general objective which is “to curb corruption and build an anti-corruption societal culture.”⁸⁶⁷ According to Rotberg “success should be seen in reduced levels of corruption, whether registered by the corruption perception Index or by other internationally validated methods.”⁸⁶⁸ Therefore, the change in international indicators is discussed.

According to the World Bank, in 2014 the Egyptian government implemented important transformational economic reforms that aimed at improving the economic growth, and the business environment⁸⁶⁹ The World Bank states that the reforms were not easy, especially on the poor since it included the application of the VAT, the floatation of the currency, decreasing the government’s wage bill and reducing the energy subsidies among other reforms. However, to reduce the austerity effects of the economic reforms on the poor, the government increased the allocation of the food smart cards, and other cash transfers program so that the subsidies are only received by those in real need. The World Bank finds that the economic reforms yielded some positive results and the economy started to improve, and that the GDP is improving year after year. The World Bank claims that the budget deficit is also gradually declining from one year to another.

However, according to the World Bank:

Despite the Government’s current efforts, social conditions remain difficult due to the episode of high inflation and the erosion of real incomes. While extreme poverty in Egypt is almost eradicated, high inflation over the course of FY17 has taken a toll on social and economic conditions. Regional disparities are an enduring characteristic, where Upper

⁸⁶⁷ Ibid.

⁸⁶⁸ Rotberg, *supra note* 810[^] at 174.

⁸⁶⁹ World Bank, “The World Bank in Egypt”, online: World Bank <<http://www.worldbank.org/en/country/egypt/overview>>.

Rural Egypt continues to lag behind other regions, with poverty rates reaching as high as 60% in some governorates.”⁸⁷⁰

According to the World Bank Egypt’s economy is expected to continue recovering and the economic growth can continue to improve but it will all depend on the “government’s ability to address real sector problems that hinder the competitiveness of the Egyptian economy and undermine growth prospects.”⁸⁷¹

Therefore, according to the World Bank, Egypt is on the right path to achieve its economic growth goals; however high poverty and inflation rate remain a problem. According to the World Bank, realizing economic improvements and being on the right track to achieve economic growth is an important and serious step that the Egyptian government has taken.⁸⁷² However, to achieve sustainable results, and to improve the business environment and accordingly the job market the national anti-corruption strategy has to be implemented as an important part to ensure the sustainability and the improvements of the desired economic growth and development effects. The reason is that sustainable development goals cannot be sustained without a proper control of corruption.

A.1 Raising the Governmental and Administrative Performance of the State Administrative Apparatus and Improving the Public Service

Improving the performance of the public service, and the governmental and public institutions is crucial not only to fight corruption but also to achieve the perceived economic growth and development. Since every citizen at some point in his life will be compelled to deal with a governmental institution or will seek a public service, setting this particular objective clearly is an important step in fighting corruption. People’s perception about corruption in the

⁸⁷⁰ *Ibid.*

⁸⁷¹ *Ibid.*

⁸⁷² *Ibid.*

government is shaped from their experience-when dealing with the governmental institutions and the quality of the public service they receive. To achieve economic growth the public services and the public institutions have to create a better investment environment.

Raising the governmental and administrative performance of the State Administrative Apparatus and improving the public service is a medium-term goal. It was perceived to be implemented between 2015 and 2016. For this objective, the implementation policy consists of:

Amending and developing the organizational structures,

Enhancing the internal monitoring

Enhancing the internal monitoring system, reforming the recruitment, evaluation and promotion system.

Reforming the wages, and salaries systems.

Training employees on all administrative levels.

The simplification, and automation of administrative and public procedures.

The implementation/activation of the information sharing technology between different governmental institutions.

The authorities responsible for the execution of this objective are:

The Ministry of Planning, Monitoring and Administrative reforms.

The Ministry of Finance

The Central Auditing Organization

The Central organization for planning and Administration.

The Administrative Prosecution Authority.

The authority responsible for the follow up:

The Parliament

The National Central Coordinating committee and sub-committee

The Civil Society Organizations

The media

The progress indicators are:

The existence of a reformed salary payroll.

The existence of updated and applied organizational structures.

More funds allocation for training employees in the public sector.

The progress reports prepared by the NCCCC

The surveys, questions

All studied countries' experiences in fighting corruption have put administrative reforms, institutional reforms and improving the quality of public services on their agenda since these are paramount in achieving the perceived goals. Egypt's leaders also realised the importance of this goal especially after the 2011 revolution.

A.1.a - The Public Sector in Egypt's Legal Framework

Due to the importance of the public service, the Egyptian Constitution dedicated a special article to deal with it. Article (14) of the Egyptian Constitution stipulates that:

Public offices are a competence-based right for all citizens without bias or favouritism, and are deemed a mandate to serve the people. The State shall ensure the rights and protection of public servants and that they perform their respective duties in serving the interests of the people. They may not be dismissed without disciplinary procedures except in the cases specified by Law.⁸⁷³

Article (14) of the Constitution sets the principles on which the public service is based. Those principles are set to organize the following:

⁸⁷³ "Egypt's Government Services Portal - Laws and Constitution", online: <<http://egypt.gov.eg/english/laws/>>.

- 1- The selection for public offices has to be based on competence with no impartiality or favouritism.
- 2- The public office main mandate is to serve the public interest.
- 3- Citizens must enjoy equal rights in receiving public services.
- 4- The State ensures the protection of public servants.

Moreover, Article (27) stipulates that :

The economic system is socially committed to ensuring equal opportunities and a fair distribution of development returns, to reducing the gaps between incomes by setting a minimum wage and pension to ensure a decent life, and setting a maximum wage in state agencies for whoever works for a wage as per the law.

Therefore, the Constitution also dealt with the wages and pension systems in an attempt to achieve a fair distribution of the economic returns and to reduce the gaps between the public servants performing similar tasks.

Accordingly, to achieve the Constitution's objectives related with the civil service and governmental institutions as stipulated in Articles (14) and (27), and to achieve the Strategy's main goal , public service reforms had to be targeted. To translate the country's leaders' vision in achieving the perceived goal into reality, a strong legal framework has to be put in place. The reforms targeted the Civil service Law to meet the country's new vision in improving the performance of the governmental organization, and in offering better quality public services.⁸⁷⁴ To implement the desired policies as drafted in the National Strategy to fight against corruption, a new Civil service Law No 81/2016 was issued in November 2016 to replace the civil service Law 47/1978. The new Law reorganized and dealt with all the subjects related to the public service, public office, recruitment, promotion, wages, salaries, incentives, and the termination of the public servant service.

⁸⁷⁴ The Civil service Law 47/1978 was out-dated and 17 amendments have been introduced to the law before it was replaced by the Civil Service Law No 81/2016

According to Counsellors Adel and Mohamed Al Shahawy, the civil service law was issued for many reasons:⁸⁷⁵

- 1- The State wanted to introduce a new concept to the public service and public office so that it conforms with the new Constitution which requires the public servant to do his best to deliver the best service in terms of quality and performance.
- 2- The pressing need to introduce reforms to the civil service legal framework to meet the State's challenges in introducing administrative reforms.⁸⁷⁶
- 3- The absence of a balance between the increasing organizational structure and the economical resources which negatively affected the performance quality and the administrative capabilities.
- 4- The increased number of outdated and contradicting laws, regulations, decrees, and periodic books which had a negative impact on the quality of the public service provided and the citizens level of satisfaction with the service provided.⁸⁷⁷
- 5- The importance of reviewing the existing legal framework to ensure improving the quality of performance of the civil servants in public institutions, in addition to building and developing their capacity.
- 6- The importance of developing the oversight and evaluation measures to control corruption and restore and rebuild the trust between the State and the citizens.
- 7- The importance of taking measures to ensure granting equal opportunities to access public office based on merit with no impartiality or nepotism.

From the above, we can conclude that issuing the new service law conforms with the State new vision and commitment to improve the organizational and structural civil service

⁸⁷⁵ (عادل الشهاوي & محمد الشهاوي, شرح قانون الخدمة المدنية رقم ٨١ لسنة ٢٠١٦ (دار النهضة العربية, 2018).

⁸⁷⁶ Since Egypt is a Civil law country, to ensure the sustainability of the reforms, the legal framework has to set the foundation.

⁸⁷⁷ The contradicting laws, regulations and decrees was paralyzing the public service reforms attempted reforms.

framework. One of the main aims should be to reduce corruption by changing the incentives structure, making sure that public servants serve the public interest, improving the quality of the public service and ensuring that the selection is only based on competence and that the promotion is based on performance and merit.

According to the Minister of Planning, Monitoring and Civil Service Reforms introductory statement in the Civil service Law No 81/2016 booklet that was widely distributed among the public institutions that “the Egyptian government is totally aware that public service reforms is a pre-requisite to the economic and social reforms. Therefore, it dedicated a special axis for the transparency and the efficiency of public institutions. The strategic goals for the above mentioned axis mainly aims at increasing the efficiency of the public institutions, and improving the quality of the public services offered to the citizens, and investors, in addition to curbing all forms of bureaucracy and corruption in the State’s administrative body, and in increasing the degree of transparency in the government. »⁸⁷⁸ Therefore, enacting the Civil Service Law represents an important component of the public service reform strategy in Egypt.

The pre-set policies for implementation as stated in the Strategy requires: Amending and developing the organizational structures, enhancing the internal monitoring, enhancing the internal monitoring system, reforming the recruitment, evaluation and promotion system, reforming the wages, and salaries systems, training employees on all administrative levels, the simplification, and automation of administrative and public procedures, the implementation/activation of the information sharing technology between different governmental institutions.

⁸⁷⁸ Civil service Law introduction p 3 in the booklet distributed by the MOPMAR. (unofficial translation)

A.1.b- Amending and Developing the Organizational Structures

Targeting the organizational structures in the implementation policies to improve the efficiency and the performance of the public sector and to improve the quality of the public service is a paramount to achieve the general goals of the strategy. It is worth noting that the meaning of organizational structure is not limited to a kind of organizational map that explains the managerial and supervisory responsibilities or to providing a job description and job responsibilities of the different departments in an organization. The organizational structure is a tool whose ultimate aim is to omit the force that impedes the advancement of the organization and limits its ability to achieve its perceived goals. Therefore, reform in the organizational structure is needed to adapt to the new roles that the public organizations is expected to play to enable them to effectively perform their roles and to respond to the citizens needs in a timely manner. The organizational structure also plays an important role in organizing different methods of cooperation and collaboration among the different roles played by the employees in the same organization to facilitate the work of the decision makers.

According to Badran :

Examination of the Egyptian bureaucracy reveals that since the very beginning of the Central State in Egypt the performance record of the bureaucratic units was not very impressive. The administrative system in Egypt has shown symptoms of numerous managerial maladies that can be described as chronic.....From a structural point of view, the way in which the administrative apparatus in Egypt is organized has greatly contributed to the problems....Rigid hierarchical relationships exist among the different levels of the bureaucratic machine, with decision making authority at the top managerial levels. As mechanistic entities public organizations in Egypt include top down communication channels to transfer orders from the Central authority which clearly defined rules and standard operating procedures.⁸⁷⁹

⁸⁷⁹ Ahmed Badran, “The political economy of administrative reforms in Egypt: governance, reforms and challenges” in Karen Johnston & Andrew Massey, eds, *Int Handb Public Adm Gov* (Edward Elgar Publishing, 2015) at 171.

The institutional and organizational framework is the most important reason for raising the cost of administrative corruption in Egypt. The development of the administrative structure of the administrative apparatus of the state is one of the most urgent means of combating corruption. One of the most important reasons for the slackening of the organizational structure is the inflation of the government apparatus (in terms of the number of civil servants), which represents a barrier to any attempt to solve the organizational structure problem. Although the poor performance of Egyptian government employees is a problem, yet it is not the only reason for the apparent inability to face administrative corruption. It is the deterioration and chaos in the organizational structures in government agencies that represents the real problem.

- The Meaning of Organizational Structure

Each governmental body in Egypt has an organizational structure that defines its functions, powers, internal division and the terms of reference of each department. The organizational structures must be approved by the Central Agency for Organization and Administration (CAOA), and the competent authority that the agency follows. The same procedure applies for the modification of such structures.

- Problems Resulting from the Unrevised Organizational Structures and the Resulting Cost of Corruption

In practice, these organizational structures have not been reviewed for decades, making them obsolete and incompatible with the evolution of management principles or any administrative reform plans. Some of those problems associated with the organizational structures can be summarized as follows:

The overlap in the tasks and duplication of roles between different institutions, in addition to the existence of similarities between the functions of different governmental agencies , which leads to Conflicts in executing the terms of reference. For example, there is a

great overlap between the functions of the Ministry of Finance and the Central Audit Organization in conducting the government accounting;

- Overlapping in the competencies between the internal departments of the same entity or the subordination of entities to other entities that cannot logically be subordinate to. For example, the subordination of the administrative control authority to the Prime Minister, although the ACA is the regulatory body entrusted with the control of the executive body, which is presided by the Prime Minister. It is important to note that one of the reforms mentioned in the framework of the implementation of the Strategy is that the law No 207 of 2017 amended some articles of the law No. 54 of 1964 governing the ACA, and it stipulates that The ACA is an independent Body that is subordinate to the President of the State.
- There were no coordination mechanism between the different administrative bodies, especially those whose jurisdictions and functions overlap. For example, there is no coordination between the Central Agency for Organization and Administration and the Ministry of Planning and Administrative reforms. It is important to note that to achieve more coordination between the Ministry of Planning Monitoring and Administrative reforms (MOPMAR) and the Central Agency for Organization and Administration (CAOA), the CAO A is currently under the supervision of the MOPMAR;
- There are no measures taken to match between the functions, organizational structures and work requirements. The result is that some employees work in government agencies that are not related to their specialization or their areas of expertise;
- Absence of the concept of "monitoring and evaluation" in most of the government agencies. This does not mean that those departments (monitoring and evaluation) do not exist in the governmental institutions. They do exist but do not have a clear mandate which weakens their role

and negatively affects the agencies' performance. It is important to note that within the framework of the execution of the Strategy, and the application of the Administrative reforms strategy, the Prime Minister issued the decree number 1146 of the year 2018 to introduce new divisions in the governmental institutions, one of them is the “monitoring and evaluation” with new mandates, job description and structure.

- Lack of flexibility in the organizational structure of the administrative bodies to comply with the technical and administrative development, which represents a major reason for the complexity of procedures and the low quality of performance.

Based on the reasons above, the Strategy had to prioritize the change in organizational structure.

- The Revision of the Organizational Structures

Changing the organizational structures is an important step towards distorting and changing the corruption chains, structures and improving the quality of the service. It implies a perceived change in the system structure. However, changing the organizational structures is not easy, not only because it takes time but also because it encounters much resistance from the public servants. Since it redefines the responsibilities, and job descriptions, it must be carefully studied and implemented to yield the desired results.

Changing the organizational structure in all the governmental and public institutions – on the macro level- requires a special type of expertise. According to a high level official, the Egyptian government, represented in the Ministry of Planning, monitoring and Administrative reforms found it better to give this responsibility to an expert consulting company. Accordingly, it offered a tender where renowned consulting firms presented their offers to execute the organizational restructuring reform project.

On the micro level, in accordance with article (9) of the Civil service law 81/2016, every governmental organization is responsible to propose the reformed organizational structure, while taking into consideration its special context. The new proposed reform of the organizational structuring should also be reviewed and approved by the Central Agency for Organization and Administration (CAOA). According to the CAO A annual report issued in 2017, it studied and analyzed the roles and the founding laws of all the Administrative apparatus in the country to identify all discrepancies and contributed in reorganizing the structure of the Administrative apparatus in the state and accordingly has proposed to merge some departments and omit others.

A.1.c -Enhancing Internal Monitoring

- The Meaning of Monitoring

According to the World Bank “monitoring” is defined as

A continuing function that aims primarily to provide the management and main stakeholders of an ongoing intervention with early indicators of progress, or lack thereof, in the achievement of results..... [M]onitoring helps organizations track achievements by a regular collection of information to assist timely decision making, ensure accountability, and provide the basis for evaluation and learning.

The role of monitoring in governmental institutions and public services are not limited to the detection of errors and to make sure that of the legality of the work; but its role is also to make sure that the public work is performed in an efficient, cost effective and timely way.

- Internal Monitoring in the State Administrative Apparatus

This research considers Internal monitoring as one of the most important and effective types of oversight in the State’s administrative body. Its absence or insufficient performance is one of the main reasons of raising the cost of administrative corruption. The different administrative organizations perform this internal self-monitoring through specialized departments designed to perform the monitoring tasks. These departments are named as the “monitoring and follow up departments” and “the financial and administrative departments”.

The main role of these departments is to monitor the work of the public institutions to make sure they reach their designated goals, to protect the public resources, to collect reliable data on the level of performance, and to report to the internal investigative authorities or the APA (Administrative Prosecution Authority) in case of detection of any defects or corrupt activities.

The importance of this type of internal monitoring is the early detection of administrative corruption or violation of rules before it becomes uncontrollable. Another important advantage of internal monitoring, that is executed by public servants who serve in the public institution, is the fact that the latter can better understand the types of violations that can be committed in their particular institutions. Although internal monitoring departments always existed in all public institutions in Egypt, they did not usually perform their expected role, which made it more difficult to detect the different forms of corruption, especially the types of corruption related to negligence and lack of good performance. The main reason for their underperformance can be summarized as follow:

1. The lack of independence of those departments and their subordination to the head of the public organization where they perform their monitoring role, which makes it more difficult for the public servants executing their roles in this department to find out the true causes for corruption. Moreover, due to this subordination, the degree of efficiency in performance of those departments is directly related and is a function of the head of the public organization willingness to curb corruption or not.
2. In the majority of cases, those departments are not subject to any type of higher supervision, which makes it vulnerable for corruption, and abuse of power.
3. The lack of adequate training makes it difficult for the public servants in the monitoring department to perform their jobs efficiently.

- Restructuring Internal Monitoring Departments/Divisions

Organizational restructuring of the internal audit department is an important step toward better performing its mission. This department is currently operating under the Head of the

Public Organizations. However it is the opinion of this research that it should be subordinated to the Central Audit for Organization and Administration. It is also very important to provide its personnel with necessity with the necessary training that allows them to perform their jobs efficiently.

Due to the State commitment to enhance the governmental and administrative performance and improve public services, Egypt's Prime Minister issued the decree No 146 for the year 2018 (official gazette No 25 (b) (bis) dated on 24/06/2018) which introduced newly structural divisions in the State Administrative bodies, one of which is the internal audit or monitoring department. This department has been restructured, not only to perform its monitoring tasks, but also to take preventive measures in curbing corruption.⁸⁸⁰

A.1.d - Introducing Reform to the Recruitment, Evaluation and Promotion Systems.

To achieve the Egyptian State's goal in improving the performance of the its Administrative body, it was paramount to introduce reforms on the recruitment, evaluation and promotion systems which contributed in the widespread of corruption in the public institutions. This study aims at showing how the recruitment, evaluation and promotion system has been directly related to the low quality of performance of the State's Administrative body and the widespread of corruption. The problem is not limited to the text of the civil service law No 47 of the year 1978 which was replaced with the law 81 of the year 2016. The agreed upon practices that governed the recruitment, evaluation and promotion system also contributed in making the problem more serious.

- The Recruitment System and its Contribution in the Widespread of Corruption

⁸⁸⁰ It is difficult to assess the outcome of the new organizational restructuring of this department and its ability to better perform its task since it was recently reformed.

The government recruitment policy contributed to the expansion of administrative corruption, which resulted in:

- The accumulation of employees in governmental agencies
- The poor quality of public services provided to citizens,
- Low salaries
- Limited monitoring and follow up procedures in the government agencies
- The widespread phenomenon of administrative corruption.

In light of this corrupt environment, the majority of the population were perceived to give bribes or commissions as a must to getting the services they needed accomplished in a quick and easy way.

– The Problem of the Inflation in the Appointed Numbers of Public Servants

In the period following the 1952 revolution, the government adopted a system that appoints all university graduates to the State Administration. Being appointed in the state Administration was attractive for university graduates due to the security and stability associated with the public recruitment system.

Although the graduates' recruitment system was discontinued after 1985-86, the recruitment in the State administrative apparatus continued in a different policy, namely through a "temporary contracts" system. This system was chosen due to it being characterized by a higher level of flexibility in the hiring process in addition to being less binding for the public institutions. This policy led to a large inflation in the size of the administrative system which was accordingly associated with an increase in salaries. Besides, it led to a tremendous increase in the number of employees in the administrative apparatus of the state, and opened the door to a system of recruitment based on nepotism and favoritism.

- Problems Associated with the Recruitment System According to the Civil service law No 47 for the year 1978 (repealed by the law 81/2016) and reforms

Article 12 of the law read as follows:

The units shall announce the vacant posts, the hiring is made by a decision of the competent authority, the announcement about the job vacancy has to be made in at least two daily newspapers, and it shall include the information related to the job and the conditions of employment.

It is clear from this text that recruitment for a public office is concentrated in the competent authority discretionary power, provided that the job vacancy announcement is published in at least two daily newspapers. The competent authority shall determine the posts that shall be occupied according to an examination and the other posts that can be occupied without the need to announce the vacancy. (The exam shall be supervised by a committee formed by a decision of the Competent Authority and includes the procedures for carrying out this examination)

The second problem with the recruitment system is the costs associated with the recruitment system: Although the recruitment system seemed to be transparent (since for some posts it had to be announced in two daily newspapers), however, practically speaking, it was known that the recruitment system was plagued with corruption. It should be noted that the role of the Central Agency for Organization and Administration (CAOA) is limited only to monitor the initial announcement of the job vacancy and provides available vacant levels. However, the CAO A does not review the recruitment or selection process.

The third problem is the system associated with the recruitment based on the exam results:

The competent authority had the full authority to determine the job vacancies that will be filled by writing the exam, and it is the same authority responsible for preparing the exam. The hiring is determined according to the exam results priority. This allows for more corrupt practices and abuse of power. Therefore, the same public institution was responsible for:

- Determining the job vacancies

- Preparing the exam to test the applicants' capacities, and had full control over the exam
- To correct the exam, evaluate the applicants, and execute the selection process.

Among the common corrupt practices was putting exam questions that are impossible to solve, or to leak the information about the exams to the favored candidates to facilitate or rather to falsely legitimize their recruitment. In other words, competency and merit were not the only important selection criteria.

The introduced reforms in the recruitment system

The civil service law 81 of 2016 was promulgated to correct some deficiencies in the recruitment system. Article 12 stipulates that the recruitment system is based on efficiency and competency with no partiality through a central announcement on the Egyptian government portal.

Article 30 of the executive regulation of the new civil service law stipulates that the Central Agency for organization and administration (CAOA) shall create an 'electronic questions bank' for each speciality according to the nature and requirements of each job. The CAO A shall be responsible for managing and constantly updating the questions according to the recommendations issued by the civil service committee and the competent minister.⁸⁸¹The Central Agency recently designed "the questions bank" to offer a more transparent and equitable way of evaluating applicants and to avoid the problems that resulted from the previous selection and recruitment system. However, due to the increased number of public servants and the economic conditions that the Egyptian state is facing, it decided to stop recruiting public servants on permanent basis and the recruitment shall only be through temporary contracts with

⁸⁸¹ Unofficial translation

no commitments whatsoever on the State to change the nature of those contracts to be on permanent basis.

- The Evaluation System and Reforms

The research finds that it is important to set predetermined criteria for performance evaluation. The main aim is to make public servants more familiar with the organization's expectations, and to tie this evaluation system with promotional and other financial rewards. This criteria also helps in avoiding the superiors' abuse of power, and in evaluating the public servants according to objective measures. Moreover, it contributes in clearly assessing the organization's training needs to improve its employees' performance.

An effective administrative evaluation system is a system that is based on predetermined criteria to ensure that public servants perform according to the public institutions' perceived goals and expected performance quality. It has to create a competitive environment where employees seek to perform better to be able to get a promotion, better incentives or a raise in salaries. Articles 28 to 35 (bis) of the civil service law 47 of the year 1978 dealt with the evaluation system in the state's administrative body.

This study does not extensively research the evaluation criteria according to the law 47 of the year 1978 because this in actual fact never existed and if it did, in some cases, it was neither effective nor made in accordance to set criteria. In the past, evaluation of public servants was performed as a yearly routine; most of the public servants were evaluated as "excellent", except for those whose superiors had determined to punish them regardless of their performance. Absence of clear criteria to measure performance contributed to neglecting this important measure to improve the performance of governmental institutions and to provide better quality to the services. It also impeded all attempts for institutional development and did not contribute in enhancing the public servants' innovative or competitive capacities since there were no reasons to exert such efforts. It also negatively affected the assessment of the training needs of every public institution. The evidence was quite clear with the poor performance of the State's

administrative body. It was therefore mandatory for the Egyptian State to review the evaluation system of its administrative body, i.e., the public servants.

According to the Civil service law 81 of the year 2016, the competent authority is required to set an evaluation system that guarantees the evaluation of the performance of the public servant in each unit in compliance with its nature, and goals. The evaluation is meant to be conducted at least twice a year before issuing the final yearly report.

The Prime Minister issued the decree No 146 for the year 2018 (official gazette No 25 (b) (bis) dated on 24/06/2018) which introduced newly structural divisions in the State Administrative bodies, one of which is the Evaluation and Follow up Unit.

Article (67) of the executive regulation of the civil service law No 81 for the year 2016 explicates that the competent authority shall design an evaluation system based on several criteria, for example, the public servant's self-evaluation, peer evaluation, superior evaluation, and the general public evaluation depending on the nature of the job and based on criteria like behavior, discipline, quality, innovation, performance and the ability to take responsibilities. For leadership and supervisory positions, in addition to the previous criteria, public servants shall demonstrate their planning and organizational ability, the supervision monitoring and guidance ability, the ability for crisis management, decision making and the performed results according to the guidelines issued by the competent minister.

Reforms introduced to the evaluation system

The text of the new civil service law set the parameters to reform the performance of the state's Administrative system through developing a better evaluation measure. According to a meeting with a high public official in mid-September 2018, the Central Agency for organization and Administration was in the process of determining a clear criteria for evaluation to improve the transparency and effectiveness of this important measure.

-The Promotion System and Reforms

There are many problems associated with the promotion system, since it was mostly based on seniority even for the top managerial positions resulting sometimes in choosing less competent public officials. The promotion system did not allow the attraction of new skills of competent candidates from the private sector to fill those positions. It was only restricted on those working in the State's administrative system. Therefore, the promotion system directly contributed in reducing the level of performance of the State's administrative body and in the widespread of corruption since promotion was not related to competency or evaluation results. There were no reasons to develop one's capacity or excel in the work done since promotion was a matter of time. Therefore, to achieve the development goals and to improve the performance of the state administrative apparatus, the promotion system had to be reformed.

Since the evaluation system was not effective and did not have a strong foundation, the promotion system was mostly based on seniority which killed all spirit of innovation and competitiveness among employees and negatively affected the performance level.

Article (37) of the civil service law 47 for the year 1978 determined two means for promotion in the state's administrative system: either by selection or by seniority. The promotion by selection is based on the public servant's performance. The promotion by seniority is based on the public servant's order on the list. The promotion by selection is mainly in the upper managerial level.

Reforms in the promotion system

Article 29 of the new civil service law (law 81 of the year 2016) and articles 88-91 of its executive regulations set parameters and conditions for the promotion system. According to the new law the promotion by selection based on merit and performance is the default; however, as per article (90) of the executive regulation, the public body can adopt the promotion system

based on seniority according to a decision by the competent authority or whoever it delegates based on the human resources recommendations.

Therefore, the text of the law has set the foundation to improve the promotion system which should be reflected also in the performance of the state's administrative body allowing more competitiveness. This article also allowed for more innovation by allowing employees from the public sector to apply for job vacancies in the upper and middle managerial levels and to compete with existing public servants.

Although allowing employees from the private sector to apply to job vacancies in the public sector enhances creativity, innovation and competitiveness, public servants should also be offered adequate training to gain equitable competitive opportunities with those applying from the private sector. It is difficult to measure the results of the reforms based on the new civil service law and its executive regulation because it is very recent. However, if applied efficiently it will contribute in improving the quality of the public service and will develop the performance of the state's administrative body.

- Salaries and Wages Structure and Reforms

Salaries and wages represent an important explanation (not justification) for the widespread corruption in the state's administrative body, especially petty corruption. There are two main problems associated with the pay system in Egypt: the low pay level, and the inequitable distribution of salaries. The pay system is complex and includes many variables in its calculation which allows for much disparity in the salaries. The problem of the low pay level became more serious because of the increasing level of inflation in Egypt and the decrease of the purchasing power of the money.

Public leaders were aware that they would not be able to achieve their perceived goal in improving the performance of the State administrative body and deliver a better quality of public

services without reforming the pay system and realizing more equity in the distribution of salaries.

Article (4) of the new civil service law No 81 of the year 2016 and the presidential decree number 63 for the year 2014 were issued with the aim of organizing the pay system. The main aim of the reforms is to increase the level of the wages and salaries to encourage employees to perform better and to guarantee a better quality of life and an equitable distribution of the wages and salaries. According to a top public official, reforms in the pay system aim mainly at closing the gaps and providing equity and equality between public servants executing the same functions and having the same work load. Therefore, reforms represent an important step in realizing the national anti-corruption strategy in improving the performance of the State administrative body.

It is worth noting that increasing the pay levels has to be viewed as just a part of the efforts to curb corruption. A study has shown that the level of salaries is not enough to control corruption. If corruption is not controlled, the purchasing power of the money will decrease since the inflation level will increase.⁸⁸² This environment may be inviting for the involvement in corrupt deals.

- Training Employees in all the Administrative Levels and Reforms

Providing effective training programs is an important step towards investing in the human capital, improving the quality of the public service, and in developing the performance of the state administrative body.

In Egypt, the lack of a proper training program is a major obstacle in improving the performance of the state administrative body and in delivering better quality of public services. This does not mean that there are no training programs offered to the employees in the public

⁸⁸² Al-Marhubi, *supra note* 290.

sector. However, the existing training programs are mostly ineffective since they are not based on a clear assessment of the public organizations' needs. The main reason for this defect is a result of the inefficiency of the evaluation system (as explained earlier) which does not provide a clear picture of the trainees' needs to enable the leaders to design better fitted training programs. In spite of the existence of a large number of training centers, according to Egypt information portal,⁸⁸³ in addition to the in house training centers in the majority of the 144 important public institutions, and 33 ministries and the amount of money dedicated in the national budget,⁸⁸⁴ yet the outcome of this investment is not as it should be due to the lack of a clear assessment and identification of the state administrative body needs.

Training is one of the most important pillars for institutional development and the successful implementation of strategic plans. To develop the capacity of the public servants in Egypt, article 7 of the new civil service law explicitly highlighted the importance of providing adequate training to the public servants. It necessitated the creation of a human resources development unit following the acceptance of the CAO to train and develop the capacity of the employees in the public institution, it may also offer external trainings options after receiving the acceptance of the head of the CAO.

Article (10) of the executive regulation of the civil service law also set clear parameters to improve the public servants capacity building programs by requiring the human resources (HR) department in every organization to assess the institution's needs after its approval from the competent authority and sending a copy to the CAO. Articles (12), (13), and (14) set the conditions for evaluating the trainings results on the trainees, its ability to fulfill the public institutions' needs, and it requires the human resources department to prepare an annual report to assess the realization of the training plan objectives, and to compare the results of the training program with the previous years' achievement results. In addition, the human resources

⁸⁸³ "دليل مراكز التدريب", online: <<http://www.eip.gov.eg/Directories/Directory.aspx?id=68>>. (last accessed 19 November 2018)

⁸⁸⁴ *Ibid.*

department is required to prepare the following year's training plan based on previously analyzed achieved results, and statistics.

All studied countries' experiences have shown the importance of providing effective training programs as part of the country's efforts to curb corruption in addition to helping avoid resistance to the reforms and changes when they do not have the opportunity to acquire the required learning or training to bring the desired reforms. This research recommends that the CAO require the HR department in the Egyptian state administrative body to design training programs that help public sector employees to develop a culture of integrity according to the institution's work nature to comply with the national Strategy to fight corruption.⁸⁸⁵

However, this research found it difficult to assess the results of the reforms introduced since they hadn't been applied till quite recently.

- The Simplification and the Automation of the Administrative Procedures

Reducing human interaction and simplifying the procedures are paramount for developing and improving the quality of the public services. It is worth noting that the process of automation of the public services primarily necessitates first, the simplification of the procedures; in other words, it needs to become part of the process of the automation.

In order to comply with the Strategy's vision, the Ministry of Planning and Monitoring and Administrative reforms (MOPMAR) put the simplification and automation of the administrative procedures as part of "the governmental services development program."⁸⁸⁶ According to the MOPMAR website, the aim of the program is to improve the

⁸⁸⁵ Employees need to be trained to face challenges and to take decisions that are based on the principles of integrity when they are tempted to engage in corrupt deals.

⁸⁸⁶ "وزارة التخطيط والاصلاح الاداري", برنامج تطوير الخدمات الحكومية | وزارة التخطيط والاصلاح الاداري, online: <<http://mpmar.gov.eg/>>. The information related to the automation of the public services were retrieved from the MOPMAR website. Last accessed in December 2018

government performance to become more effective and efficient through the automation of public services in order to offer a better quality of services to citizens. It also aims at enabling citizens to access information, supporting decision making and contributing in the formulation of policies in a way that is more understanding to their needs. The process helps in enhancing the trust between the government and the citizens and to provide more transparency, reduce corruption, maximize the revenues, and decrease the expenditures.

- Projects Associated with the Automation of the Public Services

The automation of the public services in Egypt represents an important step towards achieving the government's goals and commitment to control corruption and to improve the performance of the state administrative body and offering better quality of services.

The projects associated with the automation of the public services are:

- Egypt's government services' portal

Egypt's government services portal allows citizens to access 72 governmental services online.

- Automation of the registration offices

The automation of the registration offices is an important step towards protecting the property rights. The program contributed in the automation of 28 registration offices and made two online services available on the government services portal and on the mobiles.

- Automation of the traffic prosecution services

The project contributed in the automation of 175 traffic units, 229 traffic prosecutions, 11 customs offices, in addition to the possibility to access 3 online services offered by the traffic prosecution on the government services portal and on the mobile. Moreover, it created a unified database for the traffic system in 50 traffic units.

- The development the citizens services in the municipalities and other civil services

The project contributed in the automation of 90 municipalities that offers 110 services. It also allows citizens to access 11 services in (cities, and neighbourhood) and 15 other services in the municipality units on government services portal and on the mobile. It also contributed in the automation of 15 new cities from a total of 22 new urban cities.

- The government services channels: mobile services

It aims at creating a mobile application to enable citizens to access all the governmental services. The project contributed in providing 31 mobile services through the “Egypt services” mobile application, 26 municipal services, 3 traffic services and two services for the real estate property authority.

- The Implementation/Activation of Information Sharing Technology Between Different Governmental Institutions. (the G2G Project)

According to the Ministry of Planning, Monitoring and Administrative Reforms website, the Egyptian government launched the “G2G integrated government services system” which aims at facilitating the communication and the data transfer between different government institutions in a secure way. The aim is to facilitate the delivery of public services to the citizens, support the decision making and controlling corruption.⁸⁸⁷ Thus, the Egyptian government is taking active measures to control corruption through the automation of the governmental services and the state administrative body. Facilitating the communication and the information sharing between the different governmental bodies helps in reducing fraud and provides a better management of the information.

⁸⁸⁷ وزارة التخطيط والاصلاح الاداري، منظومة الخدمات الحكومية المتكاملة | نتائج البحث | وزارة التخطيط والاصلاح الاداري online: <<http://mpmar.gov.eg/?>>.

According to the preset indicators, the authorities responsible for applying the first objective succeeded in fulfilling some of the indicators to achieve the designated goal in the pre determined time frame since it issued the new civil service law in November 2016, and an amended salaries chart, the allocation of more resources for raising the public servants capabilities,⁸⁸⁸ and the new organizational structure was part of the public service reforms vision.⁸⁸⁹

Realization of the objective based on the indicators is an important achievement to be celebrated. However, it is worth noting that realization of the objective is not a matter of a checklist where we can put a mark upon the completion of an indicator. That is why this research studies how achieving the indicator contributed in the realization of the main objective of improving the performance of the public service, and the governmental and public institutions in order to achieve the main goal of the Strategy, namely fighting corruption. The question here is whether or not the new civil service law, the new organizational structure and the increased allocation in developing the public servants' capacities contribute to the improvement of the civil service and in turn to controlling corruption?

Although the evaluation is quite difficult at this stage since the law was promulgated in 2016 and the executive regulations were issued in 2017 and as discussed before the revision of the organizational structure is still in process and the CAO is still in the process of setting the criteria for public servants evaluation,

⁸⁸⁸ <http://tceg.caoa.gov.eg/user/book/PB7.pdf>.

⁸⁸⁹ The degree of the implementation of the organizational structure is not tested because it was not completed until December 2018.

A.2- Enhancing the Transparency and Integrity Principles in all Aspects of the State Administrative Body

Fighting corruption can never solely rely on punishing violators and rewarding those who act with honesty and integrity. To guarantee the sustainability of the reforms, policy makers also have to work on enhancing and planting principles of transparency and integrity in the state administrative system in particular and the public in general, in addition to promulgating laws to punish violators

When Buenos Aires mayor decided to increase the monitoring measures in order to decrease the opportunities of corruption in the purchase of some medical supplies, the increase in monitoring resulted in a decrease in the level of corruption in this sector; however, when the intensity of the monitoring measures decreased, the corruption level was also affected.⁸⁹⁰ Therefore, putting this objective among the ten main aims of the national anti-corruption strategy reflects the awareness of the political leaders and the policy makers of the importance of those principles to guarantee the sustainability of the results attained.

Enhancing the Transparency and Integrity Principles in all Aspects of the State Administrative Body is a short-term goal. It was perceived to be implemented in 2015. For this objective the implementation policy consists of:

- Enforcing the Public Servants' Code of Conduct
- Enforcing the Conflict of Interest Law and the Automation of the Declaration of Assets
- Access to Data and Information Mandatory but with Considerations of Public Security and Citizens' Confidentiality
- Making the Regulatory Agencies' Reports Available According to the 2014 Constitution and the Governing Laws

⁸⁹⁰ Tella & Schargrotsky, *supra note* 140.

- Raising Awareness About Regulatory Bodies and their Roles in the Fight Against Corruption.
- Publishing the National Budget in a Simplified Manner
- Creating Websites for all Governmental Entities and Linking them Together
- Fighting Corrupt Practices in Different Governmental Sectors and Decreasing the Government's Expenditures

The authorities responsible for the execution of this objective are:

- The Cabinet of Ministers
- The Ministry of Planning, Monitoring and Administrative Reforms
- The Internal Monitoring department in the different ministries
- The Central Auditing Organisation
- The Central Organisation for Planning and Administration

The Progress Indicators:

- Tying some compensations with the employees' compliance with the code of conducts
- The automation of the declaration of assets
- The promulgation of the Right to Information Act
- Renewing the websites of the Administrative Apparatus of the State
- The Amendment of the Procurement Law
- The progress reports prepared by NCCCC
- The surveys, polls and questionnaires

A.2.a - Enforcing the Public Servants' Code of Conduct

- A Newly Drafted Code of Conduct

The code of conduct that was meant to be applied to all the employees in the state administrative body was issued in 2014. The text of the code of conduct was drafted according to:⁸⁹¹

The Egyptian Constitution 2014

1. The Egyptian civil service law
2. The administrative norms
3. The executive regulations
4. The international organizations principles especially the UNDP and OECD
5. The basic principles of human rights
6. The code of conducts applied in a number of countries
7. The UNCAC

Drafting the code of conduct for the employees in Egypt's administrative body is considered one first step in demonstrating the importance that the political leaders are giving to consolidate the principles of integrity and honesty. Later on, in order to ensure the implementation of the code of conduct, the State required the civil servants, according to the civil service law No 81 of the year 2016 executive regulations article No 149 (9), to respect and abide by the requirements and regulations as stated in the code of conducts. In addition Article (149) and (150) of the same law explain the civil servants' obligations to execute their responsibilities according to the principles of honesty and integrity. Thus, drafting the code of conduct in 2014 and stressing the importance of abiding by its requirements in 2016 are important measures to consolidate the principles of integrity, however, they do not solely guarantee the implementation of the code of conducts. It is important to find effective measures to guarantee its implementation.

⁸⁹¹ (وزارة التخطيط والمتابعة والإصلاح الإداري, مدونة السلوك الوظيفي للعاملين بالجهاز الإداري للدولة بجمهورية مصر العربية (2014) <https://manshurat.org/node/11067>

The Strategy states that one of the indicators used to measure the execution of the second goal, namely – Enhancing the transparency and integrity principles in all aspects of the State Administrative Body- is to tie some of the incentives granted with the degree of compliance with the code of conduct. Although the civil service law did not tie some incentives with the degree of performance of the code of conducts, this could not be a reason for the lack of its implementation.

- Tying the Employees 'Incentives to the Code of Conduct

One of the first steps to create a culture of integrity is to provide incentives for civil servants to apply the code of conduct. Primarily, the civil servants need to be well informed about the existence of this code of conduct and about the state's expectations from drafting it and training employees to apply it. Training has to be tailored in accordance with the nature of the service that the different public institutions offer and the different hierarchical levels of employees. The challenges a bureaucrat and/or a high public official face in the same public institution may differ.

Informing employees about the existence of the code of conducts and their contents, training employees to think and make decisions according to the principles of integrity and creating a culture of integrity in the public institutions are the most important guarantees to enforce the code of conducts. Therefore, to consolidate the principles found in the code of conducts on the personal and institutional level. Killingsworth argues that when helping employees to make decisions based on values and positive group norms, compliance rates increase compared to an incentive-based compliance program.⁸⁹² He explains that “Values, plus group norms and commitment equals voluntary compliance.”⁸⁹³

-The Degree of Dissemination of the Code of Conducts

⁸⁹² Killingsworth, supra note 708.

⁸⁹³ *Ibid* at 972.

Websites of Egypt's administrative body were found to have no information about the code of conduct. The code of conduct is not posted, except on a very limited number of public agencies' websites. For example, it is posted on the Damietta Port Agency⁸⁹⁴, the central Agency for Organization and Administration and the Central Auditing Organization. This shows that there is no coordination on the national level among the different institutions and agencies in the State Administrative body to implement the code of conducts and to work accordingly on creating a culture of integrity.

A.2.b -Enforcing the Conflict of Interest Law and the Automation of the Declaration of Assets.

According to the law No 106 of the year 2013 (official gazette No (45) (bis) (a) dated 13/11/2013 it is prohibited for public officials to engage in acts that imply /reflect conflict of interest.⁸⁹⁵

- Conflict of interest found in the "conflict of interest law"

The promulgation and enforcement of the conflict of interest law represents an important step in enhancing the principles of transparency and integrity. Although it is not the aim of the research to interpret or evaluate the law, the research found that some articles in the law represent a manifestation of conflict of interest. For example, Article (18) of the law stipulates that the council of ministers shall be responsible for issuing the necessary regulations after consulting "the committee responsible for the prevention of corruption". The law is promulgated to prohibit the conflict of interest and article (18) gives the responsibility of issuing the necessary regulations to the cabinet of ministers whose members are supposed submit to the provisions of

⁸⁹⁴ "هيئة ميناء دمياط | مدونة السلوك الوظيفي للعاملين بالجهاز الإداري للدولة بجمهورية مصر العربية"، online: <https://www.dpa.gov.eg/ar/?page_id=1993>.

⁸⁹⁵ <https://www.egypt.gov.eg/arabic/laws/download/newlaws/%D9%82%D8%A7%D9%86%D9%88%D9%86%20%D8%B1%D9%82%D9%85%20%20106%D9%84%D8%B3%D9%86%D8%A92013.pdf>

this law. The question is how the authority responsible for issuing the regulations can be the authority meant to submit to the provisions of the law and the regulations that it will issue?

Another manifestation of the conflict of interest in this law is that according to Article (4) the president of the state shall be responsible for choosing the members without even determining special criteria for the selection of the members of this committee. The law necessitates that the President determine the functions of the “the committee responsible for the prevention of corruption”. Corruption may result as members of this committee would possibly tend to prefer to prove their loyalty to this President who chose them rather than do what needs be done.

To ensure the effectiveness and the impartiality in the application of “the conflict of interest law”, it is important to review articles (4) and (18) of the law to avoid all forms of conflict of interests during its application.

- The Automation of the Declaration of Assets

According to the law, public officials are required to present an annual asset disclosure report, however, the automation of this has not yet been initiated. The realization of the automation will realize in a more effective tool to monitor important changes in the designated assets.

A.2.c –Access to Data and Information Mandatory but with Considerations of Public Security and Citizens’ Confidentiality

The principle of the freedom and accessibility of information is a cornerstone in fighting corruption. The international law laid special emphasis to this important principle. For example, article (19) of the Universal Declaration for Human Rights stipulates that: “Everyone has the

right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Article (13) of the UNCAC explains that the accessibility of information is one of the important tools in fighting corruption. Article (68) (1) of the 2014 Constitution considers the right to access information an independent right guaranteed for all citizens. It stipulates that:

Information, data, statistics and official documents are owned by the people. Disclosure thereof from various sources is a right guaranteed by the state to all citizens. The state shall provide and make them available to citizens with transparency. The law shall organize rules for obtaining such, rules of availability and confidentiality, rules for depositing and preserving such, and lodging complaints against refusals to grant access thereto. The law shall specify penalties for withholding information or deliberately providing false information.

The question is how accessible the data and information in Egypt knowing that Egypt’s legal framework does not include a Right to Information law.

Law (121) of the year 1975 governs the conservation of the state official documents organizing the way they are published. The legislator accorded the President of the State the right of organizing the conservation of the official documents and the means of publishing them or deciding upon their privacy, and prohibiting them being published for up to 50 years. Since the president of the state is also the head of the executive authority, the legislator gave the responsibility of determining the nature of the official documents and the degree of confidentiality to the executive authority, giving it (the executive authority) the right to define whatever of its work or activities as confidential.

The presidential Decree No (472) of the year 1979 allowed each head of an institution the responsibility of creating the system that ensures preserving the confidentiality of the documents and allocating a place to preserve the documents and keeping a registry with the name of the employees who are entrusted with these documents and their degree of knowledge

with the contents of those documents.⁸⁹⁶ The presidential decree No 2915 for the year 1964 concerning the creation of the CAPMAS gave the authority to the agency concerning the publishing of publications, all the statistical data and results conducted by the scientific institutions, universities and the governmental entities, and some units in the public sector whatever the subject of the copy or the study. It even extended this monopoly to include the data, information, and statistics of the private sector. Prohibition is not limited to the confidential data, information or statistics by its nature or according to the provisions of the law or other instructions. Instead, it covered all the data, information and statistics to include everything related with the administrative work and activities, and in some cases the private sector as well.

Although the right to access information should not be viewed as an exclusive right, there are exceptions based on the necessity of protecting a more favourable right or interest. This principle was affirmed in Article (19) of the International Covenant on Civil and Political rights, which stipulates that the right to information may be subject to restrictions provided that those restrictions are stated by the law and are necessary for:⁸⁹⁷

- (a) For the respect of all the rights and reputations of others;
- (b) For the protection of national security or of public order, or of public health or morals.

Restrictions have to be made in accordance with the provisions of the law to protect the national security or the citizens' personal information and should not be left to the discretionary power of an authority or agency. Accordingly, Egypt's leaders are urged to reconsider the necessity of issuing the right to information Act to comply with Article (68) of the 2014 Constitution which considers the right to access information to be an independent right guaranteed for all citizens, and with the Country's international commitments according to Article (13) of the UNCAC which stresses the importance of the right to information as vital to

⁸⁹⁶ Michel, "الجمهورية رقم 472 قرار رئيس الجمهورية لسنة 1979", online: *Uni Lawyers* <<http://unilawyerseg.com/?p=302>>.

⁸⁹⁷ United Nations Human Rights Office OF THE HIGH COMMISSIONER, "OHCHR | International Covenant on Civil and Political Rights", online: <<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>>.

fighting corruption. Finally, promulgating the right to information Act is paramount to reinforce the principles of integrity and transparency while always taking into consideration the importance of protecting public security.

A.2.d - Making the Regulatory Agencies' Reports Available According to the 2014 Constitution and the Governing Laws.

Article 217 which organizes the Reporting by independent bodies and regulatory agencies, reads as follows:

Independent bodies and regulatory agencies present annual reports to the President of the Republic, the House of Representatives and the Prime Minister at their time of issuance. The House of Representatives considers such reports and takes appropriate action within a period not exceeding four months from the date of receipt. The reports are presented for public opinion.

The regulatory bodies' reports are not available to the public according to the provisions of Article (217) of the Constitution. In order to comply with the provisions of the constitution, it is important to reconsider making those reports available to the public. This will be a clear enforcement of the principles of transparency, and accountability. Citizens have the right to review the reports and to have enough information about the state's efforts to control corruption. The research finds that it is important to facilitate publishing the regulatory reports as prescribed by the provisions of the 2014 Constitution.

A.2.e -Raising Awareness About Regulatory Bodies and their Roles in the Fight Against Corruption.

The website of the ACA and the Central auditing Organization provide information about their role in fighting corruption according to the Constitution and the respective governing laws. They also give citizens the opportunity to post their complaints or suggestions online. Over and above this, the ACA provides citizens with a detailed list of the types of complaints that it is entitled to deal with. It also gives the opportunity to the citizens to use different channels

to present their complaints (by phone, fax, hotline). ACA website states that the complainant will receive an update about the review results through a text message on the mobile number provided. The website of the central Bank also posts its governing law and the role of the money laundering unit. The research stems from the belief that if all websites follow the same methodology, enormous progress could be achieved in the fight against corruption.

A.2.f -Publishing the National Budget in a Simplified Manner

In an attempt to enforce the principles of integrity and transparency and to simplify the information and to make it more accessible, the Ministry of Finance published the national budget for the financial years 2014/2015 through 2018/2019 on its website in a simplified way under the theme “it is your right to know your country’s budget.”⁸⁹⁸ According to the open Budget Index for the year 2017, Egypt’s ranking has improved. The open Budget index measures and compares the transparency level that governments in different countries provide in terms of the details about the budget information. It ranks countries according to the scores they receive from 0-100 (where 100 denotes the best ranking).⁸⁹⁹ The 2017 open Budget Index report for the year 2017 shows that Egypt scored 41 out of 100 compared to 16 in 2015.⁹⁰⁰ Although according to the ranking, Egypt continues to provide insufficient information, however, it is still an important improvement to celebrate.

Publishing the national budget in a simplified manner is an important step towards setting principles of accountability. However, according to the open budget Index : “Without opportunities for citizens’ active participation — particularly citizens from marginalized or vulnerable groups — budget systems may only serve the interests of powerful

⁸⁹⁸ “موازنة المواطن”، وزارة المالية، online: <<http://www.mof.gov.eg/Arabic/Pages/Mizania%20mowten.aspx>>.

⁸⁹⁹ International Budget Partnership, “Open Budget Index Rankings | Open Budget Survey”, online: <<https://www.internationalbudget.org/open-budget-survey/open-budget-index-rankings/>>.

⁹⁰⁰ *Ibid.*

elites.”⁹⁰¹Therefore, it is important to encourage citizens to participate in decisions related to the allocation of resources in the budget and to use the information to ask for their rights and hold the government accountable in case of deviation. Moreover, it is important to provide more transparency and details of the budget to improve the country’s score and to fulfill Egypt’s commitment and goal towards enhancing principles of transparency and integrity.

A.2.g - Creating Websites for all Governmental Entities and Linking them Together.

The government has created the Egypt services portal. ⁹⁰²It is a very well-developed website and provides information about all ministries and public institutions, and directs the user to their respective website. Again, it is also important to raise people’s awareness about the existence of this government’s service portal.

A.2.h - Fighting Corrupt Practices in Different Governmental Sectors and Decreasing the Government’s Expenditures.

This goal appears to be very vague to the research. However, since one of the indicators set to measure the performance is to amend the procurement law, and since procurement is one the sectors that are more vulnerable to corruption and that assimilate a high portion of the government’s expenditures, therefore, the research limits the study of the governmental expenditures to the procurement sector. Moreover, it is difficult to access information about the government’s expenditures in each sector. The research studies what was actually done to reform the procurement sector.⁹⁰³

⁹⁰¹ *Ibid.*

⁹⁰² “Egypt’s Government Services Portal - Ministries Directory and Sites”, online:
<<http://egypt.gov.eg/english/guide/directory.aspx>>.

⁹⁰³ A new Procurement law was promulgated a short time before submitting the research. The Law 182/2018 was published on the 3rd of October 2018 in the official gazette.

- The Government Procurement Portal

Given the high rate of corruption in Egypt and the vulnerability of the procurement sector to offer corruption opportunities, especially after a number of important corruption cases were exposed to the public, it is important to ensure an effective procurement system as part of the important reforms that the country is undertaking to curb corruption. Therefore, in an attempt to reduce corruption by limiting the interaction between the private sector and the public officials, and to publish more widely the government needs to create more competition opportunities, the Egyptian government, represented by the ministry of planning and administrative Development in collaboration with the General authority of governmental services, designed the Government procurement portal.⁹⁰⁴

The government procurement portal is the first of its kind in the Middle East to offer the possibility for the government to publish its purchasing needs. The portal offers the opportunity for the suppliers to present their offers on line after registering themselves. It offers technical support services to the suppliers to facilitate the registration process. It also offers the opportunity for the suppliers to present their offers online, and even the evaluation is performed electronically. It publishes the results of the bids and the contract award winners. It also publishes the debarred companies list, which lists the companies that are prohibited from participating in the public procurement. Some public procurement processes are restricted to the local level whereby only local suppliers and contractors are allowed to participate, others are offered on the international levels, which offer more competition opportunities.

The Electronic portal represents a government initiative towards enhancing more principles of transparency, competition, and integrity to comply with the UNCAC requirement and to adopt the national strategy 2014-2018 mechanisms which aims at “ the development of work systems in a manner that stems corruption.” It reflects the government true will to develop the work system, and improve the operation strategies where the system is more vulnerable to

⁹⁰⁴ “Government Procurement Portal”, online: <<https://etenders.gov.eg/AboutUs>>. Last accessed July 25 2018

generate corruption opportunities. Taking similar measures to encourage competition to ameliorate the business environment helped in improving the Egypt's international ranking.

According to the Global competitiveness report developed by the World Economic Forum, Egypt moved from 115 in 2017 to 100 in 2018.⁹⁰⁵ However, corruption remains one of the important barriers for further improvement. Hence, taking effective measures to reduce the level corruption can help Egypt make further improvement.⁹⁰⁶

According to the OECD report, Egypt is urged to take measures to ensure the integrity of the public procurement agencies. The OECD also recommended that the authorities provide “further specifications on the enforcement of provisions regulating both the role of intermediaries and the debarment from procurement contracts of persons involved in corruption.”⁹⁰⁷ In reviewing the amendment in the public procurement and tender law, the research found that the debarment from procurement contracts of persons involved in corruption was applied.

The absence of a careful specification of the regulations governing the role of the intermediaries and the debarment of contracts opens the door for more corruption opportunities. Ignoring the specification on the enforcement of the role of the intermediaries can make them create more corruption opportunities. Registering the intermediaries and admitting their existence makes it easier to control them, and convict them in case of corrupt practices. The goal here is to restructure the system so as to make it less vulnerable to the creation of corruption opportunities. More enforcement of the provisions regulating the debarment of persons involved in corruption will help in deterring corruption crimes. If the text of the law is not enforced it will never bring the results it existed to realize. Similar laws, or laws derived from similar texts like

⁹⁰⁵ Trading Economics, “Egypt Competitiveness Rank | 2007-2018 | Data | Chart | Calendar | Forecast”, online: <<https://tradingeconomics.com/egypt/competitiveness-rank>>.

⁹⁰⁶ *Ibid.*

⁹⁰⁷ MENA-OECD INVESTMENT PROGRAMME, *Business Climate Development Strategy-Phase 1 Policy Assessment* (Egypt, 2009). <https://www.oecd.org/global-relations/46341460.pdf>

the GAP by the WTO, or the UNICETRAL, or the UNCAC does not yield the same results not only because of the different contexts but also because of the measures taken to enforce the law. Enacting the law is an important step to govern an activity but if it is not supported by implementation, even the enactment will lose its values. Laws are not created merely to exist but to be implemented.

Participation of all stakeholders concerned with the public procurement and tendering process is a paramount to fight against corruption in this sector. The more the private sector understands the risks associated with engaging in corruption and collusions, the more they will help in fighting against corruption. It is not just for the public interest in general but to create an environment of sustainable investment and economic growth. In addition, policy makers can collaborate with the private sector to better understand how the parallel system works.⁹⁰⁸

According to the OECD report:

The Egyptian government is encouraged to involve stakeholders in public procurement. Companies increasingly understand their interest and role in contributing to the fight against corruption in procurement. Their awareness and involvement can be seen as an indicator of success. Civil society also plays an active role in screening proceedings and in helping to develop and apply anti-bribery mechanisms.⁹⁰⁹

Therefore, according to the OECD recommendations, the Egyptian government is to encourage more participation between the government and the stakeholders in the public procurement to enhance the collaboration and raising awareness. However, the new amendments of the public procurement law in 2013 did not specify any measures to increase the

⁹⁰⁸ Sometimes looking at the problem from the private sector perspective can help policy makers to implement better monitoring measures to curb corruption. It is usually the competitors who didn't win the bid or to whom the contracts were not awarded will be more cooperative in explaining how the parallel system works. Therefore, a better collaboration will result in a better formulated strategies instead of using strategies that may or may not succeed.

⁹⁰⁹ MENA-OECD INVESTMENT PROGRAMME, *supra* note 901 at 33.

collaboration between the parties of the public procurement contract. Furthermore, there was no evidence that innovative tools like integrity pacts were introduced to reduce the vulnerability of this sector to engage in corrupt deals. Moreover, the NGOs have not recorded any active participation with the government and stakeholders to assist in monitoring corruption and raising awareness about the problems associated with corruption. The lack of transparency and participation of the NGOs in monitoring and raising awareness about the corruption risks put the competition at stake since less companies will have trust in the system and will be ready to participate in the procurement process.

A recent report has shown that the lack of participation of the civil society to curb corruption persists. According to the Investment Climate Statement Report “While NGOs are active in encouraging anti-corruption activities, dialogue between the government and civil society on this issue is almost non-existent”.⁹¹⁰The report also shows that “More broadly and increasingly over the past year, while government officials publicly asserted they shared civil society organizations’ goals, they rarely cooperated with NGOs, and applied relevant laws in a highly restrictive manner against NGOs critical of government practices.”⁹¹¹ Therefore, since according to this report and the practice in the ground such a dialogue is non-existent, therefore intentions to collaborate deems more difficult to realize. The less the likelihood that the government invites the NGOs to participate the less effective monitoring tools it will allow in its system. Furthermore, to increase collaboration and to take more effective integrity measures, the law should prohibit the conflict of interest in the tendering process.

Therefore, although Egypt has taken important steps toward developing its work system to reduce corruption as one of the major mechanisms for drawing up the Strategy in the procurement sector introducing the E-procurement helped in improving its global

⁹¹⁰ exportgov, “Egypt Country Commercial Guide Egypt”, online: <<https://www.export.gov/article?id=Egypt-Corruption>>.

⁹¹¹ *Ibid.*

competitiveness ranking according to the 2018 report,⁹¹² Yet further reforms need to be taken into consideration. The sum of money allowed to be used by public organizations, 500,000 Egyptian pounds for the purchase of movables, services, consultations and transportation contracts, and one million Egyptian Pounds for construction purposes according to the Article (7)(1) of the law 82/2013 to effectuate direct contract without going to the public procurement process is relatively high, which opens the door to more corruption opportunities, and favouritism.

Article (7)(1) of the law 98/2013 stipulates that: Direct contracting may apply in urgent matters that cannot endure the lengthy procedures of a tender or a practice; however, it requires certain approvals and the level of approval is impacted by the contract value as follows:

- for purchase of movables, services, consultations and transportation contracts with a value that does not exceed 500,000 Egyptian pounds and for construction works with a value of 1 million Egyptian pounds, the approval of the head of the government authority is required;
- for purchase of movables, services, consultations and transportation contracts with a value that does not exceed 5 million Egyptian pounds and for construction works with a value of 10 million Egyptian pounds, the approval of the competent minister or governor is required; and
- for contracts with a value that exceed the above-mentioned values, the approval of the prime minister is required.⁹¹³

According to the Article (7)(1) of the law 82/2013 governing the public procurement process, although procuring institutions are required to put tenders in public for competitive

⁹¹² Trading Economics, “Egypt moves up 15 ranks in Global Competitiveness Report - Egypt Today”, online: <<https://www.egypttoday.com/Article/3/25053/Egypt-moves-up-15-ranks-in-Global-Competitiveness-Report>>.

⁹¹³ “Egypt Public Procurement – Getting The Deal Through – GTDT”, online: *Get Deal Through* <<https://gettingthedealthrough.com/>>. This version of the law was used because it is translated from Arabic to English.

bids, there is a relatively ambiguous explanation to the meaning of urgency contract that can't endure the tendering lengthy procedure. This lack of clarification and specification of the cases in which the public institution is allowed to opt out for direct contracting opens the door for more politically driven decisions, abuses of power, and corrupt practices. Furthermore, the monitoring system to assess the urgency of the contract is very limited in scope since it only allows an internal form of oversight and approval. It is true that legislators are always faced with the dilemma to find the right balance between ensuring that the law and the rules governing the procurement process are clear to reduce corruption and granting public procurement entities the discretionary power to satisfy the public institution needs in a timely and effective way. Sometimes, when the laws are rigid and strict, they may allow the misuse of the public funds while justifying it with the strict laws. Moreover, providing discretionary power to the public officials in the procuring entities may result in more efficient and effective contracts when those officials are competent and the system is supported with an effective monitoring system.

According to Banfield :“Narrowing discretion...while preventing the agent from doing (corrupt) things that are slightly injurious to the principal it may at the same time prevent him from doing (non-corrupt) ones that would be very beneficial to him.”⁹¹⁴ Therefore, it is beneficial to grant public officials discretionary power to take important decisions, however it has to be supported by a monitoring and accountability system. The problem is not in granting public officials a discretionary power. It is in the degree of this discretionary power and whether public officials are held accountable when abusing their discretionary power or not.

The article (7)(1) of the law 82 /2013 lacks clarity and gives wide discretionary power since the amount of money allowed to choose direct contracting is high, and it only requires the approval of the head of the government authority or the competent minister or governor depending on the sum of money, and it even gives the absolute right to the prime minister not to chose the tendering process in case of the urgency of the need without even further monitoring

⁹¹⁴ Edward Banfield, “Corruption as a Feature of Governmental Organization” 58 J Law Econ, online: <<https://www.jstor.org/stable/725047>> at 587–605.

or review to his decision from another authority or committee. To ensure the consolidation of transparency, integrity, and competition right a Public Procurement Bureau should be established to assess the urgency of the contracts that chooses a procedure other than the open tendering process, and to monitor the execution of the contract. Power corrupts especially in a vulnerable sector like public procurement, therefore it has to be administered with care, and oversight is the first and most important measure that need to be taken to counteract the effects of the possible abuse of power.

Applying this article of the law may open the door for more corruption opportunities. This article of the law gives full monopoly, and discretionary power to the head of the government authority, the minister, or the prime minister depending on the conditions to take the decision without monitoring, evaluating or reviewing the decision or being accountable to any other authority or committee.

- A New Law: A New Beginning?

In order to better manage the government's expenditures, and to comply with the Strategy requirements to control corruption, a new procurement law was promulgated. The law 182/2018 was promulgated and published in the official gazette (Chronicle 39 (bis)(c) on 3/10/2018). In this section, the research does not interpret the new law; instead, it highlights the important articles in the law that aim to tackle corruption and to improve the performance of the procurement sector, which in turn encourage a better business environment.

The new law aims to enhance the principles of transparency, monitoring and accountability. It introduces new concepts that were not covered in law 89/1998 and its amendments according to law 82/2013. The law 182/2018, in Article (1) explicitly prohibits engaging in corrupt deals, and also covered the concepts of collusion and fraud. Article (2) stresses the importance of enhancing principles of governance, transparency, integrity, free competition, equal opportunities, and avoiding the conflict of interests, collusion and monopoly when dealing with governmental agencies. Article (20) stresses the importance of publishing the government's purchases requests on the government procurement portal, except in the cases

when the purchasing needs have to take into account public security considerations. Finally, to further enhance the principles of monitoring and accountability, Article (90) stipulates that the State council review the preliminary contracts, the tender specifications and procedural guidelines.

Although the articles stipulated in the new law set the foundation for a more transparent and equitable procurement system, the participation of civil society and the introduction of the integrity pacts may ensure a better application of the law and achievement of its intended goals as set by the legislator.

- Developing a Better Procurement System

To ensure a better monitoring system, the participation of the civil society and NGOs particularly is paramount. Introducing integrity pact systems, which are proven to reduce corruption, and increase the level of trust between the stakeholders according to the countries' experience, can help in enhancing the principles of transparency, integrity, and competitiveness. Finally, to improve the work system, the conditions under which the emergency contract can be executed must be strictly and clearly regulated, and to ensure that the public officials will not abuse their power in this regard, it will be preferable if a committee, in which NGOs can participate as members, can review the driving reasons behind choosing this form of contract to evaluate the degree of emergency of the need and recommend corrective measures when needed.

The importance of monitoring the procurement purchases was demonstrated by a study conducted in Buenos Aires. In this study, the researchers studied the effect of wages and monitoring as a form of corruption control in the Buenos Aires hospitals supply of basic items. The researchers found that the higher the monitoring level, the better that purchasing is

administered. This shows the importance of monitoring as a measure to curb corruption in the procurement process.⁹¹⁵

Providing training to the public procurement specialist will also help in achieving the strategy goals. Sometimes, the public officials, and public servants assisting them, do not receive the adequate training to be able to assess the needs of the public institution or to conduct market research to get the best offers. They lack the experience and the technical knowledge to compete with the private sector and to respond to the public institutions needs in a timely and innovative manner. For example, they may accept to purchase expensive products with specifications that are not needed, therefore, paying more for unneeded options.

Finally, the introduction of the integrity pacts as an important tool to enhance the principles of transparency and accountability may represent an important step to encourage all stakeholders involved in the procurement process to collaborate to fight corruption.

A.3- Stipulating and Updating the Legislations to Support Fighting Corruption

Reviewing the existing laws and regulations and make sure that they are updated to comply with the country's goal to fight against corruption is an important goal that the national strategy to fight against corruption has set. Every country that successfully announced its war against corruption has promulgated new laws, amended, and updated its existing laws. It is a medium term goal to be executed

- Updating and developing the anti-corruption laws to ensure they comply with 2014 Constitution and the international conventions in various areas for example

⁹¹⁵ Tella & Schargrotsky, *supra note* 140.

- Promulgating a law to protect the witnesses, whistleblowers, victims, and the experts.
- Promulgating the right to access information Act, and amending the procurement law.
- Updating the laws governing the independence and the execution of work of the agencies responsible to fight corruption
- Updating the legislations governing the private funds law
- Updating the laws and regulation that organise public agencies' work

The authorities responsible for the execution

- The Parliament
- The Cabinet of Ministers
- The Ministry of Planning, Monitoring and Administrative Reforms
- The Ministry of Justice
- The Ministry of Foreign Affairs
- The NCCCC
- The authorities responsible to fight corruption

The Performance indicators

- The promulgation of updated laws to fight corruption
- The promulgation of the laws and regulations governing the work of the public agencies
- The follow up reports issued by the NCCCC

A.3.a - Updating and Developing the Anti-Corruption Laws to Comply with 2014 Constitution and International Conventions

This objective deals with updating and developing anti-corruption laws to comply with the 2014 Constitution and International conventions, for example:

- Promulgating a law to protect the witnesses, whistleblowers, victims, and the experts.
- Promulgating the right to access information Act, and amending the procurement law.

-The protection of Witnesses and Whistleblowers

The Egyptian legal system does not include any effective mechanism to protect whistleblowers or witnesses which results in the following:

- 1 – Most people refrain from reporting corruption cases.
2. The witnesses or whistleblowers may be harassed by the accused especially if the complaint addresses a high public official in the civil service.

Articles (25), (28), (32) and (33) of the UNCAC requires state parties to include protecting whistleblowers, victims and witnesses who report corruption acts in their national laws mechanisms.

Article (24)(1) of the United Nations Convention against Transnational Organized Crime, adopted by the Palermo Diplomatic Conference in Italy from 11 to 15 December 2000 (approved by Egypt by Presidential Decree No. 294 of 2003, Official Gazette No. 37 of 9 September 2004) stipulates that

Each State Party shall take appropriate measures within its means to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as appropriate, for their relatives and other persons close to them.

In addition, article (24) (2) provides some potential measures to be taken to protect witnesses and whistleblowers.

The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

- (a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;
- (b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means

Article(14) of the Arab Anti-corruption convention which Egypt signed in Cairo in 21/12/2010 stipulates that:

Protection of informers, witnesses, experts and victims State Parties shall provide the necessary legal protection to informers, witnesses, experts and victims who give evidence relating to the acts criminalized by the present Convention. This shall include protecting their relatives and those closely connected to them from any possible act of revenge or intimidation.

Moreover, Article (96) of the 2014 Constitution stipulates that:

“The state shall provide protection to the victims, witnesses, accused and informants as necessary and in accordance with the law.”

Therefore, according to the Constitution and the international conventions that Egypt has ratified, the State is committed to provide this protection. There was an attempt to promulgate a law that protects the witnesses and whistleblowers. The draft law presented by the Egyptian Ministry of Justice, which was approved by the Council of Ministers on February 19, 2014 but the law was never promulgated.

The research concludes that promulgating a law that ensures the protection of witnesses, whistleblowers, and victims is an urgent necessity since people engaged in corrupt deals will always have an interest in keeping the deal as secret.

- The Right to Access Information

According to Transparency International: “Information is fundamental to make informed decisions. Information is also power. Where it’s not freely accessible, corruption can thrive and basic rights might not be realized. People can hide corrupt acts behind the veil of secrecy. Those with privileged access to information can demand bribes from others also seeking it.”⁹¹⁶ Denying the right to all citizens to access information brings about an imbalance in power. This may result in the abuse of power for those few who are privileged with having access to the information. They may misuse this right either by providing false information that no one will be able to challenge due to its inaccessibility or by generating revenue and profit by selling it to those in need of it. Furthermore, lack of accessible information makes it difficult to conduct research to deal with problems.

Article (68) of the Egyptian Constitution stipulates that :

Information, data, statistics and official documents are owned by the people. Disclosure thereof from various sources is a right guaranteed by the state to all citizens. The state shall provide and make them available to citizens with transparency. The law shall organize rules for obtaining such, rules of availability and confidentiality, rules for depositing and preserving such, and lodging complaints against refusals to grant access thereto. The law shall specify penalties for withholding information or deliberately providing false information.

Thus, the Constitution laid the foundation of the Freedom of Information Act (also named as Right to information Act) as the cornerstone for good governance and as an imperative requirement for sustainable development that will help citizens and civil society organizations

⁹¹⁶ Transparency International, “Corruption by topic - Access to information”, online: <<https://www.transparency.org/topic/detail/accesstoinformation>>.

to monitor the performance of public officials and hold them accountable when they deviate from the norms. According to Transparency International “When our right to know is denied, we can’t hold decision makers or institutions to account for their actions.”⁹¹⁷

The State cannot incorporate principles of accountability before promulgating and applying the Right to information Act. The study of India’s success story showed that the right to information Act, which was promulgated in 2000, was the foundation for gaining victory in many other battles and acquiring rights. It was the foundation for the promulgation of the minimum wage act, and for uncovering the corrupt practices in distributing the subsidised grain.⁹¹⁸ Moreover, the NCHR 2016 report issued by the National Council for discussed earlier urged the legislative authority to promulgate the right to information Act. Therefore, it is imperative for Egypt to issue a right to information Act to achieve its governance goals.

A.3.b- Updating the Laws Governing the Independence and the Execution of Work of the Agencies Responsible to Fight Corruption

The responsibility of fighting corruption is not conferred to a single independent agency. Instead, According to the 2014 Constitution, the responsibility to fight corruption is assigned to a number of agencies and institutions. Egypt’s 2014 Constitution granted more independence to the auditing authorities responsible to fight corruption. The law governing the execution of the work of those authorities was amended to improve the state of their independence and to allow them to take better and more effective reactive and preventive measures to reach their goal in fighting corruption.

⁹¹⁷ *Ibid.*

⁹¹⁸ India’s success story in promulgating and benefiting from the Right to information Act was discussed in part one of the research.

This section of the research is, therefore, devoted to a detailed discussion of those changes/amendments in the 2014 Egyptian Constitution, how the laws governing those institutions consolidated those changes, and what can be done to achieve an effective independence that allows the regulatory bodies as well as the different bodies responsible to fight corruption to carry out their roles in the most efficient and effective manner.

The Egyptian anti-corruption bodies concerned with combating corruption in accordance with the Constitution and the organized legislation are extensively discussed in the following section of the research.–The anti-corruption bodies can be divided into public accountability authorities like the Administrative Prosecution Authority, the regulatory bodies like the Central Bank, the Egyptian Financial Supervisory Authority, the Central Auditing Organization, and the Administrative Control Authority in addition to other entities that have related roles.

- The Anti-Corruption Bodies

It encompasses the Public Accountability Authorities, the Regulatory Bodies,

- Public Accountability Authorities:

The Public Accountability Authorities are part of the Judicial Authority in accordance with the constitutional and legal system. They deal with public complaints, preliminary reports issued by the regulatory bodies and the official bodies to which investigations and prosecutions are entrusted. The Administrative Prosecution Authority represents the Public accountability authorities.

The Administrative Prosecution is part of the Judicial Authority and a member in the formation of the disciplinary courts. The absence of its member results in the nullification of trials dealing with corruption and deviation crimes committed by ministries, government bodies, public institutions, public corporations and companies in which the state contributes 25% or guarantees a minimum profit, and finally in private entities which carry out public works.

The purpose of establishing the Administrative Prosecution Authority was to establish a public accountability authority, with jurisdiction in investigation and accountability that holds the right to take exclusive legal action to address deficiencies through:

1. Its general authority to hold the majority of the civil service apparatus accountable in case of committing an offense or in case of negligence.
2. Assessing the seriousness of citizens' complaints about the performance of the civil service.
3. Punishing for disciplinary sanctions except for what falls under the authority of the disciplinary courts (constitutionally updated, not yet regulated).
4. Referring the cases that necessitate the deprivation of freedom penalties to the Public Prosecution. The investigation conducted by the APA shall be the original and sufficient to file the criminal proceedings and the extraction of the elements of the criminal judgment without conducting a new investigation by the Public Prosecution. C / 17 of its law, (Court of Cassation - Appeal No. 473 for the year 37 Judicial 4/5/1974)

It fulfills its accountability role through:

1. Investigating the cases of corruption and administrative deviation
2. Executing disciplinary sanctions, excluding the penalties associated with job termination and referral to the pension for those agencies or organizations subject to the jurisdiction of the disciplinary courts.

It is also responsible for executing articles (8, 9, 15, 16, 17, 18 and 19) of the UNCAC.

- The Regulatory Bodies

The Regulatory bodies are mechanisms for controlling violations and shortcomings in the performance of public utilities as a result of corruption and financial and administrative delinquency. They are responsible of preparing preliminary reports, informing competent

investigating authority and investigating causes of the shortcomings which lead to corruption. Its members are granted the judicial arrest authority.

Article 215 of the 2014 Constitution of Egypt identifies the regulatory bodies as independent bodies and regulatory agencies that have legal personality and technical, financial and administrative independence. They are consulted about draft laws and regulations that relate to their fields of operation. These bodies and agencies include: the Central Auditing Organization, the Administrative Control Authority, the Central Bank and the Egyptian Financial Supervisory Authority.

The Administrative Control Authority (ACA):

The Law No. 54 of 1964 governing the Administrative Control Authority was amended by Law No. 207 of 2017 (Official Gazette No. 41 bis (B) of 18/10/2017). According to this amendment, the ACA is an independent regulatory body subordinate to the President of the Republic. It has a legal personality, and enjoys technical, financial and administrative independence. It aims to prevent and combat corruption in all its forms, and should take the necessary measures to prevent it, to ensure the good performance of the public functions, and the preservation of public funds and other state-owned funds. ACA is also responsible for the detection of financial and administrative irregularities, detection and control of criminal offences committed or contributed by public officials and public servants. ACA is also responsible for detecting the crimes associated with the well functioning of the public services and public functions. Among its other responsibilities is to work in partnership with other agencies responsible to detect illicit gains crimes in accordance with Law No. 62 of 1975, as well as money-laundering offences stipulated in Law No. 80 of 2002 and its amendments, and the crimes stipulated in Law No. 5 of 2010 and Law No. 64 of 2010.

ACA is also responsible to disseminate the values of integrity and transparency and work on raising public awareness of the dangers of corruption and combating it, and assess the performance of those responsible for the implementation of the anti-corruption strategies.

In order to provide better training opportunities to its members and members of other agencies and authorities responsible to fight corruption, and to be able to fulfill its new roles as stipulated in the Constitution, and the amended laws, ACA established the National Anti-corruption Academy. National Anti - Corruption Academy (NACA)

NACA was established by ACA under article 55 bis of Law No. 207 of 2017 (Official Gazette No. 41bis of 18/10/2017) with a view to preparing and training members of ACA and others who are entitled to fight corruption in cooperation with other anti-corruption agencies, and regulatory authorities in other countries . NACA has the role of organizing training courses, conferences, symposia and panel discussions, to disseminate the values of integrity and transparency and to exchange experiences. It also grants international scholarship programs. It awards diplomas and master's degrees in anti-corruption policies in coordination with the Supreme Council of Universities to accredit the degrees granted.

Central Auditing Organization (CAO)

Article 219 stipulates that “The Central Auditing Organization is responsible for monitoring the funds of the state, public legal personalities and other bodies to be identified by law for the implementation of the state budget and independent budgets and for reviewing its final accounts.”

Law No. 144 of 1988 concerning the provisions of the Central Auditing Organization Law and the amended Law 197 of 1998. Article 1 states that "The Central Auditing Organization shall be an independent body with a legal personality affiliated to the President of the Republic. It is mainly intended to control state funds as stipulated in this law. It also cooperates with the People's Assembly in carrying out its duties in supervision as stipulated in the law.”

The Minister of Justice issued Decree No. 8937 of 2012 (Egyptian Chronicle No. 242 of 22/10/2012) which authorizes the technical members of CAO to inspect the documents or conduct an inventory control of the assets in its assigned jurisdiction, according to the decision to assign the members of the CAO with the status of judicial arrest for the documents they are reviewing or the inventory they are controlling. Its members are also entitled to arrest the accused in cases of flagrante delicto of any of the crimes which constitute resistance to the rulers and lack of compliance with their orders or for the infringement upon them, when these crimes occur within their jurisdiction and during or due to the performance of their jobs.

It is worth noting that the 2014 Constitution extended the responsibilities of CAO concerning the the state budget and independent budgets to include monitoring implementation phase

The Central Bank

Article 220 of stipulates that: the Central Bank is responsible for developing and overseeing the implementation of monetary, credit, and banking polices, and for monitoring banks. It is exclusively entitled to issue banknotes. It maintains the safety of the monetary and banking system, and the stability of prices within the framework of the Egypt's general political economic policy, in the manner organized by law.

However, this research finds that it is important to note that pursuant to Article 220 of the 2014 Constitution, it is crucial to amend the Central Bank law which gives the Prime Minister and the Minister of Finance the right to regulate the banking policies since this is a clear contradiction to the provisions of the Constitution.

The Egyptian Financial Supervisory Authority

Article 221 stipulates that: “the Egyptian Financial Supervisory Authority is responsible for monitoring and supervising markets and non-banking financial tools including capital markets, future exchanges, insurance activities, real estate funding, financial leasing, and factoring and securitization, in the manner organized by law.”

It is important to note that prior to promulgating the 2014 Egypt Constitution, and the amendment of the governing laws of some of those authorities, the regulatory, and accountability authorities did not have any role in developing the anti-corruption policies.

- Other entities that have related roles

These other entities are specialized departments in ministries or bodies with subsidiary functions related to combating corruption. It is worth noting that the lack of coordination results in a conflict of competencies, a double standard of accountability. As a result, the duration of proceedings are more prolonged.

Public Prosecution

The Public Prosecution, through the Public Funds Prosecution office in Egypt, investigates certain crimes committed by civil service employees, which are specific cases exclusively mentioned in the Egyptian Penal Code and it also refers cases to the criminal courts.

A.3.b.ii- The necessity to grant independence to the regulatory bodies to execute their roles.

To enable the regulatory bodies to execute their roles in fighting corruption effectively, those bodies have to be granted independence.

In the following section, the research will discuss the meaning of independence, what was the current and present situation of the independence of its members and presidents, how

the 2014 Constitution granted more independence and the necessity to introduce more amendments to the laws governing the anti-corruption bodies to enable them to effectively execute their roles.

- The Meaning of the Independence of the Regulatory Bodies

The independence of the regulatory bodies encompasses their administrative and financial roles further to their technical independence as stipulated in Article (215) of the 2014 Constitution. This independence should mean that the executive authority is not supposed to interfere in setting the regulations related to the execution of their functions. The rules and regulations must be derived from a law to prevent conflicts of interest in setting these rules and its impact on the interference in the work of such bodies which may allow for the concealment of the violations committed by the civil service entities.

-Status of Legislations Governing Regulatory Bodies

1. The regulatory bodies remain subordinate to the Executive Authority due to their subordination to one of the executive branch high officials , such as the President of the Republic or the Prime Minister, which has had a negative impact on their technical, administrative and financial independence. (this continued even after the promulgation of the 2014 Egyptian Constitution)
2. The regulatory bodies were not specifically defined by the law as such. Rather, they were characterized as” independent bodies”. The fact that they were not exclusively characterized as “regulatory bodies” made them constitutionally characterized as agencies affiliated to the executive authority. It is worth noting that describing these bodies as “independent” does not eliminate (negate) the fact that the text of the law itself stipulated that it is subordinate to one of the executive authority high officials. For example after the ACA was detached from the APA, and became an independent authority it became affiliated to the Prime Minister. Moreover, for instance, the ACA was affiliated to the Prime minister (but the law No 207 of 2017) amended

this affiliation to the President of the Republic, the Law 97 of 1998 stipulates that the CAO is affiliated to the President of the republic.

3- The absence of the preventive oversight role. The role of the regulatory bodies was limited to the post monitoring, or after receiving reports on a committed corruption crime. It is worth worth noting here that the ACA was granted the preventive oversight role in its amended governing law.

4- The previous constitutions did not explicitly identified the regulatory bodies, its independence, and its functions which resulted in:

a. The opportunity to abolish (cancel) the regulatory body or to amend its terms of reference.

Example: The abolition of administrative Control Authority by Presidential Decree No. 337 of 1980, and its restoration.

b. Allow the limitation, cancellation or modification of the powers of the regulatory body which may create an opportunity to grant exceptions or restrictions to execute its control functions.

- The 2014 Constitutional Guarantees for the Independence of the Regulatory Bodies.

The 2014 Constitution addressed the problem of the independence of the regulatory bodies, in its articles as follows:

Article 215 of the Constitution guarantees the administrative, technical and financial independence of the regulatory bodies.

Article 216 stipulates that “for the creation of each independent body or regulatory agency, a law is issued defining its competencies.”

Article (215) of the Constitution identifies the regulatory bodies, namely : the Central Auditing Organization, the Administrative Control Authority, the Central Bank and the Egyptian Financial Supervisory Authority

It is worth noting that the research finds that The Money Laundering and Terrorist Financing Combatting unit is not listed among the regulatory bodies to support its independence from the Central Bank although it has a regulatory role in monitoring banking transactions in order to detect and prevent the laundering they money gained through corruption and illegal practices.

Article (219) defines the terms of reference of the Central Auditing Organization. Article (220) defines the terms of reference of the Central Bank. Article (221) defines the terms of reference of the Egyptian Financial Supervisory Authority.

A.3.b.iii.iv. - Status of the Independence of Members of the Regulatory Bodies

Independence is not a privilege granted to specific persons. Independence should be granted to regulatory bodies for the public good as a guarantee for the citizens. It is not a matter of not being accountable to the public; rather, it is a guarantee for certain functions whose members' nature of work require a high degree of impartiality without being subject to the influence of the executive authority.

-Status of legislations regulating the independence of the members of the regulatory bodies:

1- The dominance of the executive authority over appointing the heads of the regulatory and their deputies.

.2- Failure to provide the necessary guarantees of independence for its members to carry out their mission, as follows:

a- Failure to provide legal protection to the members of the regulatory bodies when conducting the regulatory functions associated with their work.

b. The appointment of Vice-Presidents of the regulatory bodies is as an absolute authority granted to the President of the Republic.

c. Failure to set specific standards and measures for the appointment of the functions of deputy heads, and the higher supervisory functions of the regulatory bodies which result in the breach of the principles of impartiality, and competency.

3- Establishing special internal rules of procedure for disciplinary trials:

- Issued by a decision of the executive authority or the head of the regulatory body.
- Assigning the trial to an administrative committee composed members who are subordinate to the head of the regulatory body, and some of whom the executive authority is entitled to appoint.
- Failure to assign investigation and trial rules in case of allegations against the president of the regulatory body to an independent and impartial body, to provide for the guarantee of independence.

-Constitutional Guarantees for the Independence of Members of the Regulatory Bodies by the 2014 Constitution

With regard to the guarantees of the independence of the members of the regulatory bodies, the first paragraph of Article (216) of the Constitution requires the legislative authority to provide guarantees of impartiality and independence for the members of the regulatory bodies as follows:

It requires the legislator, when drafting the law governing the regulatory bodies, to ensure the necessary protection for its members.

To set rules to avoid its members conflict of interest when performing their duties.

- The Appointment of the Presidents of the Regulatory Bodies

Article (216) of the 2014 Constitution specifies the competent authority to appoint the president of the regulatory bodies , the duration of the appointment, and the guarantees to avoid potential conflict of interest.

1. The President of the Republic appoints the president of the regulatory agencies upon the approval of the House of Representatives with a majority of its members,
2. For a period of four years, renewable once.
3. They cannot be relieved from their posts except in cases specified by law.
4. The presidents of the regulatory bodies are subject to some prohibitions similar to the ministers as stipulated in Article 164, and 166 of the Constitution.

It is worth noting that there are certain problems associated with the appointment of the presidents of regulatory bodies, and their deputies. As a matter of fact, article (216) of the 2014 Constitution does not require its president to be one of the members of a regulatory bodies as a condition . This may have a number of negative effects:

1. To appoint presidents for the regulatory bodies are not specialized, and do not have the necessary experience in the audit work, which will result in mismanagement of the regulatory body.

To give the President the opportunity to choose close or loyal people. According to the regulatory bodies governing law, the executive authority is entitled to appoint the deputies for the presidents of the regulatory bodies. Failure to correct and remedy this situation may affect the subjectivity of the reports prepared by the regulatory bodies.

- Problems Associated with the Detection Procedures of Corrupt Acts

1. Failure to grant members of the Central Auditing Organization the judicial control authority, under the law governing the organization. (it is granted through the Minister of justice decree)

Note: The judicial control was granted to members of the Central Auditing Organization by the Minister of Justice decision in 2013, which is not enough, for the possibility of retraction as long as not granted by law.

2. The restriction of the oversight role of the Central Auditing Organization to the subsequent monitoring after the case is addressed and not the preventive oversight, which gives the opportunity for those engaged in corrupt deals the time to obliterate the evidence. Moreover, absence of preventive measures is contrary to the requirements of a comprehensive strategy to combat corruption and prevent it.

To sum up, although the constitution and the laws governing the regulatory bodies insured a degree of independence to effectively execute their work, it is important to grant more independence to the regulatory bodies and to guarantee the independence and protection of its members while executing their roles to achieve the anti-corruption goals.

A.3.c- Updating the Legislations Governing the Private Funds Law

In this section the research discusses problems associated with the private funds and how the newly promulgated law in 2018 addresses this problem.

The main resources of the private funds in Egypt are fines, road tolls, accounts for various institutions, and cleaning and electricity bills. The problem with these private funds is that they lack transparency and their revenues and expenses are not part of the national budget. Accordingly, they do not fall under the supervision of the Parliament or the Central Audit Organization (CAO), which creates fertile opportunities for corruption. In order to remedy the problem related to this lack of transparency and to guarantee monitoring over private funds assessing their actual revenues and monitoring the way they are spent, Law No. 139 for the year 2006 was promulgated to deposit all the private funds accounts in a unified treasury account in the Central Bank. However, according to some reports not all the accounts were transferred from the private banks to the unified treasury account of the central bank.

Later, Law 170 for the year 2018 was promulgated to increase monitoring over the private funds and also to add those funds to the budget in way of compensating for the budget

deficit. This law is an important step towards better management of the public funds since these funds were misallocated. Therefore, this law helps in consolidating the principles of transparency, monitoring and accountability since they will be monitored by the parliament and the Central Audit Organization.

A.3.d- Updating the Laws and Regulation that Organize Public Agencies' Work.

Ensuring the quality of performance of the public agencies is one of the most important measures leaders can take to ensure the success of the anti-corruption strategy.

Besides “raising the governmental and administrative performance of the State, improving the public service” as a separate objective, the Strategy has stressed the importance of updating the laws, and regulations that organises the public agencies work.

In this regard it has taken a number of measures to ensure the fulfillment of the goal. For example, it has created the civil service council to improve the performance of the State Administrative Apparatus; it improved the complaint system; it introduced the electronic collection system; established the supreme committee of the purification of database; and introduced incentives to improve the business climate. The research discusses how the laws and regulations issued contributed in the improvement of the quality of public service and the performance of the state administrative apparatus and what can be done to make the best use of the introduced measures.

- The Civil Service Council (CSC)

Article 3 of Law No. 81 of 2016 Civil Service Law organizes the functioning of the Civil service council which was established to submit proposals to develop the civil service and to improve the performance of public services in the country by providing consultation on draft

laws and regulations related to the civil service, to review the measures and methods used to evaluate the civil servants and the State Administrative Body, to review the training programs and to propose measures to improve the performance of the civil services in addition to making proposals concerning the budget allocated for the civil service.

The research finds that the creation of CSC is an important step towards realising the Strategy goals and objectives. The advantage here is that CSC can suggest innovative, preventive and corrective measures to improve the quality of the public services provided besides the performance of the public agencies in general. CSC is expected to help in conducting continuous evaluation of the implemented strategies which should allow taking corrective actions in a timely manner. CSC is also a monitoring and accountability tool in the sense that it can monitor the different strategies, policies and decisions taken, and take appropriate measures to improve them or correct them.⁹¹⁹ Moreover, CSC is expected to make the public officials and public servants more diligent in taking decisions since they will be reviewed.

When the CSC expresses its opinion on the draft laws and regulations related to the civil service, method and criteria of evaluation of government agencies and civil servants, training programs provided to civil servants, it can help in promulgating better laws, setting better criterias for evaluation and continuously updating them, and it can also provide guidance for improving and updating the training programs provided which will help in making better investments in the human capital. Moreover, since it can provide proposals regarding the budget allocated for the civil service, and for improving the performance of the civil service, it can result in a better allocation of the budget, and can provide innovative tools to improve the performance and the quality of the public service. Without the continuous assessment of the performance of the quality of the public service, the training programs and the budget allocated the chances to improve the performance of the civil service and the quality of public service are

⁹¹⁹ Before enacting the new civil service law there wasn't a special council responsible for monitoring and improving the public service and the performance of the public institutions.

very low, and the corrective actions will be more costly. Therefore, creating a special council to act as a consultant to develop the public service and improve the quality of the public service in the country is an important step towards also fighting corruption since it creates new monitoring and accountability tools.

- Improving the Complaint System

Another important tool developed in accordance with presidential decree that the government has taken in the framework of the Strategy is enhancing the complaint system, whereby the process of filing a complaint has been simplified and modernised to improve the quality of the public service provided and to raise the performance of the public institutions. Creating a well-established complaint system enhances the principles of monitoring and accountability.

In order to improve the quality of the public services provided , and the performance of the public institutions, and in the framework of implementing the Strategy, the Egyptian government has offered an innovative tool to receive the citizens' complaints about public services, the performance of governmental institutions in general called the unified government complaint system, in addition to a specific complaint system to report incidents of corruption called the Citizen relations management (CRM). In this section, the research provides a brief explanation about the innovative complaint tools as part of the implementation policy which aims at promulgating and updating the laws that aim at fighting corruption and will provide recommendations for a better functioning of the complaint system.

-The Unified Government Complaints System (Electronic)

Article 1 of Presidential Decree No. 214 of 2017 (Official Gazette No. 27 bis (a) of 12/7/2017) sets the foundation for the establishment of a unified complaint system on the country level (all over the country) to receive, examine and direct all government complaints and respond electronically. Article 2 stipulates that ministries, departments, government bodies,

local administration units, public bodies, other governmental bodies and legal persons shall take all necessary measures to speed up the full linkage with the unified government complaint system, The Prime Minister's Decision No. 1855 of 2017 on the unified government complaints system and the reorganization of the offices of citizens' service were issued (Official Gazette No. 33 of 17/8/2017).

The Unified Government Complaints Portal of the Presidency of the Cabinet of Ministers was established on the secured link: shakwa@dsc.net.eg. In addition to the unified complaint system, there is a hotline (16117) to report corruption cases.

The website of the unified government complaint system is well developed. It allows the citizen to fill in all the needed information, or to call a short number 16528 to give the recipient the full details of his complaint. The complaints unit calls the person who files the complaint to make sure that the text is well formulated, and requires the recipient to ask the person to provide supporting documents if needed, and then it directs it to the responsible authority or governmental institutions to be dealt with, and the central unit continues to follow up with the concerned agency until the problem is solved. Although the system represents a step forward in restoring the trust between the government and the citizens, it can be improved by giving timelines and deadlines for providing solutions, or updates on the follow up to put pressure on the public servants to find timely solutions.

According to the Al Ahram newspaper (the official national newspaper) in the 28 th of August 2018, in an article entitled “ citizens worries on ‘the hotline’ in the Cabinet of Ministers” .

The report showed that one million and one hundred twenty two thousand complaints were filed since the service was started and the achievement rate is 84%. The report also shows that the ministry with the highest rate of complaints is the ministry of supply. Therefore,

according to this report the system has succeeded in providing solutions, and feedback to the citizens complaints and proved to be an effective measure.

Creating a unified government complaints system is an important step towards enhancing the laws and regulations governing the public agencies operation. It offers many advantages: it motivates people to complaint about the problem they face. It creates a central monitoring system, since all the complaints are sent to the same source (the cabinet of Ministers portal). In addition, the Cabinet of ministers can easily assess the ministries or the governmental institutions with the highest number of complaints and deal with the areas of deficiencies. It acts also as an accountability tool, since public servants and public officials will tend to calculate the risks associated with abusing their power or engaging in corrupt deals since people can report it, and the superiors will deal with it. It also reduces the contact between public officials and the people since they can check the results of their complaints online, and do not need to go in person to inquire about the results. Most importantly, it contributes in increasing the level of trust between the people and the government, since the people will realize that the government is keen to know and assess the problems they are facing and has created a system to deal with it.

In addition to the unified government complaint system, the State has also initiated another complaint system called the Citizen Relation Management (CRM) managed by the Administrative Prosecution Authority (APA).

- The Citizen Relation Management (CRM)

The Administrative Prosecution Authority is responsible for judicially and administratively managing CRM. CRM is also financially and technically supported by the Ministry of planning, Monitoring and Administrative Reforms. CRM is a national system that enables citizens to file complaints against any government or public institution. By using this system, any citizen can dial the short number (the hotline) a customer service representative from one of the agencies called RAYA (the agents are not usually trained enough to take all the

important information) and fills in the complaint form, and registers it. After registering the complaint form, it appears instantly on the computer screen of a member of the complaint department in the Administrative prosecution Authority office. Once received, the complaint is examined to determine the competent prosecution to deal with the claim. Meanwhile, the Administrative Prosecution Authority does not take any action until sent to the competent prosecution office.

In addition to the hotline, the Administrative Prosecution Authority also has many means of receiving complaints: through its website and its pages in the social media like (Facebook, Twitter Tweeter and others), as well as fax machines in the offices and offices receiving complaints in the offices scattered throughout all governorates of the Republic and most of its centers.

The research finds that although the CRM system has contributed in better management of the complaints system in terms of time and performance, it can be improved by the following:

1. Upgrading the software system that registers the complaints by requiring the provision of more information like the name of the public institution or ministry with whom the citizen encounters the problem, the governorate and feed the system with information that links the public institution to competent prosecution office besides linking all the Administrative prosecution offices with internet services to be receive the complaints instantly either through the hotline or the other means.
2. Giving the responsibility of receiving the complaints to some employees in the Administrative Prosecution Authority who will have better knowledge in directing the complaints to the competent prosecution offices instead of giving this charge to RAYA agents who are not trained enough to execute this job.
3. The removal of the unjustified restrictions on the AP authority to hold accountable some of the public facilities like drinking water and sanitation that do not fall under their jurisdiction.

Another problem with the complaint administration system is the absence of a legal framework that allows the protection of the whistleblowers or the witnesses.

Finally, although citizens' reports, and complaints are considered valuable tools in fighting corruption, it is also important to introduce proactive measures to assess the problems encountered by citizens when receiving public services, similar to the Punjab case, instead of introducing reactive system like the complaint systems.

- Electronic Collection System

Law No. 171 of 2018 that amended certain provisions of Law No. 127 of 1981 on Government Accounting (Official Gazette No. 32 bis (b) of 14/8/2018), stipulates that the government's revenue shall be collected by any electronic means.

The law was promulgated after the successful experience following the Presidential decree No. 89 of 2017 to create the National council for Payments.⁹²⁰ According to this decree all government payments, including inter-governmental payments and payments to suppliers and contractors will be only issued electronically.⁹²¹

This innovative system allows only E-payment and E-collection through the Unified treasury account in the Central Bank, and bans all transactions that uses cheques.

⁹²⁰ <http://www.mof.gov.eg/MOFGallerySource/Arabic/PDF/Books2017/b74-76-77-17.pdf>

⁹²¹ تعرف على تفاصيل منظومة الدفع والتحويل الحكومية الإلكترونية الجديدة", *دوت مصر* (2017), online: <<http://www.dotmsr.com/News/>>.

In addition, the Prime Minister issued the decree No. 123 of 2017 that requires all employee in the public apparatus to collect their salaries and benefits electronically through the pre-issued ATM cards to all the employees.⁹²²

A protocol for collaboration was signed between the ministry of Finance and the Central Bank which resulted in closing about 60,000 subsidiary accounts opened by different administrative agencies, and were replaced by the unified treasury account in the central accounting unit in the ministry of Finance.⁹²³

The research finds that there is no doubt that the electronic payments and collection represent an important advancement and a step forward to achieve the main goal of the Strategy which is to curb corruption , and create a culture that refuses corruption. Moreover, it also helps in achieving the sub-objective, which is to promulgate and update the laws and regulations that enhances the fight against corruption through also developing and updating laws and regulations that governs the public agencies work. The above-mentioned law enhances the principles of transparency and monitoring which will result in a better management of the government budget in terms of expenditures and revenues, will decrease the possibilities of errors and will reduce the contact between the suppliers, contractors and public servants in general which also reduces the opportunities to engage in corrupt deals. The paramount in curbing corruption is to assess the areas where corruption opportunities increase and find effective measures to alter the system to decrease those opportunities. The E-Payment and E- collection will definitely contribute to reduce the opportunities for corruption. Moreover, it decreases the opportunities of Fraud and embezzlement and also reduces the government expenditures associated with issuing the checks and the public servants responsible for executing the operations. It also contributes in enhancing the principles of accountability, since it increases the cost associated with the detection of

⁹²² <http://www.mof.gov.eg/MOFGallerySource/Arabic/PDF/Books2017/b74-76-77-17.pdf>

⁹²³ *ibid*

corruption. Therefore, Public servants and public officials will be less likely ready to engage in corrupt deals.

- *Egyptian Initiative to Reform the Business Climate*⁹²⁴

The Prime minister Decree No. 1038 of 2014 (Egyptian Chronicle No. 140 of 19/6/2014) was issued amending some provisions of Decree No. 620 of 2013 concerning the resumption of the Central Unit for the review and simplification of the procedures for the Egyptian initiative to reform the business climate, namely the Egyptian Regulatory Reform & Development Activity (ERADA). Under this decree, ERADA is meant to work under the supervision of the Minister of Industry, Trade and Small and Medium Enterprises (SME).

The Egyptian Initiative to Reform the Business Climate seeks to improve the business climate by reviewing all the legislations dealing with the business climate and issuing recommendations. According to the website of ERADA, the revision of the legislations aims at addressing the following problems⁹²⁵:

The number and complexity of legislative instruments, the lack of a clear statement of legislative instruments in force, the absence of effective tools to identify the decisions that were cancelled, interference and conflict of competencies between the authorities responsible for issuing regulations, incompatibility of the cycle responsible for decision making in all ministries and the lack of a specific mechanism to study the economic impact of new decisions.

The initiative has four main objectives:

⁹²⁴ "المبادرة المصرية لإصلاح مناخ الأعمال"، "إرادة"، "مناخ أعمال فعال من خلال إطار تشريعي أفضل"⁹²⁴, online:

<<http://www.errada.gov.eg/>>.

⁹²⁵ *Ibid.*

- To continue the identification and revision of the existing legislative instruments related to the business climate through a comprehensive inventory. The automation of all the reviewed legislations, and executing a consultation with the private sector and the CSOs.
- To make all the legislative tools accessible to the public sector and the investors through the Electronic registry of the legislations
- The evaluation of the legal and the economic effects of the legislative tool by studying and analysing the different alternatives to explore the socio-economic impact of the different options by conducting a cost benefit analysis for each option to enhance the quality of the regulations.
- Creating an inventory (stock – term used on the website) of all the regulations , requirements, and procedures that governs the business climate to work on reviewing and simplifying the procedures to reduce the Administrative burden of businesses and citizens.

This initiative is an important step forward in curbing corruption. The website of the initiative is well developed. It allows the user to access all the economic legislations. It gives users access to the executive regulations, and the ministerial decrees by contacting an email, namely info@errada.gov.eg. According to the website, the initiative has resulted in a number of achievements:

1. It provides an e-registry of of the economic legislations and provides a platform for consultation. Through this platform citizens are encouraged to express their opinions on the draft laws or bills.
2. It uses a Standard Cost Model to calculate the cost associated with complying with all the regulations to measure the administrative burden and to work on reducing it by at least 25%by following the OECD model.

3. It contributed in realizing annual savings for businesses in tourism and agricultural sector that amounted to 9 Million Egyptian pounds by eliminating unnecessary administrative burdens.
4. It also issued recommendations to simplify and eliminate some regulations to acquire some licenses, and permits in the industry and trade sector, that if achieved will contribute in achieving an annual to businesses that can amount to 68 Million Egyptian pounds.

The research finds that reviewing the economic laws and regulations to reduce the administrative burden helps not only to curb corruption but also to increase the level of investment and trade. Research has shown that excessive regulations can represent an important source of corruption. Besides all countries (ex: Singapore, Hong Kong, Georgia, Indonesia, Colombia) that have succeeded and improved in fighting against corruption has worked on eliminating unnecessary regulations and simplifying them.

According to the WJP, too many government rules create too much wiggle room for ‘discretion’: the WJP says Egyptian citizens and businesses find it difficult to access public services without paying bribes.”⁹²⁶ Therefore, the initiative helps in reducing the opportunities to extract rents from the complexity and the number of procedures, and accordingly reduces the opportunities to engage in corrupt deals. When rules and regulations are clear, simple, and concise, they create a better business climate. Therefore, the way the initiative is formulated should successfully contribute in improving the performance and quality of the services offered of the public sector. This improvement is expected to be reflected in the international measures and indicators.

⁹²⁶ World Bank, “Egypt: Too Many Regulations Breed Corruption”, (11 December 2014), online: *World Bank* <<http://www.worldbank.org/en/news/feature/2014/12/09/egypt-bureaucracy-regulations-and-lack-of-accountability-inspire-corruption>>.

According to the Ease of Doing Business index which “ranks countries against each other based on how the regulatory environment is conducive to business operation stronger protections of property rights,”⁹²⁷ and according to the latest annual report issued by the World Bank, Egypt’s ranking improved in 2018. It ranked 120 among 180 economies after having being ranked 128 in 2017. Therefore, more efforts have to be made to improve the business climate.

- Supreme Committee for the Purification of National Databases

This Committee was established by the Presidential Decree No. 552 of 2015 (Official Gazette No. 52 bis (e) of 29/12/2015). It purifies, refines and analyzes national databases to deal with the shadow economy and control the tax system, insurance and economic development.

The research finds that “purifying and refining” the national databases will result in a better and fairer tax collection and insurance systems. Collecting and linking the information will help in identifying tax evasions and a better management of the social insurance system so that it goes to those who deserve it.

- National Committee for the Recovery of Funds and Assets Abroad

Law No. 28 of 2015 (Official Gazette No. 25 bis (d) of 23/6/2015) was promulgated to establish and organise the National Committee for the Recovery of Funds, Assets and Assets Abroad. In accordance with this law, the Committee shall be responsible to undertake measures to recover the stolen assets and to collaborate with competent foreign authorities to execute its role.

⁹²⁷ Trading Economics, *Ease of Doing Business in Egypt | 2019* (2019). <https://tradingeconomics.com/egypt/ease-of-doing-business>

In accordance with article 6, the National Committee for the recovery of funds and assets abroad shall allow conciliation, however, the Commission shall only receive requests for conciliation submitted by the accused on the freezing lists abroad or their special agents at any stage of the criminal proceedings, and shall consider such applications. Acceptance of the request for conciliation shall result in the termination of the criminal proceedings or the suspension of the sentences handed down, for the crimes in question, as defined in article 18 bis (b) of the Code of Criminal Procedure.

Article 9 requires all parties in the State are obliged to assist the Committee in achieving its objectives, providing information and documents related to its competences, supporting its activities and effectiveness.

It is worth noting that after studying the achievements according to the third objective, although this objective is very important in advancing the achievement of the Strategy goals, according to the World development report in 2017 “ As everyday experience makes clear, however, the mere existence of formal laws by no means leads to their intended effects. In many developing countries, the laws in books are selectively implemented, are sometimes impossible to implement, or just remain unimplemented. Some governments may be unable to enact “good laws”- that reflect first-best policy; other governments may issue “good laws” that are not well suited to the context, hence they may lead to bad outcomes.”⁹²⁸

Thus, laws are not an aim in themselves. Laws are intended to achieve important goals. People should therefore fight for the implementation of the law rather than call for their promulgation. An unapplied law is like owning a cheque with a large amount of money that can change one’s living standard and solve many of one’s problems but never being allowed to cash it. According to the World development report in 2017 “ By its nature, law is a device that

⁹²⁸ World Bank, *World Development Report 2017: Governance and the Law* (The World Bank, 2017) at 87. <http://elibrary.worldbank.org/doi/book/10.1596/978-1-4648-0950-7>

provides a particular language, structure, and formality for naming and ordering things, and this characteristic gives it the potential to become a force independent of the initial powers and intentions behind it, even beyond the existence of independent and effective legal institutions.”⁹²⁹ Therefore, the promulgation of the laws provides a basis for claiming peoples’ rights and the government’s obligations to fulfill them “by the nature of its language”. However, if citizens cannot access effective channels to claim their rights, (through civil societies, public participation) the law will only play the role of a sedative or pain killer without really being able to operate the root cause and remove it.

According to the Rule of Law index report 2017-2018 ⁹³⁰Egypt’s global rank was 110, the rank and the score did not change compared to 2016. According to the rule of law trend in 2016, the features analysis of whether a country’s primary rule of law indicators experienced significant change over the previous year. An arrow pointing up indicates statistically significant improvement, while an arrow pointing down represents statistically significant decline.”⁹³¹

According to the rule of law 2016 report, Egypt experienced a decline in its ranking and in its score compared to 2015. The main areas where Egypt experienced a significant decline were in the open government, order and security, and regulatory enforcement. According to the law trends report in 2015, Egypt also experienced a significant decline in the regulatory enforcement.

According to those indicators and the declining trend, and the fact that there is no clear improvement in World Justice report indicator, there is a pressing need to find effective measures to apply the laws not just to promulgate new laws. The real power in the law lies in

⁹²⁹ *Ibid* at 83.

⁹³⁰ World Justice Project, “WJP Rule of Law Index® 2017-2018”, online: <<http://data.worldjusticeproject.org/#groups/EGY>>.

⁹³¹ World Justice Project, *World Justice Project Rule of Law Index 2016* (2017) at 27.

the application of its text rather than the text itself. Since Egypt's score had declined in 2016 when measuring the government openness, and it did not improve in 2017 report, therefore, a law that gives the right to access information becomes an urgent need to improve the international ranking especially that the Constitution had guaranteed the right to access information since 2014.

A.4 - Improving the Judicial Proceedings to Achieve Prompt Justice

Improving the judicial proceedings to achieve prompt justice is a medium-term goal to be executed (2015-2016).

The implementation policy of this goal consists of:

- Developing the work systems in the investigation agencies and the courts in addition to providing the necessary technical and financial support.
- Enhancing the capacities of the judicial ruling enforcement units to enhance the sovereignty of the law principle
- The creation of specialized courts to deal with the corruption cases.

The authorities responsible for the implementation of the goal are:

- The Cabinet of ministers
- The ministry of Justice
- The ministry of interior
- The general prosecution
- The Administrative Prosecution Authority
- The State Council
- The State Lawsuits authorities

The Authorities responsible for the follow up are:

- The Parliament
- The NCCCC
- The Civil Society Organization
- The press and media

The performance indicators consist of:

- The performance levels according to the implementation statistics
- The achievement of the automation of the judicial works
- The creation of specialized courts to deal with the corruption cases.
- The follow up reports issued by the NCCCC
- The survey results on the degree of simplification of the judicial procedures

A fair and effective judicial system that achieves prompt justice is paramount to the success of anti-corruption efforts. According to Transparency international,

An effective judiciary guarantees fairness in legal processes. It's a powerful weapon against corruption..... Court efficiency is crucial. A backlog of cases creates opportunities for demanding bribes to fast-track a case. Court personnel can be paid to slow down or speed up a trial, or dismiss a complaint.⁹³²

Therefore, improving and developing the judicial procedures and the administration of justice is important to achieve the Strategy goals. According to Bahgat, when studying the judicial system in Egypt in the Global corruption Report issued in 2007: The effectiveness of the

⁹³² Transparency International, "Corruption by topic - Judiciary", online:
<<https://www.transparency.org/topic/detail/judiciary>>.

judiciary in combatting corruption, ensuring accountability and deterring abuse is dependent on the integrity and independence of the investigation, indictment and prosecution process.”⁹³³

The implementation policies for this particular goal are interrelated, in the sense that, the development of the judicial procedures to achieve prompt justice needs a comprehensive approach from the investigation phase through to the law enforcement phase. This section of the research displays Egypt’s efforts to develop the judicial proceedings, starting from drafting the police report to issuing a court decision to achieve prompt justice within the Strategy. However, the research will not analyze each implementation policy separately but will study Egypt’s effort to develop the judicial proceedings to achieve prompt justice within the framework of the Strategy. Efforts to achieve prompt justice in Egypt are summarized in an important and well-managed project called the “Imposing and enforcing the law project.”

A.4.a- “Imposing and Enforcing the Law Project.”:

According to the Ministry of planning monitoring and Administrative reforms (Mopmar) website, the goal of this project is to achieve prompt and effective justice. The project is based on the creation of a national database for criminal cases to enhance the law enforcement and to reinforce the capacity to follow up the enforcement of the judicial decisions. In addition, it develops an integrated information system for case management and administrative procedures in the framework of the judicial proceedings network, which includes a number of subsidiary (secondary) networks affiliated to the different judicial levels, the supporting bodies and the information centers in all the entities.⁹³⁴

⁹³³ Hossam Bahgat, “Egypt’s judiciary flexes its muscles” in *Glob Corrupt Rep 2007* (Cambridge: Cambridge University Press, 2007) 201.

⁹³⁴ “وزارة التخطيط والاصلاح الاداري”, online: <<http://mpmar.gov.eg/?>>. last accessed December 2018

The Project Development and Contributions

According to a report published in Albawabhnews on the 15th of February 2016,⁹³⁵ the “Imposing and enforcing the law project” started early 2015 when Egypt’s president urged the law enforcement authorities, the Mopmar, the ministry of Telecommunications, and information technology to find effective means to develop the necessary mechanisms to “apply and enforce the law”. In response of the president’s request, in February 2015, the Mopmar, minister of telecommunications and information technology presented the final proposal for the project which included the objectives, methodology, the mechanisms to coordinate, and the means to link the different law enforcement authorities, along with the timeline to execute each stage of the project. The “law enforcement committee” committee agreed upon the proposal.

In March 2015, “ the law enforcement committee” recommended that the Mopmar will be responsible for the implementation of the first and second phases of the project, and the ministry of technology and information technology will be responsible for the development of infrastructure and the implementation of the system in the public prosecution offices, and the application of the whole project from the police report stage to the issuance of the court decision in the city of Alexandria as a first phase. In April 2015, the president’s office reviewed the final study proposed by “ the law enforcement committee” concerning the project and notified or ordered the MOPMAR to make available the financial resources needed to support the project and to coordinate with the other agencies. The coordination was executed by signing MoU and cooperation protocols between the different collaborators of the project. The report explains that the project helped in achieving many advancements and improvements as for example: accelerating the litigation procedures, improving the quality, and providing better prompt services to the citizens.

⁹³⁵ February 2016), online: <http://www.albawabhnews.com/1773638>.
“تنشر تفاصيل البرنامج القومي لفرض وإنفاذ القانون”, *النيابة نيوز* (15)

According to a report published in AlAhram newspaper on the 20th of February 2018 based on information on the MOP official Facebook page,⁹³⁶ the MOPMAR “Imposing and enforcing the law project” consists of a number of main projects, which encompass:

The creation of a national database of all the criminal records

The development of the public prosecution offices project

- The development of the criminal, and civil courts
- The development of the assisting (supporting) agencies like the Forensic Medicine authority, and the Experts Agency

Another important achievement is the creation of a central system to register the criminal sentences, and to link it with the public security. The report explains that the project created a secured central electronic system to register the police reports, and to attach all the supporting documents electronically in addition to the development and automation of forty-eight police stations was completed.

A Graphic designed by the MOPMAR in Alahram newspaper to explain the goal and the achievements of the project shows that : The project helps in enhancing the ability to follow up and monitor the enforcement of the court decisions, and to guarantee that the State is fulfilling its duties through the cooperation (and coordination) among the courts , public prosecution offices, police stations, and assisting agencies (experts authority, and the Forensic medicine authority)to exchange and share information.

Concerning the achievements, the “Imposing and enforcing the law project’ contributed in:

محمود عبدالله، “وزارة التخطيط: إنفاذ القانون منظومة لتنشيط التنافسية والاستثمار والحسم القضائي - بوابة الأهرام”، *بوابة الأهرام* (20 936 February 2018), online: <<http://gate.ahram.org.eg/News/1829718.aspx>>.

- Building a secured electronic system to register the police reports and to attach all the supporting documents electronically.
- The development and automation of 48 police stations in a number of cities: new Cairo, Alexandria, Ismailia, Suez, and Port Said.
- Building a Central system to register the issued criminal judgements in the public prosecution authority and connect it with the public security. This system was already implemented in 130 public prosecution offices.
- Developing a central application for courts and the automation of 33 courts.

In another report published in Youm 7 newspapers dated on the 18th of May 2018⁹³⁷, concerning the “imposing and application of the law project”, the assistant of the minister of justice said that the Information technology department developed an electronic system that connected all the courts with the judicial information center. This system allows the parties to retrieve information about their cases, and the courts proceedings online, without the need to go to the courts which contributes to saving time and effort and achieving prompt justice. He added that during the month of May 2018 the ministry of Justice inaugurated six courts in the canal governorates (Isamailia, Suez, Port Fouad, and Port Fouad) fully equipped with the new automated systems.

According to this report, this newly developed system allowed the implementation of the “one stop shop” which allows the parties of the case to inquire with their case number about any updates on the judicial proceedings, it addition to connecting the courts with the experts agency offices to follow up the cases when referred to experts. He added that the second phase of the projects consists of automating and equipping the other courts in different governorates with this system, and connecting it with the judicial information center.

⁹³⁷ إبراهيم الجمعة, “العدل” تنتهي من تنفيذ برنامج إنفاذ القانون بالقناة .. ربط 6 محاكم بالسويس والإسماعيلية وبورسعيد” (اليوم السابع 2018) <<https://www.youm7.com/story/2018/5/18/6/3799671-إنفاذ-القانون-بالقناة-ربط-6-محاكم-بالسويس-والإسماعيلية-وبورسعيد>>.

The report explains that the main goal for the minister of justice for the year 2018-2019 is to achieve the full automation of the courts system to cover all the governorates. This aim will be achieved by developing a comprehensive and integrated information systems to manage (administer) the cases, and the litigation procedures, and connect it with the other law enforcement authorities, and assisting agencies, which contributes to the development of the “one stop shop system”. The project costs about three million Egyptian pounds.

Equipping employees with the necessary training is important because it reduces their resistance for change. According to Al mal online news, one of the important steps that the ministry of justice has taken is that it organised training courses to help the employees better understand how to use the new automated system. A number of training courses were offered to the judges and prosecutors to train them to effectively use the system.⁹³⁸

According to a report published on the 19th of September 2018 in almasrawy newspaper, the MOPMAR argues that the system provides a better management of the justice system by allowing the judges, the parties, and employees to check online for the needed information and updates, and enables them to pay the courts fees, and set hearing dates which increases transparency and reduces corruption.⁹³⁹

The research finds that the main objective of the “Imposing and enforcing the law project” is to enhance and promote the law enforcement, improve the administration of justice and realize prompt justice by linking the different stakeholders (starting from drafting the police report to the enforcement of the court ruling and the) and increasing their ability to follow up the enforcement of the law and court rulings to reduce crime rates. Therefore, one of the

⁹³⁸ (August 2016) آيات عبد الباقي، “المعهد القومي للإدارة يعقد ورش عمل حول منظومة فرض وإنفاذ القانون بالمحاكم”، *جريدة عالم المال* (12)، online: <<http://www.alamalmal.net/Detail.aspx?id=32699>>.

⁹³⁹ أحمد أبو النجا، “وزير العدل: ميكنة محاكم مرسى مطروح يُعد من الجيل الثاني لميكنة جميع إجراءات الدعاوي”، *مصراوي* (19) (September 2018), online: <http://www.masrawy.com/news/news_cases/details/2018/9/19/>.

important consequences of implementing this system is “curbing corruption through enhancing the principles of transparency, monitoring, and accountability, since all the updates on the litigation proceedings, and the courts fees will be posted online. In addition to the convenience, it offers to the parties of the litigation, the lawyers to check the status of their cases online.

- The Creation of Specialized Courts for Corruption Cases

The ministry of justice coordinated with the appeal courts to identify some criminal appeal courts specialized in reviewing grand corruption cases, and to issue court rulings in this regard, in addition to the already established specialized commercial courts. There are specialized prosecution offices in investigating criminal corruption cases, and other cases which include public funds and referring the criminals to the Supreme state security prosecution, the Supreme Funds prosecution, financial and commercial Affairs Prosecution.⁹⁴⁰

- Advantages of the Creation of Specialized Courts for Corruption Cases

The research concludes that developing specialized prosecution offices, and courts to review the corruption cases may offer a number of advantages: First, it helps provide the needed training to a specific number of prosecutors, and judges who are already competent in reviewing corruption cases. This enables a better assessment of their training needs. Second, it is easier to measure performance, identify the areas of weaknesses in the system, and take corrective measures. In addition, it provides a better administration of justice since the case will be managed by the prosecutors or courts responsible to review corruption cases instead of taking the time to refer it to the Supreme state security prosecution, the Supreme Funds prosecution, financial and commercial Affairs Prosecution according to the case, which also risk not to be within their competent authority to review the cases. In practice, some administrative corruption cases start to be investigated by members of the Administrative Prosecution Authority, then when they discover in the course of the investigations that there is a criminal part in the case, they continue investigating the administrative part and they refer the criminal part to the Public

⁹⁴⁰ “العدل وزارة نشأة”, online: <http://www.jp.gov.eg/ar/page_12.aspx#>. 9 (unofficial translation)

prosecution authority or the previously mentioned specialized prosecution offices which result in a waste of time and efforts. Having specialized prosecution offices, and specialized courts to deal with corruption cases helps in attaining a comprehensive approach where the administrative and public prosecutors can work together to achieve better case management. Moreover, it helps whistleblowers, or people who want to report corruption cases to be better informed and will also facilitate the production of clear procedures to explain to the citizens the steps to follow to report corruption cases. It also helps in providing the needed protection of the members of the authorities managing corruption cases, and to the whistleblowers, and witnesses.

Finally, it can be concluded that the Strategy was successful in taking important steps to achieve its goal in developing the judicial procedures to achieve the prompt justice by introducing the “application and law enforcement project” which provided a better administration of justice, and controlled corruption by facilitating the automation of the judicial procedures. Although the ministry of justice has identified specific prosecution offices, and courts to review corruption cases, however, it is highly recommended to abide by the implementation policy provided in the Strategy to fight corruption which recommends the creation of specialized courts to review corruption cases.

A.5- Supporting the Authorities Concerned with Fighting Corruption

The research is unable to extensively discuss this objective due to the difficulty of accessing information on the regulatory bodies’ organizational structure and the amount of money allocated in the budget to support those bodies financially and technically. The enhancement of the independence of the regulatory bodies was discussed when studying the second objective “Stipulating and updating the legislations supporting corruption combatting” and the related implementation policy, which requires “Updating the laws governing the

independency and the execution of work of the agencies responsible to fight against corruption.”⁹⁴¹

A.6: Raising the Living Standard of Citizens and Achieving Social Justice

Raising the standard of living of the citizens is one of the important goals that any country should aim to realize within its efforts to bring about the best results of an anti-corruption strategy. Research has consistently correlated high levels of corruption within a given society with having a huge economical gap that leads to inequality among its social classes.

The implementation policy of the aforementioned goal involves:

- Raising the income levels and the equality of distribution
- Reducing the government expenditures to fund the development projects
- Increasing the amount of funds offered to the small and medium enterprises
- Reducing the burden on the population with limited revenue.
- Achieving tax equality and limiting tax evasion

The authorities responsible for the execution are:

- The Cabinet of Ministers
- The Ministry of Planning, Monitoring and Administrative Reforms
- The Ministry of Finance
- The Ministry of Investment

⁹⁴¹ According to the new National Anti-corruption Strategy published in December 2019, the organisational restructuring of the regulatory bodies was not completed.

- The CAO
- The CAO A
- The social Fund

The indicators to measure the performance are:

- Increase in the amount of money allocated for the investment projects in the 2015/2016 and 2016/2017 budget
- Increase in the number of SMEs
- Increase in the tax revenues and controlling tax evasion
- The follow up reports prepared by the NCCCC
- The surveys

It is to be noted that discussion of this goal is limited to the effects it has on reducing opportunities of corruption. It is not meant to be an in-depth study of the economical situation of the areas involved.

According to the Gini Index which is an indicator developed by the World Bank:

“It measures the extent to which the distribution of income (or in some cases consumption, expenditure) among individuals or households within an economy deviates from a perfectly equal distribution.Thus, a Gini Index of 0 represents perfect equality, while an index of 100 implies perfect inequality.”

In Egypt the coefficient rose from 29.8 in 2012 to 31.8 in 2015.⁹⁴² Moreover, according to the Poverty Head Count Ratio at national poverty lines (%of the population) developed by the World Bank which measures “the percentage of the population living below the national poverty

⁹⁴² World Bank, *GINI index (World Bank estimate)* (World Bank).

<https://data.worldbank.org/indicator/si.pov.gini?end=2015&locations=eg&start=2015&view=bar>

lines” shows that the percentage rose from 26.3% in 2012 to 27.8% in 2015.⁹⁴³This shows how important it was for decision makers to put goal 6 on the list of objectives that need be achieved within Egypt’s anti-corruption Strategy.

Corruption increases social inequality since it negatively affects the public funds available for social spending. Within the context of most African countries, studies have shown that an increase in the level of corruption increases the Gini coefficient of income inequality.⁹⁴⁴ Studies indicate that increasing resources allocated for social programmes dedicated to reducing inequality will not bring the desired results if corruption is not addressed.⁹⁴⁵

The 2014 Constitution seeks to improve the standard of living of citizens. Article 17 stipulates that

The state provides social security services. All citizens who have no access to the social security system have the right to social security to ensure a decent life, if they are unable to support themselves and their families in the event of incapacity to work, old age or unemployment.

To achieve this goal, the State has introduced a number of programs to reduce income inequalities and to increase the amount of funds offered to the small and medium enterprises.

⁹⁴³ World Bank, *World Development Indicators | DataBank*.

<<http://databank.worldbank.org/data/reports.aspx?source=2&series=SI.POV.NAHC&country=WLD>>.

⁹⁴⁴ Kwabena Gyimah-Brempong, “Corruption, economic growth, and income inequality in Africa” (2002) 3:3 *Econ Gov* 183.

⁹⁴⁵ Daniel Suryadarma, “How Corruption Diminishes the Effectiveness of Public Spending on Education in Indonesia” (2011) *Bull Indones Econ Stud*, online:
<https://www.researchgate.net/publication/254231326_How_Corruption_Diminishes_the_Effectiveness_of_Public_Spending_on_Education_in_Indonesia>.

A.6.a. Raising the Income Levels and the Equality of Distribution

Egypt's government has taken a number of measures to reduce the income inequality. In this section, we will show Egypt's efforts to reduce the income inequality according to the promulgated national laws, the Egypt's Ministry of Finance and the International Monetary Fund (IMF) country report issued in January 2018.

To decrease the income inequality and reduce the large disparity in the income distribution, the law and the decrees have set a minimum and maximum wage. As a matter of fact, the Prime Minister's decree No 22 of the year 2014 (published in the official Gazette chronicle No (2) (bis) (A) in 15/1/2014,) to be effective from the first of January, set an increase to the minimum wages for the employees working in State apparatus. The law No 63 of the year 2014 (published in the official Gazette chronicle No (26) bis (c) in 2/7/2 organizing the maximum wages for the employees working in the State Apparatus was promulgated and article (3) of this law stipulated that the law 242 of the year 2011 will be repealed. Moreover, article (1) of law (242) of the year 2011 stipulated that the maximum wage of any employee working in the State Apparatus cannot surpass 35 times of the lowest wage set in the agency the employee works in (whether this amount takes the form of wages, incentives, attending bard meetings). In addition, article (1) of the new law No 63 of the year 2014 not only stipulated that the maximum wage of any employee working in the State Apparatus can not surpass 35 times of the lowest age set in the agency the employee works in (whether this amount takes the form of wages, incentives, attending bard meetings), but also that the total amount of money that the employee receives annually shall not exceed forty two thousand pounds. Therefore, the new law did not set a maximum percentage of the lowest wage, but rather a maximum amount of money in general to reduce the income inequality.

According to the "citizen budget report" published by the Ministry of Finance in Egypt, the wages bill for the employees working in the State apparatus increased by 30 Billion EGP (for a total of 245.2 Billion EGP) for a total of 5.2 million beneficiary for the year 2018-2019. It also increased from 218 Billion in 2015/2016 for 6 Billion beneficiary to 225.2 Billion EGP in

2016/2017 and increased to 240 Billion in 2017/2018 despite the natural attrition (the reduction of employees by normal means such a retirement, resignation and not replacing them with same number of employees).

According to the IMF country report, table 4, which explains the Budget sector operations, the wages and remunerations increased from 198.5 in 2014/2015 to 213 .7 in the year 2015/2016 and continued increasing to reach 266.8 in 2018/2019.⁹⁴⁶

Therefore, the research concludes that by setting a minimum and maximum wages law, together with increasing the wages expenditures in spite of the decrease of the number of beneficiaries, Egypt's government has taken active measures to increase the wages and distribute them equally.

A.6.b- Reducing the Government Expenditures to Fund the Development Projects

The government has taken a number of measures since 2016 to reduce its expenditures. It mainly reduced the energy subsidies since the beneficiaries were the poor and the rich. It also decreased the percentage of the wages to GDP and took measures to control its purchase of goods and services.

According to the IMF report, energy subsidies continued to decrease from 4.0 as a percentage from the GDP in 2014/2015 to reach 1.4% of the GDP in 2018-2019. Moreover, the wages and other remunerations decreased from 8% in 2014/2015 of the GDP to reach 5.0in 2018/2019. The government expenditures on goods and services did not decrease consistently over the years, so it was 1.3% of GDP in 2014/2015 and maintained this percentage in the following year. It decreased to reach 1.2% of the GDP in the years 2015/2016 and the years

⁹⁴⁶ *Arab Republic of Egypt 2017 Article IV Consultation, Second Review*, by International Monetary Fund, IMF Country Report No. 18/14 (Washington , D.C., 2018).

2016/2017. However, it slightly increased in 2018/2019 to reach 1.4% of the GDP. According to the Ministry of finance annual reports the energy subsidies also decreased over the studied years and the total expenditures on goods and services as a percentage of the GDP slightly increased. Moreover, according to the citizen budget report the expenditures on development projects also increased.⁹⁴⁷

The results show that the government is following the reforms policies to decrease the expenditures and increase the development projects investment funding to achieve a sustainable development.

A.6.c. Increasing the Amount of Funds Offered to Small and Medium Enterprises

According to Sada El Balad news published on the 15th of November 2017,⁹⁴⁸ during the youth Day celebration in the beginning of the year 2016, the president of the Republic announced that the Central Bank will start an initiative whereby, it will grant loans with facilitated conditions to encourage the SMEs, whereby the interest rate will be 5% on a decreasing scheme. Accordingly, the Central Bank started this initiative and set a 5% interest on the very small enterprises, 7% on the medium enterprises, and 12% on the on the working capital; it set a project to fund more than 350 thousand enterprises at a cost of 200 billion EGP, and will generate 4 million job opportunities in the next four years starting from the beginning of the year 2016. According to the news, the actual achievements as per the Central Bank are:

- Three industrial complexes
- The “ Project Development Agency” funded the amount of 3.5 billion in 2017 and 3.8 billion in 2016

⁹⁴⁷ *Ibid.*

⁹⁴⁸ مروة كمال, “بالأرقام.. ‘صدى البلد’ يرصد كشف حساب مبادرة الـ 200 مليار جنيه للنهوض بالصناعات الصغيرة والمتوسطة.. صور”, *صدى البلد* (November 2017), online: <<https://www.elbalad.news/3032204>>.

- 1.6 billion pounds were allocated to fund 74.161 thousands small and very small enterprises which provided 93.891 million opportunities.
- The Ministry of Social solidarity funded 82 thousand project and the municipal development funds funded a total of 41.1 projects.
- According to Sada El Balad news, one of the most important obstacles are the requirement to have a work history and a budget of 3 years.

Therefore, this initiative has successfully created job opportunities and encouraged the SMEs which helps in raising the standard of living of the citizens, reduces inequality and may partly compensate the effects of not hiring new employees in the State Apparatus.

A.6.d. Reducing the Burden on the Population whose Revenue is Limited

To achieve the Constitution's goals as stipulated in Article 17 of the Constitution, the State introduced a number of programs to support the poor and disadvantaged, and to improve the citizens' standard of living. A number of laws and decrees have been promulgated which aim at providing social welfare to citizens and to raise the standard of living.

(1) Social Security: The legislator amended the Social Security Law No. 137 of 2010 by the Law No. 15 of 2015 (Official Gazette No. 10 bis of 8/3/2015). This amendment granted to the Prime Minister - upon the consultation of the competent minister and the Minister of Finance - the authority to develop programs targeting some social categories (classes) not covered by the monthly social security assistance program provided in this law. According to the above amendments of the Law, the Prime minister shall issue a decree setting the governing criterion and the value of the minimum and maximum amounts granted according to these programs. Therefore, this amendment allows more flexibility to the competent authorities to constantly evaluate and review the program to add new social categories whenever needed.

According to the ministry of Social Solidarity website, the number of citizens benefiting from this program is 1,328,362.⁹⁴⁹

(2) Takaful and “Karama” Program: The conditional monetary support program "Takaful and Karama" was established by the Prime Minister's Decree No. 540 of 2015 (Official Gazette No. 10 bis (d) of 11/3/2015). The Karama program targets those who suffer from extreme poverty, and have children whose ages are between (0-18 years old) and need monetary and service support . According to the ministry of Social Solidarity website, the number of citizens benefiting from Takaful program until mid October 2018 is 1,934, 487⁹⁵⁰, and the number of the citizens benefiting from Karama program is 291, 928.⁹⁵¹

Karama (dignity) program targets the social categories that suffer from extreme poverty and will not be able to work or produce, and are unable to earn as seniors aged 65 and above. It also covers those who are handicapped or have a disability that prevents them from work. The program is implemented over three stages in three years. The first phase starts in the first half of 2015 in the poorest villages in some governorates. The Minister of Social Solidarity issues the decisions that govern the work of the conditional monetary support program "Takaful and karama". He shall also issue determine the governorates that shall benefit from the application of this program in each stage of its implementation.

The creation of this program is an important step towards taking active decisions to alleviate poverty, to support the underprivileged, handicapped, and disabled by using regulative and subjective measures.

⁹⁴⁹ وزارة التضامن الإجتماعى، وزارة التضامن الإجتماعى، online: <<http://www.moss.gov.eg/ar-eg/Pages/default.aspx>>. (this figure was last updated on 15/10/2018) Last visited on the 10th of November 2018.

⁹⁵⁰ *Ibid.* (this figure was last updated on 15/10/2018) Last visited on the 10th of November 2018.

⁹⁵¹ *Ibid.* (this figure was last updated on 15/10/2018) Last visited on the 10th of November 2018.

(3) The Committee for the Construction and Management of the National Base for Social Safety Nets: This Committee was established by Prime Minister's Decision No. 2443 of 2015 (Egyptian Chronicle No. 208 of 10/9/2015), which, through the establishment of the national base, and in terms of needs for social protection services and government support services, succeeds in:

- providing targeting mechanisms for beneficiaries and excluding those not eligible for government support services and government-mandated social protection programs;
- providing adequate data for decision-makers to extrapolate future support policies;
- distributing support budgets fairly to Egyptian households; and
- providing evaluation and monitoring mechanisms for protection programs and government support services.

The above decision gave the Commission the right to use experts and specialists in its fields of work. Moreover, the Commission is competent to express its opinion in the areas of defining social targeting criteria from an economic and social perspective.

(4) Social Insurance: The legislator made some amendments to the Social Insurance Law No. 79 of 1975, by virtue of Decree Law No. 117 of 2015 (Official Gazette No. 47 bis of 22/2/2015). This amendment included the approval of some increases in insurance rights through the addition of special allowances and the annual increase due to be included in the basic wage. Law No. 80 of 2017 (Official Gazette No. 24 bis (c) of 21/6/2017) provides for an increase in pensions as from 1/7/2017, due before this date with a minimum of 150 pounds, provided that the public treasury bear the financial burden of this increase.

According to the IMF country report, Table 4, the country has substantially increased its expenditures on the subsidies and grants. It increased from 198.5 in 2014/2015 to 201 in 2015/2016 and continued to increase to reach 278.4 in 2016/2017 and 330.8 in 2017/2018 and 323.8 in 2018/2019.

The programs initiated by the government to support those who earn low income, in order to improve the citizens' living standard, and to achieve social equality, represent an important step towards providing some relief. This is due to the economic pressure that a large portion of the population is facing due to the economic reforms that the State is undertaking according to the IMF loan requirements. A research conducted to study the relationship between corruption, economic growth, and income inequality in Africa concluded that better management of domestic resources by curbing corruption can enhance the well being of the majority of citizens in African countries without the need to ask for international or external aid.⁹⁵² Therefore, the aim should always be to reduce corruption as the only guarantee to reduce income inequality and poverty level.

A.6.e- The Realization of Tax Justice and Controlling Tax Evasions

All studied countries' successful experiences have shown that reforms in the tax system were an important pillar in the anti-corruption reform. Taxes are an important source of revenues for the Egyptian government. Therefore, introducing reforms in the tax system is a paramount to reduce corruption and increase the tax system efficiency to achieve the economic development goals. According to an interview with a high official in the Ministry of Finance, the government has taken a number of measures to achieve tax justice and reduce tax evasion by reforming the Egyptian Tax authority by introducing various measures. For instance, it

⁹⁵²Kwabena Gyimah-Brempong, "Corruption, economic growth, and income inequality in Africa" (2002) 3:3 Econ Gov 183.

merged the Income tax and Value added tax into one entity, the electronic payments of tax returns for the firms, the electronic filling of tax declaration and the national receipt system.

1. Merging the income tax and the value added tax to improve the Egyptian Tax Authority (ETA) performance

The Egyptian government has taken important steps to merge the Income tax and the value added taxes into one entity. Accordingly, it took important steps to reengineer the processes to reflect this merge and to improve the performance of the Egyptian tax authority. To achieve this goal, an automation system of all core functions of the ETA and a reengineering of the processes had to be introduced. Accordingly, ETA awarded this mission to one of the largest professional services and accounting firms, Ernst &Young (EY). EY submitted the newly engineered processes in July 2018, which resulted in the development of a new organisation structure of the ETA. The company has also submitted an RFP (Request for Proposal) in October 2018 to invite companies to submit their offers to implement the ETA required automation system, and some companies have already submitted their offers.

2- The Electronic Payment of all Tax revenues

The electronic payment of all tax revenues helps in introducing a more efficient and timely way of collecting the tax revenues by necessitating that tax payments be done electronically. This system substitutes that of payment through cash and cheques, as these latter methods sometimes resulted in delays in depositing the cash or cheques amount in the government treasuries because they relied on the tax collectors efficiency and management to the amount of taxes collected.

The Minister of Finance issued the decree No. 542 of 2018 requiring that all tax payments should be made electronically by all tax payers. Starting from July 2018, as a first

phase all tax payments more than 100,000 EGP were paid electronically. The next phase that requires all tax payers to pay electronically will start in January 2019. The small values can still be paid in banks.

3- The Electronic Tax Declarations

The electronic tax declaration allows tax payers to fill and submit their declarations electronically through the ETA tax portal according to Article (53) of the law No.91 of the year 2005 governing the income tax which allows the competent minister to require tax payers to declare and pay the taxes electronically. The portal was introduced on trial basis in April 2018. In October 2018, the system allowed corporate income tax to be submitted electronically. In the next phase, the corporate VAT tax returns will be submitted electronically. By 2020, the ETA plans to receive the individual tax returns as a final phase.

4- The National Receipts System

This system aims at controlling tax evasions by establishing a system whereby all receipts issued by professionals and retailers through cash machines will be automatically sent to the ETA to comply with Article 13/1 and Article 14 of the Executive Regulations issued according to the Minister of Finance decree No. 66 of the year 2017. To achieve this goal some high officials visited the company responsible for introducing this system in China, in order to understand its adaptability requirements for Egyptian needs.

It is also recommended to benefit from other countries experiences in reducing tax evasion increasing the percentage of tax payers contribution and tax compliance by using some behavioral science techniques. According to a research conducted in partnership between the World Bank and the Behavioral Insights Team in Guatemala, using behavioral science messages can successfully improve the problem of tax evasions.⁹⁵³ Therefore, Egypt can design letters

⁹⁵³ Stewart Kettle et al, "Behavioral interventions in tax compliance : evidence from Guatemala" (2016) Policy Res Work Pap Ser (Policy Research Working Paper Series) , online: <<https://ideas.repec.org/p/wbk/wbrwps/7690.html>>.

addressed to taxpayers that can adapt to the Egyptian context to attain the Egyptian government goals in reducing tax evasions and in increasing the amount of taxes collected as an important source of revenues in the national treasury. The research concludes that Egypt has taken important steps to control tax evasion.

The research concludes that Egypt has taken important steps to raise the standard of living of the citizens and to achieve social justice by taking important measures to increase the income levels and the equality of distribution, reduce the government expenditures to fund the development projects, increase the amount of funds offered to the small and medium enterprises, reduce the burden on the population with limited revenue and achieve tax equality and limit tax evasion. That said, Egypt must still continue to take important steps to improve its ranking according to the Gini index.

A.7- Raising Citizens' Awareness of the Destructive Effects of Corruption, and the Importance of Fighting it and Restoring the Trust in the Government's Institutions.

Raising citizen awareness about the importance of fighting corruption and restoring trust in government institutions is a medium term goal planned to be carried out in 2015-2016.

The implementation policy of the aforementioned goal consists of:

- Enhancing positive religious, and ethical values, and manners.
- Raising public awareness about the destructive effects of corruption and enhancing the role of citizens in executing public monitoring to fight against corruption.
- Enhancing the role of the media in fighting against corruption.
- Restoring the trust in the public institutions.
-

The authorities responsible for the execution are:

- The cabinet of Ministers

- The Ministry of planning and Administrative reforms
- The internal monitoring departments in the different ministries
- NCCC
- The media and the Newspapers
- The religious and education institutions

The Authorities responsible for the follow-up are:

- The parliament
- The sub-committee NCCCC
- The Civil Service Institutions
- The Media
- The indicators to measure the performance
- Designing education programs to raise public awareness about the destructive effects of corruption.
- The increase of the number of social initiatives to fight against corruption
- The progress reports prepared by the NCCCC
- The surveys, questionnaires.

Taking into consideration the role of citizens in controlling corruption, and setting it as one of the critical steps to take in fighting corruption, apart from the civil service participation, is a very successful choice within Egypt's special contexts. The general public played an important role in the 2011 revolution and protested against the authoritarian regime mainly to fight corruption. The Egyptians thus proved able to achieve their goals despite the fact that they were not well organized through civil societies or the political parties. Hence, it can be concluded that citizens can play an important role if they are given the tools to actively monitor the performance of their government.

In a hierarchical country like Egypt, raising public awareness about the destructive effects of corruption, sharing with citizens the political leaders' vision, and encouraging citizens to take active roles in fighting corruption as collaborators in achieving the leaders' vision can in itself be a significant step forward in fighting corruption. The reason is that, as explained previously, research has shown that the more the power distance, the more corrupt the country.⁹⁵⁴ Moreover, the more people will realize that their political leaders are serious about fighting against corruption; the more the trust between the people and the political leaders will be restored especially when they involve them in the process. Therefore, raising people awareness about the dangers associated with corruption, and allowing them to actively participate in fighting corruption may represent a step forward in restoring people's trust in the government and their political leaders.

A.7.a- Enhancing positive Religious and Ethical Values and Manners.

This implementation policy is successfully chosen to match Egypt's particular context. Different surveys and studies show the importance of the role of religion within the Egyptian communities.⁹⁵⁵ Surveys reveal that the majority of Egyptians are religious by nature and since religion, and religious leaders opinions are influential, stressing the religious values to help in reaching the country's goals in fighting corruption was a successful choice. However, a structured and well-organized program to achieve this goal was never designed. Partnership between the government authorities responsible for implementing the Strategy and religious leaders should have worked on designing a program to achieve this goal. However, the government authorities and religious institutions collaborated, issuing an important publication to fight corruption. The publication, that appeared in the form of a small 20-page booklet was issued by the Ministry of planning monitoring and administrative reforms (MOPMAR) to help Egyptians in general and public servants in particular understand the religious and legal basis

⁹⁵⁴ Barr & Serra, *supra* note 767.

⁹⁵⁵ U.S. NEWS, *supra* note 850; Oliver Smith, *supra* note 851.

for prohibiting corruption, the social effects of corruption, the difference between a gift and bribe, and measures to fight corruption.

Issuing the publication conforms with the pre-set implementation policies. However, the publication was not widely disseminated. For example, it was not posted on the website of different ministry and public institutions. Moreover, there are no statistics to show the number of distributed paper copies.

A.7.b- Raising Public Awareness About the Destructive Effects of Corruption and Enhancing the Role of Citizens in Executing Public Oversight to Fight Corruption.

- A Free Online Course Designed by ACA to Raise People Awareness

ACA introduced an interesting initiative to help raise public awareness about the destructive effects of corruption. It launched a free online course on its website where users can register and browse the contents of the course. Users were invited to study the contents, evaluate the course, and at the end, were granted a certificate of participation in the course. The course content included a study of the Strategy.

Although the ACA website includes information to help the public acquire a clearer picture of the destructive effects of corruption -by providing the open access free online course- other governmental entities, judicial institutions, and supervision bodies do not include such information. Moreover, without a well-designed program to help raise people awareness, citizens cannot participate in the oversight to fight corruption.

Empowering Citizens to Share in the Fight Against Corruption as a Shared Responsibility

Raising public awareness can never be the responsibility of the government solely. This is the reason behind including the media and educational and religious institutions in the list of

authorities responsible for the implementation. However, the research concludes that this recommended involvement but collaboration was never achieved. There were no specifically designed courses or curricula to adapt to the different age groups to help people better understand the destructive effects of corruption. Moreover, there were no initiatives on the part of the ministry of education or the superior council of universities to teach students about the effects of corruption and how they can actively participate as citizens to fight for their rights in living in a society characterised by its integrity instead of corruption in spite of the important effects it could have brought.

The lack of financial resources and time to design a program or curriculum to help in raising people awareness can be compensated by the OECD education for integrity program.⁹⁵⁶ It is a ready specially designed program by the OECD to help students better understand the corruption phenomenon and enrich them with tools to fight against it. The program could have been used to raise student awareness at the school level. It could have also been adapted to fulfill the university and the general public educational needs to raise their awareness about corruption. People would have been responsive to those types of programs because fighting against corruption is a real concern for them especially after the revolution.

The UNDP conducted a survey “ UN’s My World survey” whose aim is to inform the post 2015 International sustainable development agenda. The study showed youth whose age group range from 16-30 years old unexpectedly rank transparency and accountability higher than having more job opportunities, environmental protection and climate change.⁹⁵⁷ Therefore,

⁹⁵⁶ OECD, *Education for Integrity: Teaching on Anti-Corruption, Values and the Rule of Law*. <https://www.oecd.org/governance/ethics/education-for-integrity-web.pdf>

⁹⁵⁷ United Nations Development Programme, *Education, Health Care, Honest and Responsive Government, and Jobs Top Priorities for People Worldwide*. <http://www.undp.org/content/undp/en/home/presscenter/pressreleases/2013/09/10/education-health-care-honest-and-responsive-government-and-jobs-top-priorities-for-people-worldwide-un-report.html>

youth should be considered important agents of change in the efforts to achieve the Strategy's main goal, i.e. "developing a culture that refuses corruption."

The research suggests that to implement this particular goal in the framework of the strategy, the authorities responsible for its implementation needed to find effective tools to help people develop a "culture of participation" since people were never given neither the opportunity nor the tools to fight against corruption. Special programs needed to be designed to help citizens to evaluate the quality of the public services they received like in Punjab, or they could have been given special training to participate by helping the government monitor the performance of infrastructure projects like in Philippines, and Indonesia, Italy as discussed earlier in part one of the research. Therefore, the paramount is not only to find effective means to raise people's awareness but also to implement it.

Raising People Awareness : Trading off a "Culture of Complaining" for a "Culture of Participation"

Much can be learned from the famous words of John F. Kennedy's inaugural address when he said "Ask not what your country can do for you –ask what you can do for your country."⁹⁵⁸ Raising people's awareness does not always mean that they have to ask for their rights from the government; it can refer to how people contribute in creating their rights and help the government achieve their goals.

Following the Egyptian revolution, most of the people developed "a complaining culture" that became highly contagious.⁹⁵⁹ Helping and training people to solve the problems

⁹⁵⁸ John F Kennedy Presidential Library and Museum, "'Ask not what your country can do for you...' - John F. Kennedy Presidential Library & Museum", online: <<https://www.jfklibrary.org/Education/Teachers/Curricular-Resources/Elementary-School-Curricular-Materials/Ask-Not.aspx>>.

⁹⁵⁹ One can easily sense and experience the newly developed culture by simply watching the talk shows or following people's comment on the social media.

faced by the government in its attempts to face corruption would have two important implications: first, it would help citizens to direct their energy to finding solutions to the problem once they understood the problems and had a sense of the reality on the ground instead of complaining. Second, it would help citizens in taking an active role in claiming and obtaining their rights. One of the most important advantages also is that it also would help to create more inclusiveness and indirectly helped create a dialogue between the government and the citizens. When citizens help the government in finding solutions through the help of the national councils, they advocate for the government instead of criticizing it, or at least their criticism is 'constructive' instead of 'destructive'. Moreover, the government can benefit from the citizens' participation by reducing the monitoring cost.

Citizens' participation in fighting corruption is not a novel idea. It has been successfully employed in different countries not only to report bribes and corrupt practices in the civil service but also to help in monitoring the infrastructure projects. In Kenya, the Kaduna state government launched a simple to use program to help citizens participate in monitoring infrastructure projects.⁹⁶⁰The program, which is called "Eyes and Ears"⁹⁶¹, was introduced by the Kaduna state government following an audit of its infrastructure projects in 2015, when it was discovered that a hospital was supposedly already built on paper only. In response, the Kaduna state government launched the Eyes and Ears monitoring program to achieve a better monitoring of its budget.

At that time, the government had about 3000 ongoing infrastructure projects. It equipped its nine public servants with smart phones with an application supported by GPS coordinates that enabled them to monitor by taking photos and posting comments on infrastructure projects. However, since the number of projects was not proportionate with the number of monitoring authorities, the government decided to seek the help of citizens in this regard. The reasoning

⁹⁶⁰ Open Government Partnership, "How citizens have become 'eyes and ears' in Nigeria's Kaduna State | Open Government Partnership", (16 July 2018), online: <<https://www.opengovpartnership.org/stories/how-citizens-have-become-eyes-and-ears-nigeria-s-kaduna-state>>.

⁹⁶¹ "Kaduna State Eyes and Ears Project", online: <<http://kadunaeyesandears.org/>>.

was that on one hand, citizen participation would be cost effective and would help to develop a more inclusive culture and, on the other hand, citizens have direct interest in monitoring those projects since they are the end users and directly reap the benefits from the projects. Moreover, the monitoring would also help in holding the officials directly accountable in case of wrongdoing.

To help citizens effectively contribute to the monitoring and accountability process, the government developed a mobile application called the CitiFeeds in 2017 so that the citizens can hold the state accountable for implementation or spending in the infrastructure projects. The mobile application was easy to use and it showed citizens the infrastructure projects that were within two kilometers of the area where they lived. The mobile application is not only used to report the work progress of the infrastructure projects but it is also directly connected to the governor's office and the state legislature. In order to form a better comprehensive picture, the data provided by the citizens can be linked to the project monitoring staff. Therefore, this easy to use mobile application helped citizens to participate in helping the government to better manage its budget, to monitor its staff, and hold them accountable if needed.

Another initiative was implemented in Italy where bribery is widespread, and it is common to engage in illegal payments to be granted a public contract. Instead of just complaining about the situation, a platform called “openCoesione” was created to encourage citizen to participate by collaborating with civil society and data scientists to collaborate in monitoring government expenditures on different projects. It is used as a tool to identify the misuse of public funds.⁹⁶²

To encourage citizens to participate more actively a platform called “Monithon” was created to encourage citizens to use the data provided, and coordinate with data scientists,

⁹⁶² Open Government Partnership, “Italy: A New Platform for Participation”, online: *OGP Stories* <https://www.ogpstories.org/impact_story/italy-a-new-platform-for-participation/>.

journalists, and civil society to monitor public spending on local projects. Citizens reacted actively to the initiative and a number of reports were issued. The inclusive approach extended to cover school students to encourage them to participate by creating a competition among them to monitor the government spending. To make their participation experience even more effective, students were trained to go visit the projects sites, monitor the completion of work, ask local authorities questions, and suggesting solutions that were implemented.” One of the students commented by saying “ Active citizens, instead of sitting with our arms folded.”⁹⁶³

Good Government as a Societal Responsibility

According to Johnston :

Good government is a societal responsibility, not just a way of describing officials’ duties. “Political will”, often invoked as a kind of deus ex machina in discussions of reform cannot be sustained in democratic (or democratizing) societies without wider support. The “one man show” approach to reform seen far too often in less open societies, is at best unsustainable, and at worst can be a smokescreen for further abuses. Citizen participation in, and a social base for, lasting reform and good government are essential.⁹⁶⁴

Therefore, according to Johnston the only guarantee for the sustainability of the reforms is that the citizens participate and take active part in the reform. One may think that people are already aware of the devastating effects of corruption. But researchers assert that a better understanding of the problem of corruption may make people more aware about how corruption can directly affect and distort their own lives.

Johnston and Kpundeh argue that

Getting citizens involved in reform on a sustained basis is not just a matter of identifying corruption as a problem, and will not work if we simply urge them to attack corruption in support of the public good. That sort of reform encounters classic collective action problems; most citizens will wait for others to assume the costs and risks of working for

⁹⁶³ *Ibid.*

⁹⁶⁴ Michael Johnston, *Civil Society and Corruption: Mobilizing for Reform* (University Press of America, 2005) at preface xi.

reform, secure in the knowledge that better government should it be attained –will benefit all.⁹⁶⁵

Thus, a collective action approach is not the kind of approach that will work when initiating inclusive anti-corruption reforms. It is important to understand how to catalyse citizens to participate and to address the problem of corruption as a problem directly affecting their personal interests not just the common interest. Research centers and councils can help find the most effective ways to engage Egyptian citizens to fight corruption, and to guarantee a more effective participation that can achieve the designated goals. National councils can assist in conducting studies and even participating in “think tanks” with the research centers to undertake surveys and studies on the best ways to incentivise citizens to participate in fighting against corruption within the Egyptian context. To design effective citizen participative programs “The key lies in understanding what draws people into cooperative action in the first place.”⁹⁶⁶ Although, there is a type of reform that “fits all,” reviewing the experiences of other countries in encouraging and educating citizens to participate may represent an important tool in creating action plans. Reformers need to personalise rather than generalise the problem of corruption for citizens. “ The task is to show people how corruption is involved in many of their own problems, both day to day and over the long term.”⁹⁶⁷

Johnston and Kupneh explicate that

An effective social action coalition can change the way people think about corruption. Immediate costs are known to all; but less well understood are the long term, shared, and intangible costs, such as delayed, or distorted development, the loss of political choices, and accountability, and the mutual suspicion that can erode business, political, and personal relationships in societies where corruption is the rule rather than the exception.⁹⁶⁸

⁹⁶⁵ *Ibid* at 149.

⁹⁶⁶ *Ibid*.

⁹⁶⁷ *Ibid* at 163.

⁹⁶⁸ *Ibid*.

The Revolution Offered a First-Hand Experience on the Destructive Effects of Corruption

In the aftermath of the recent Egyptian revolutions 2011 and 2013, Egyptians had a first-hand experience of the problems that widespread corruption can create. It became easier for people to understand the delayed growth, and development problems, and the lack of trust between the government, businesses, and people in the society in general.

However, the truth is that citizens lack full understanding of the problem of corruption, without an effective, and scientifically based program to raise citizens' awareness, their understanding will always remain superficial and meaning of many concepts will remain flawed. "Some of [these] ideas will be less than obvious, for they are measured in terms of values, security, and opportunities they never possessed, and which they may believe they will never enjoy."⁹⁶⁹ Thus, transferring the required message in a clear and concise way may contribute to a better understanding of the anticipated gains they will enjoy when they accept to participate in fighting against corruption.

Success stories have shown it is of vital importance to encourage public participation in fighting corruption. For example, in Uganda allowing the public to track the government's expenditures in the schools substantially decreased corruption.⁹⁷⁰ In Bangladesh, the Punjab experience, which allowed the public to rate the quality of the public services⁹⁷¹, they received, and report cases of corruption helped in curbing corruption and improving the quality of public services, since a more service-oriented culture was created in public institutions through public monitoring. In Philippines, the scorecards helped the citizens better participate in fighting against corruption. In addition, when citizens reported that false information about the completion of some roads, bridges and highways was delivered by some public officials, it

⁹⁶⁹ Michael Johnston, *Civil Society and Corruption: Mobilizing for Reform* (University Press of America, 2005) at 163, Google-Books-ID: gHNGPLY_cOwC.

⁹⁷⁰ Reinikka & Svensson, *supra* note 155.

⁹⁷¹ Mohammed Rizwan, *supra* note 740.

helped in unveiling corruption and holding public officials accountable. Moreover, the government supported their participation, consolidated their role and even provided them with training (this also lead to the creation of more active civil societies).In Nigeria, the new project the Ears of the government helped citizens in monitoring infrastructure projects to reduce the costs of monitoring and to fight against corruption. In Indonesia, the public monitoring in construction projects also helped in reducing corruption in this sector. In Georgia, the citizens' participation was part of its successful anti-corruption program. Therefore, countries experiences have shown the effectiveness of citizens' participation in fighting against corruption not only in curbing corruption but also in restoring the trust between the government and the people, and in making people feel a sense of ownership of the anti-corruption programs.

The success of the anti-corruption does not solely depend on the political will of the political leaders but also on the people's commitment to implement the program. The more the people will participate in implementing the anti-corruption program, the more willing they will be to support and apply the program. In a session entitled " Public participation: A pre-condition for successful public sector reforms" chaired by Kauffman of the World Bank Institute, he concluded that:

No two countries arrive at the same strate, but to maximize the prospects of success, any country serious about improving governance must involve all key stakeholders, guarantee a flow of information to them, and lock in the commitment of the leadership.⁹⁷²

Therefore, the participation of the public as "key stakeholders" is paramount in guaranteeing the success of the anti-corruption program.

A.7.e - Enhancing the Role of the Media in Fighting Corruption.

The media can play an important role in achieving the country's goal in fighting corruption. The media is not restricted to the visual media but also the social media which is

⁹⁷² Daniel Kaufman, *New Empirical Frontiers in Fighting Corruption and Improving Governance-Selected issues* (The World Bank, 2001).

widely used in Egypt. The media in Egypt played an important role in informing people about public officials being arrested and charged with corruption. Involving the media in the fight against corruption can result in the following: First, it acknowledges the Sovereignty of the law and that public officials -whatever their rank- will not be above the law. Second, it gives a message to the public that corruption will not be tolerated as in the past, which may encourage them to report corrupt acts or may make them calculate the risk in engaging in corrupt deals.

Arresting officials when engaged in corrupt deals became quite common since the implementation of the Strategy, particularly with the ACA efforts to unveil incidents of corruption. A “Naming and shaming strategy” has been used by the media to raise people’s awareness about the risks associated with corruption and to restore their trust in their political leaders and their government by demonstrating that the state is taking active role in achieving the anti-corruption goals. A set of ads were diffused in 2016 during the month of Ramadan - the month where Muslims in Egypt fast and it holds special traditions for all Egyptians where most of the people gather from different age groups to watch the different TV shows. The ads aimed at showing people the negative effects of corruption and informing them the possibility to participate by reporting corrupt acts on the hotline.

The research finds that although the media has been used in fighting corruption. However, the strategy adopted cannot be considered comprehensive when attempting to achieve the desired goal : first, continuously exposing corrupt deals may give an impression that corruption is widespread since there were never also a program initiated to praise and fame honest public servants or public officials although they surely exist. Secondly, although the ad campaign timing was wisely used however, limiting it for a short period of time reduces its effectiveness since researches have shown the importance of repeating the message to guarantee a better influence and accordingly an implementation. Finally, when the media only exposes the negative effects of corruption, and only talks about corrupt people arrested, it results in developing a spirit of discouragement rather than motivation to continue fighting against corruption. People also need to get information about reforms and the political leaders efforts to

reconstruct the system to fight against corruption. The problem in Egypt that this feature was ignored.

A.7.f- Enhancing the Trust in the State Entities

The innovative and important component of this goal is that it did not only aim at raising the citizens' awareness about the destructive effects of corruption but it also targeted restoring their trust in the government. The reason is that citizens' participation in fighting corruption usually helps in restoring and building the citizens' trust in their governments especially when they encounter a real change in curbing corruption.

A.8- Reinforcing the Local Cooperation in the Field of Anti-Corruption

Reinforcing the local cooperation in the field of anti-corruption is a medium-term goal to be implemented in 2015.

The implementation policy of this goal consists of:

- Developing laws and frameworks governing the exchange of information between the agencies concerned with fighting against corruption.
- Developing new mechanisms to coordinate, and exchange information between the authorities responsible for fighting against corruption.

The authorities responsible for the execution are:

- The Parliament
- The Cabinet of Ministers
- The NCCCC

The performance indicators are:

- Developing a system to exchange information among the authorities responsible to fight corruption.
- The reports prepared by the NCCCC

This goal is particularly significant within Egypt's context since fighting corruption is not the responsibility of a single independent agency. Instead, the responsibility to fight corruption is shared among.⁹⁷³ Lack of effective cooperation and coordination among those agencies will result in a waste of time, efforts, and opportunities to fight against corruption.

The legislator was aware of the importance of this coordination so it was clearly stated in the 2014 Egyptian Constitution. Article (218) of the Egyptian Constitution stipulates that:

The state is committed to fighting corruption, and the competent control bodies and organizations are identified by law. Competent oversight bodies and organizations commit to coordinate with one another in combating corruption, enhancing the values of integrity and transparency in order to ensure sound performance of public functions, preserve public funds, and develop and following up on the national strategy to fight corruption in collaboration with other competent control bodies and organizations, in the manner organized by law.

According to the article of the Constitution, the competent authorities responsible to fight against corruption have to:

- Commit to coordinate with one another to fight against corruption
- Enhance principles of transparency and integrity
- Develop and follow up the execution of the National strategy to fight against corruption.

⁹⁷³ A full list of the competent authorities responsible to fight against corruption and their responsibilities was provided when studying the 3rd main goal of the strategy.

To respond to the Constitution's requirements in order to coordinate between the different agencies and authorities responsible to fight corruption, several mechanisms have been implemented:

- a. The creation of the National Coordinating committee for combating corruption.
- b. The creation of the sub-national Coordinating committee for the prevention and the fight against corruption.
- c. The creation of the National academy to fight against corruption.

A.8.a- The National Coordinating Committee for Combating Corruption ⁹⁷⁴(NCCCC)

The National Coordinating committee for combating corruption was established by the Prime ministerial decree No 2890 of the year 2010 amended with the decree No 493 of the year 2014. The NCCC is presided by the prime minister and comprises the membership of the minister of Local development, the minister of Justice, The president of the Administrative Prosecution Authority, the president of the Administrative control authority, and representatives from a number of ministries and agencies: representative of Ministry of Interior, representative of Ministry of Foreign Affairs, representative of General Intelligence Agency, representative of Central Audit Organization, and representative of Anti-Money Laundering Unit.

The main responsibilities of the NCCCC are as follow:⁹⁷⁵

1. The practical execution of the of the UNCAC in addition to the other national, and international conventions.

⁹⁷⁴ NATIONAL COORDINATING COMMITTEE FOR COMBATING CORRUPTION, *supra* note 815; United Nations Development Programme, *United Nations Development Programme Country: Egypt Project Document* (2013). <https://info.undp.org/docs/pdc/Documents/EGY/Support%20to%20NCCCC%20-%20signed%20prodoc.pdf>

⁹⁷⁵ هيئة الرقابة الإدارية، "هيئة الرقابة الإدارية - اللجنة الوطنية للتنسيقية"، online: <<https://www.aca.gov.eg>>.. Last accessed in June 4, 2018 (unofficial translation)

2. The formulation of a unified Egyptian vision to be announced (proclaimed) in international conferences.
3. Monitoring the degree of Egypt's compliance with its international commitment to apply the provisions of the UNCAC and other international agreements, in addition to organizing the participation in related conferences, and workshops.
4. Conduct periodic evaluation of the laws, regulations, and bylaws that aims at fighting against corruption to assess the degree of their compliance with the provisions of the international agreements where Egypt is a signatory.

According to the NCCCC website, it aims at enhancing principles of integrity, and transparency, in addition to fighting against the financial, and administrative corruption in all its forms. To achieve the above-mentioned goals, it has a number of responsibilities:⁹⁷⁶

1. Monitoring the application of the regulations related to the public interests, and to the public good to guarantee being bound by its provisions.
2. Detecting corruption in the public works contracts, operating contracts, maintenance contracts and other forms of contracts related to the public interests, and the interests of the citizens in areas within the scope of the committee's jurisdiction. In case of detecting any form of corruption in any contract, or in case of revealing that the conclusion or the execution of the contracts were made in violation with the governing laws, by laws or the regulations, the committee is entitled to take regulatory measures.
3. The revision of the work methods and procedures in the areas within the committee's scope of jurisdiction to unveil the vulnerable areas that offers opportunities to engage

⁹⁷⁶ "اللجنة الوطنية التنسيقية لمكافحة الفساد"، أهداف اللجنة واختصاصاتها

<http://www.ncccc.gov.eg/Pages_ar/Reporting.aspx>. (unofficial translation from Arabic) Last accessed in June 4, 2018

in corrupt deals, and finding adequate corrective measures to ensure reaching the committee's goals and executing its functions.

4. Monitoring the degree of commitment of the institutions that fall within the committee's scope of jurisdiction in implementing the systems and measures that criminalizes the financial and administrative corruption. In addition, the committee also aims at enhancing the principle of accountability on all persons regardless of their position or ranking.

It is worth noting that the NCCCC is mandated to take measures to detect corruption but does not hold any investigative authorities.

A.8.b- The Sub-National Coordinating Committee for the Prevention and the Fight Against Corruption

The aforementioned Committee is a sub-committee of the NCCCC and was created in accordance with the prime minister decree No.1022 for the year 2014 . The president of the sub-national committee is the head of the ACA. The Committee is formed of representatives from the ministry of interior, the ministry of administrative development, ministry of foreign affairs, the ministry of justice, the public prosecution, the public security, the ACA, the central auditing organization, the administrative prosecution authority, and the illicit gain authority.⁹⁷⁷

The Sub-national committee performs a number of important activities:

1. The preparation of the necessary research to create the national strategy to fight against corruption.

⁹⁷⁷ "اللجنة الفرعية التنسيقية - الإختصاصات والصلاحيات"، هيئة الرقابة الإدارية⁹⁷⁷, online: <<https://www.aca.gov.eg>>. last accessed in June 4, 2018 (unofficial translation)

2. Implementing the most suitable procedures and mechanisms to coordinate between the different national regulatory agencies to facilitate the exchange of experience and knowledge between them.
3. Receiving corruption complaints regarding corrupt acts and conducting fact finding, besides studying the different phenomena of corruption in all public institutions.
4. Suggesting the best solutions to eradicate corruption, and issuing recommendations to create a culture of transparency and integrity in the society.

A.8.c- The National Anti-Corruption Academy

The National anti-corruption Academy was established by the Administrative Control Authority under article 55 bis of Law No. 207 of 2017 (Official Gazette No. 41bis of 18/10/2017) its purpose is:

- To train the members of ACA and others.
- Cooperate with other specialized organizations and agencies in fighting against corruption in other countries.

The aforementioned purpose will be achieved through:

- The organization of training courses, conferences, symposia, discussion panels, the dissemination of the principles of transparency and integrity, and exchange of experiences.
- Sending international Study and training missions and granting diplomas and Masters degree in the field of anti-corruption through coordinating with the Supreme Council of Universities to accredit the awarded degrees.

The members of the board of directors of the National anti-corruption academy consists of the prosecutor General, the Head of the Central Auditing organisation, the minister of investment

and International cooperation, and the Head of the Unit of Money Laundering and terrorism financing.⁹⁷⁸

Investing in Human capital has become of increasing importance in the international world. It is one of the important sustainable development goals for the 2030 vision, the creation of the National Anti-corruption Academy represents a great advancement in achieving the local cooperation goals to fight against corruption since it provides the opportunity for the members of the ACA and other members of the agencies concerned with fighting against corruption the opportunity to acquire effective and specialized training techniques to fight against corruption. One of the most important pillars in fighting against corruption, is providing adequate training to the members of the competent authorities. Besides, allowing the members of the competent authorities to study- and to be awarded accredited Masters or diplomas degrees- or to be trained abroad represents an important step in developing their capacity to better perform their mission. Studying abroad also helps broaden their perspective through their exposure to international experiences in fighting against corruption. Finally, it helps in understanding how to scientifically achieve a country's goal in fighting against corruption through conducting researches in to obtain their diplomas or Masters degree. The UN toolkit stresses upon the importance of research to achieve the anti-corruption goals. The research may study the effectiveness of the anti corruption laws, the degree of success of the different programs including those who aim at raising the public awareness.⁹⁷⁹

The research concludes that reinforcing the local cooperation in the field of anti-corruption as one of the main aims of the Strategy was realised through various measures. The local cooperation was realised according to the article (218) of the Constitution which requires the authorities responsible to fight against corruption to coordinate together. This was achieved

⁹⁷⁸ قناة صدی البلد: "صدی البلد", تعرف على أعضاء مجلس إدارة الأكاديمية الوطنية لمكافحة الفساد في مصر <<http://elbaladv.net/>>.

⁹⁷⁹ United Nations Office on Drug and Crime, *The Global Programme Against Corruption: UN ANTI_CORRUPTION TOOLKIT* (United Nations Office on Drug and Crime, 2004).

through the creation of the National coordinating committee for combatting corruption, and the sub-national Coordinating committee for the prevention and the fight against corruption. The committees allow the coordination between the different members of the concerned authorities, which allow them to share experiences, information, the challenges they face, and best practices to fight corruption. However, it was difficult to collect information on the means by which the NCCC and its subcommittee achieve their goals in coordinating between the different authorities concerned with fighting against corruption apart from organising meetings between the concerned members. Finally, it is important that the NCCC and its subcommittee to benefit from the technological advances to facilitate the flow of information between the members of the authorities to better perform their mission in a timely manner, and to guarantee their security and confidentiality.

A.9- Reinforcing the Regional and International Cooperation in the Field of Anti-Corruption

Reinforcing the Regional and international cooperation in the field of anti-corruption is a short term goal, to be implemented in 2015.

The implementation policy of this goal consists of:

- Enhancing the efforts to promote the regional and international cooperation in the field of anti-corruption, and assets recovery and what it requires (necessitates) from promulgating laws and ratifying conventions.
- Enhancing Egypt's representation in the regional and international events concerned with the prevention and the fight against corruption
- The implementation of the anti-corruption conventions that Egypt ratified
- Benefiting from the best international practices in the prevention and fight against corruption.

The authorities responsible for the implementation are:

- The Parliament
 - The Cabinet of Ministers
 - The NCCCC
 - The Ministry of Foreign Affairs
 - The Ministry of Justice
 - The General Prosecution
- (4) The regulatory bodies responsible to fight corruption

Performance indicators are:

- The organization of training courses in assets recovery and fighting corruption
- The cooperation initiatives among the national, regional and international organizations in the field of anti-corruption, asset recovery and money laundering.
- The bilateral agreements among the law enforcement authorities
- The follow-up reports prepared by the NCCCC

Reinforcing the regional and international cooperation in the field of anti-corruption is an important goal to set within any successful national anti-corruption strategy to fight against corruption. Due to the technological innovations there exists no country immune from corruption. It does not matter how powerful is a country, it will be affected by its international relations due to the inter related and interdependent trade relations and technological advances. Therefore, it is important to set a standard in fighting against corruption by concluding regional and international agreements to make sure that all countries agree upon the same principles to guarantee the success of the effects of the national efforts to fight against corruption. Therefore, the success of a national strategy to fight corruption will not only depend on the political leaders efforts on the national level, but also on their efforts to ratify conventions and agreements on

the regional and international level to guarantee the sustainability of the realised improvements or successes.

According to Susan Rose-Ackerman, a number of international organizations helped countries in reaching their anti-corruption goals by encouraging the cooperation between ratifying countries in certain treaties and expanding the reach of anti-corruption law.⁹⁸⁰

The United Nations Convention against corruption, and the Interpol improved the cooperation between ratifying countries which helped in the extradition of offenders and asset recovery.

The OECD requires that the ratifying countries encourage their firms to limit corruption by making bribe paying an offense. Although, there is no legal sanction for violating this agreement, however, the bad publicity tool used proved its effectiveness.

The World bank has initiated a program named the Stolen Asset Recovery Initiative (STAR) to help countries in their assets recovery efforts in some detected cases of corruption. The Swiss Banks had frozen the secret accounts of removed rulers who were claimed to engage in corrupt deals and that the money in their accounts belong to the state.

The research will highlight the steps that Egypt has taken to increase the cooperation on the regional and international level.

⁹⁸⁰ Susan Rose-Ackerman, “Anti-Corruption Policy: Can International Actors Play a Constructive Role?” (2011), online: <<http://papers.ssrn.com/abstract=1926852>>.

A.9.a- International Conventions to Fight Corruption

In the framework of Egypt's efforts to fight corruption, its leaders have ratified a number of international conventions and agreements to curb corruption, which according to the Egyptian Constitution hold the force of the law after being published.

According to article 96 of the Egyptian Constitution:

The state is committed to the agreements, covenants, and international conventions of human rights that were ratified by Egypt. They have the force of law after publication in accordance with the specified circumstances.

Below is the list of the international and regional Conventions that Egypt has ratified to fight against corruption.

- Ratified by Egypt under Presidential Decree 307 of 2004, and published in the Official Gazette, Issue No. 6, dated 8/2/2007.
- Agreement to establish the International Anti-Corruption Academy as an international organization, issued in Vienna on 2/9/2010. It was ratified by Egypt under the Presidential Decree No. 27 of 2013 and published in the Official Gazette No. 24 of 13/6/2013.
- Arab Anti-corruption Convention, signed in Cairo on 21 / 12/2010. It was ratified by Egypt under Presidential Decree 181 of 2014 and published in the Official Gazette No. 34 of 21/8/2014
- The African Union Convention on preventing and combatting corruption under the presidential decree No 204 of the year 2017.

A.9.b- Agreements for Cooperation and Exchange of Expertise in the Fight Against Corruption

ACA signed a number of protocols and bilateral agreements to enhance the efforts to fight corruption in a number of Arab, African, European, and other foreign countries, which include: Armenia, France, Malaysia, Romania, Tanzania, Vietnam, Cameroon, Hungary, Morocco, Sierra Leone, Thailand, China, Iraq, Palestine, Sultanate of Oman, and Uganda.

ACA has also signed cooperation and training agreements with other countries like Sweden, Hong Kong, Denmark, Italy, Britain, Singapore, USA.

A.9.c- Protocols to Enhance the Collaboration with International Organizations

The ACA has also collaborated with a number of International organizations like the UNODC, the UNDP, the ICE, the FBI, the IACA and the World Bank group to enhance Egypt's effort to fight corruption in varied ways, one of which is to provide capacity building trainings to the members of ACA to help improve their performance in fighting corruption.

UNODC

Egypt has been supported by international donors namely, the European Union, Canada, and Romania within the framework of a project called “ Supporting Measures to Combat Corruption and Money Laundering and to foster Asset Recovery”, that aims to address corruption and money laundering in a comprehensive manner.⁹⁸¹ The project duration was from 21/7/2011 to 30/12/2017. The partners of this project are ACA, the Ministry of Administrative Development (now called Ministry of Administrative Reforms), Ministry of Justice and

⁹⁸¹ *Supporting Measures to Combat corruption and money laundering and to foster asset recovery in egypt*, Independent mid-term project evaluation, by European union, Canda & Romania, Independent mid-term project evaluation ENPI/2008/019-06 (New York: UNODC, 2013).www.unodc.org/documents/independent_Evaluations/2014/EGYX49_Mid-term_Evaluation_Report_JAN2014.pdf

Ministry of Interior Affairs. Through this project UNODC was meant to provide the Egyptian government with the best practices, and the countries successful experiences in fighting corruption.

According to the UNODC website, some of the key achievements of this project can be summarized in the following: drafting the National anti-corruption Strategy, enhancing the institutional efforts to fight corruption and to recover the stolen assets, enhancing the complaints and reports mechanisms, conducting campaigns to raise public awareness and helping in improving the conflict of interest law.⁹⁸² Due to the successful cooperation in this project, the UNODC signed another MOU to continue to support Egypt's effort to fight corruption.

On the 6th of November 2017, the ACA signed another MoU with the UNODC to continue to support Egypt in its effort to fight corruption within the framework of a project called “ Action Against Corruption in the MENA region (2017-2021).⁹⁸³ project, UNODC continued to provide innovative techniques on case management, and analysis called goCASE and goAML,⁹⁸⁴ and provided training courses on financial investigation, financial cybercrime and the protection of public funds. UNODC also helped in implementing the recommendations issued from the UNCAC implementation review mechanism.

UNDP

⁹⁸² UNODC, “Supporting Measures to Combat Corruption and Money Laundering, and to Foster Asset Recovery, in Egypt”, online: *UNODC Middle East North Afr* <www.unodc.org/middleeastandnorthafrica/en/project-profiles/egy49.html>.

⁹⁸³ UNODC, “UNODC and Egypt Sign Memorandum of Understanding to Combat Corruption”, (11 June 2017), online: <<https://www.unodc.org/middleeastandnorthafrica/en/web-stories/unodc-and-egypt-sign-memorandum-of-understanding-to-combat-corruption.html>>.

⁹⁸⁴ goCASE UNODC software solution for Law Enforcement Agencies&Investigative Authoties, “Integrated Intelligence, Investigation & Prosecution Case Management & Criminal Database System”, online: <<https://gocase.unodc.org/>>.

On the 11th of May 2017, a letter of intent was signed between the head of the ACA, the minister of international cooperation in Egypt, and the director of the UNDP regional Bureau for Arab to enhance Egypt's efforts to fight corruption.⁹⁸⁵ Both sides discussed the cooperation to establish an anti-corruption academy to promote the research and the efforts to fight corruption, launching a campaign to raise people's awareness about the effects of corruption, and building the capacity of the members of the ACA. In addition, the report shows that "Both sides discussed UNDESA's support of building capacities of ACA staff so that they might be able to follow up on the SDGs' indicators, besides providing ACA with experiences relating to the implementation and follow-up of anti-corruption strategies."⁹⁸⁶ This cooperation was quite successful and one tangible evidence is that The National anti-corruption Academy was established by the Administrative Control Authority under article 55 bis of Law No. 207 of 2017 (Official Gazette No. 41bis of 18/10/2017) Building the capacity of the members of the ACA to better perform in their mission in fighting corruption is a very important goal. However, ACA is not the only law enforcement authority concerned with fighting corruption in Egypt. Therefore, it is recommended by this research that to support Egypt's effort in fighting corruption the capacity building should be offered to all the members of the authorities and bodies responsible to fight corruption. They should all receive the same quality of training and learn from success stories and best practices.

ICE

⁹⁸⁵ Ministry of Investment and International Cooperation, "Egypt and UNDP Signed a Letter of Intent for Cooperation in the Anti-Corruption and Governance Field", (5 2017), online: <<http://www.miic.gov.eg/English/MediaCenter/News/Pages/Egypt-and-UNDP-Signed-a-L.aspx>>.

⁹⁸⁶ *Ibid.*

On the 22nd of March 2018, The U.S. Immigration and Customs Enforcement (ICE) signed an MOU with the ACA to enhance their collaboration, and exchange expertise and best practices.⁹⁸⁷

FBI

The ACA signed an MOU with the U.S. Federal Bureau of Investigation (FBI) to enhance the cooperation between the two parties.⁹⁸⁸ There were a number of cooperation efforts were concluded between the ACA and the FBI in the field of investigation and training. In the framework of the past cooperation, since 2015 two ACA members graduated from the FBI academy, and a joint training program was held in 2016 in the ACA premises.

IACA

On the 26th of October 2016, the ACA visited the IACA to discuss potential joint projects of mutual interest.⁹⁸⁹ On the 2nd of October 2017 Egypt hosted the Sixth session of the assembly of parties to the International Anti-corruption Academy (IACA) with the presence of presidents of countries, and the heads of 39 anti-corruption authorities, AML units, and law enforcement agencies.⁹⁹⁰ During the inaugural session, the head of the ACA explained that hosting this event reflects Egypt's commitment to cooperate with international organizations to enhance its

⁹⁸⁷ US Immigration and Customs Enforcement, "ICE and Egyptian Administrative Control Authority sign Memorandum of Understanding", online: <<https://www.ice.gov/news/releases/ice-and-egyptian-administrative-control-authority-sign-memorandum-understanding>>.

⁹⁸⁸ State Information Service, "US FBI, Egypt's ACA cooperate on fighting corruption", (28 December 2017), online: <<http://www.sis.gov.eg/Story/122990?lang=en-us>>.

⁹⁸⁹ Administrative Control Authority, "A delegation from the Administrative Control Authority (ACA), visited The International Anti-Corruption Academy (IACA)", online: <<https://www.aca.gov.eg>>.

⁹⁹⁰ Administrative Control Authority, "ACA Chairman, Minister Mohamed Erfan Gamal El-Din, launched the proceedings of The sixth session of the Assembly of Parties to the International Anti-Corruption Academy held in Sharm Al-Sheikh", online: <<https://www.aca.gov.eg>>.

capacity to fight corruption, and benefit from the IACA to build the capacity of the members of the authorities concerned with the fight against corruption in Egypt.

In January 2018, the Permanent Representative of the Arab Republic of Egypt to the International Organizations in Vienna met the Dean of IACA to discuss issues related to the MOU signed between IACA and Egypt during the 6th session of the state parties meeting held in Sharm EL Sheikh.⁹⁹¹ They discussed the possibility of concluding bilateral cooperation through providing tailor-made training programs adapted to meet the Middle East needs.

The WB group

In May 2017, the head of the ACA signed a protocol with the World Bank officials develop and enhance anti-corruption and measures and governance tools. Head of ACA also signed a protocol with the World Bank senior director for the Governance Global Practice to promote anti-corruption measures.⁹⁹²

Hence, this research concludes that Egypt has taken important steps to consolidate its efforts in fighting corruption and has gained international recognition in this regard. However, it is worth noting that since Egypt does not possess a single independent anti-corruption authority like Hong Kong or Singapore case, therefore, all the anti-corruption authorities in Egypt have to benefit from the bilateral agreements learning from the best practices in other countries and the international organizations and not only the ACA. Egypt needs to adopt a more

⁹⁹¹ International Anti-Corruption Academy, “IACA and Egypt Consolidate Anti-Corruption Ties - IACA - International Anti-Corruption Academy”, (23 January 2018), online: <<https://www.iaca.int/987-iaca-and-egypt-consolidate-anti-corruption-ties.html>>.

⁹⁹² Egypt Today staff, “Egypt signs protocol with World Bank to combat corruption”, *Egypt Today* (5 October 2017), online: <<http://www.egypttoday.com/Article/3/4921/Egypt-signs-protocol-with-World-Bank-to-combat-corruption>>.

comprehensive approach in enhancing the capacities and the capabilities of all the anti-corruption bodies.

A.10- Participation of Civil Society Organizations in Fighting Corruption.

The Participation of Civil society Organizations in fighting corruption is a medium-term goal to be implemented in 2015-2017.

The implementation policy of this goal consists of:

- Revising and creating legal frameworks for the foundation (establishment) and work of the NGOs.
- Encouraging the civil society organizations to prioritize the fight against corruption.
- Simplifying the process to allow the civil society organizations to access the available information that does not threaten (contradict) with the public security or the public interest, in addition to the creation of communication channels that connects the CSOs to the Administrative, and Auditing state organizations.
- Regulating the publishing of information from the civil society and putting frameworks to protect the subjectivity and the accuracy of the published information.

The authorities responsible for the execution are:

- The parliament.
- The cabinet of ministers.
- The Ministry of planning and administrative reforms.
- The Ministry of social solidarity.

- The internal monitoring organizations in the different ministries.
- The NCCCC
- The Central Auditing Organizations
- The central Agency for organization and Administration
- The media in its different forms
- The Civil service organizations

The authorities responsible for monitoring are:

- The NCCCC
- The media

The indicators to measure the performance are:

- Issuing a new NGOs law
- Increasing the number of the initiatives that aims at fighting against corruption
- Creating electronic forums to enhance the communication between the government and the CSOs.
- Putting fighting against corruption among the CSOs work list and program
- The progress reports prepared by the NCCCC
- The surveys and questionnaires.

For the purpose of the research, and also within the framework of the National strategy to fight corruption, we will limit the meaning of the CSOs to the local civil societies and the NGOs.

A.10 .a - A Relationship Characterized by Continuous Tension

Putting civil service participation as one of ten important objectives to fight corruption is crucial to the execution of the anti-corruption Strategy. The relationship between the state and

the CSOs is characterized by ongoing tension, so it is quite problematic and needs a redefinition. The relationship has to be revisited, and looked at from the angle of cooperation rather than competition, to gain public trust. For the purpose of the research, and also within the framework of the Strategy, we will limit the meaning of the CSOs to the local civil societies and the NGOs. According to the Arab NGO Network for development (ANND)

The main determinant of the shape of the relationship between the state and civil society is the state itself. If the state's policy is based on an institutionalized system and a democratic form, civil society organizations would support and help the state, and act as a means of connection between the state and the society. Examples include many countries from Latin America to Asia, where the state converges with civil society to achieve development in a relation of partnership and integration.... In the developing countries, seeking to achieve development, the state and civil society will inevitably meet halfway.⁹⁹³

Therefore, whenever the state and the civil societies have the will to cooperate, they will help each other to compromise and reshape the relationship to reach the designated goals.

Civil Society organizations' efforts in fighting corruption should be seen as complementing the government work. In the sense that the role of the CSOs is not limited to exposing corruption to the public- although it is important- it has also to assist the government in finding effective measures to fight against corruption, and implement preventive measures. The only way to create a relationship based on cooperation between the government and the CSOs is to create communication channels in which each party can understand well its role, responsibilities, and limits. In this process, both parties have to be aware that a full collaboration and appreciation of each party's effort will not happen in a short period of time, since the tension and evolution of the relationship also took few decades.

Understanding the Roots of the Tension

Before discussing and analyzing the role that the civil society organizations play or were expected to play in the framework of the Strategy, it is important to understand the

⁹⁹³ Arab NGOs Network for Development & Norwegian People's Aid, *Enabling Environment for Civil Society in the Arab Region* | (Lebanon) at 40. <<http://www.socialwatch.org/node/17832>>

circumstances and the rules of the game governing the relationship between the State and the Civil Society. In the following passage, the research will shed the light on the historical nature of the relationship between the State the CSOs according to Arab NGO Network for development (ANND), and the complete social survey from 2011-2015 prepared by the National Research center for Social and Criminal studies. This is to understand the roots of the current relationship and to be able to recommend realistic and practical measures to enhance the role of the CSOs. Defining and analyzing the roots of the problem is the first step towards solving it.

It is worth noting that the right to form civil society organizations is guaranteed by the Constitution and governed by the law no 70 for the year 2017, which replaced the law No 84 for the year 2002. Articles 75 of the 2014 Constitution stipulates that:

Citizens have the right to form non-governmental organizations and institutions on a democratic basis, which shall acquire legal personality upon notification. They shall be allowed to engage in activities freely. Administrative agencies shall not interfere in the affairs of such organizations, dissolve them, their board of directors, or their board of trustees except by a judicial ruling. The establishment or continuation of non-governmental organizations and institutions whose structure and activities are operated and conducted in secret, or which possess a military or quasi-military character are forbidden, as regulated by law.

In spite of the legal framework that organizes and guarantees the formation of civil service organizations, the social and historical circumstances governing the relationship between the State and the civil society organizations does not promote the achievement of the perceived reform goals to fight against corruption. According to the ANND “In Egypt, the state has sought to build a relationship with civil society that is always limited in the context of subordination and not a genuine partnership based on equality and respect for positions and roles.”⁹⁹⁴ The author explains that the roots of the unbalanced relationship started from the 50s and specifically following the 1952 revolution.

⁹⁹⁴*Ibid.*

The author also explains that following the revolution, the State wanted to execute a deal between the people and the CSOs, where the State will ensure the provision of the people and the CSOs needs and in return the State will nationalize the participation of the CSOs , and the CSOs will be subordinate to the State instead of being independent. The State continued to play this role successfully (ensuring people’s basic needs) which helped it gain popularity. However, in time this role faded. Meanwhile, the CSOs continued to play their role as subordinates and the independent CSOs were continuously suppressed and marginalized.⁹⁹⁵

Before the 2011 revolution, during Mubarak’s (the Ex-President) era, the State found that it needed to execute a kind of nominal partnership “Pro-forma partnership” with the CSOs to comply with international agreements and conventions requirements.⁹⁹⁶ The independent CSOs continued to be repressed. There were no improvement in the nature of the relationship between the CSOs and the State until the 2011 revolution where the CSOs manifested its capabilities to meet people’s expectations.

The role of the independent CSOs was appreciated during the 2011 revolution. The independent CSOs proved its ability to play an important role in supporting the youth during the revolution even in the absence of political parties. Moreover, it contributed in the promotion of the Democratic dialogue in the society. In spite of the important role that the independent CSOs played in the period following the revolution, and before former president Morsi affiliated with the Muslim Brotherhood declared power, the State exercised a strong repression of the CSOs activities. The State led a campaign in the media to reduce people’s trust in their goals and affiliations, and prosecuted many of its leaders and limited their mobility rights, and confiscated many NGOs funds. The situation did not improve during the Muslim Brotherhood regime led by President Morsi; it even became worse. They wanted to limit even further their roles, and get rid of them, especially that they were aware of the role they played in mobilising

⁹⁹⁵ *Ibid.*

⁹⁹⁶ *Ibid.*

the society and overthrowing Mubarak, besides they didn't want the CSOs to expose the human rights violations they committed. "The Muslim Brotherhood classified the modernist independent civil society, which participates in the political, cultural, social and economic life of the citizens as a strong third party that wants to fight the state corruption, tyranny and repression, which should not exist or have any role in their emerging state. The civil society law they proposed reflected this view and so did their actions."⁹⁹⁷ Therefore, according to this view, the role of the civil society was always marginalized and they never acted as partners in the development agenda. He concludes that the laws that were promulgated during this period of time are evidence of this type of relationship. Therefore, from this brief historical presentation, we can conclude that the CSOs within the internationally agreed upon meaning never existed on the practical grounds.

Dr. Howayada Adly summarizes the challenges and the problems in the relationship between the CSOs and the government in a number of salient points highlighted as follows.⁹⁹⁸ She explains that the relationship between the government and the CSOs is one of the most challenging problems in the political and democratic reforms history that Egypt went through starting from mid 70s until the 2011 revolution. She argues that the authoritative political system bound the civil society and limited its legal, political, and security independence. She explicates that despite the changes that were the results of the 2011 and 2013 revolutions, the complicated nature of the relationship between the CSOs and the government persists and is clearly manifested in the everlasting sharp negotiations concerning the NGOs law 44/2002 and the syndicates law 35/1976.

⁹⁹⁷ *Ibid* at 42.

⁹⁹⁸ Although it is along passage, however it is crucial for the research to understand the nature of the relationship between the State and the civil societies. A full understanding of the problem and the underlying circumstances is the first step towards finding effective solutions towards more inclusion and participation.

Dr. Adly finds that to understand well this conflicting relationship, it is important to understand three points:⁹⁹⁹

1. The origin of the governing relationship between the CSOs and the state should be a mutual complementary and dependence relationship, characterized by a distribution of roles, and not a conflicting, and adversary relationship. In her view, the civil society is one of the manifestations of the modern society, which responds to the conditions of its existence by creating a legal framework that organizes the activities of all the parties, and groups in a given society. In addition, the CSOs relies on the state in executing its main economic, social, and educative roles through the special organizations it puts. There could not be a state without CSOs, and there could not be a CSOs without a state. The CSOs are a consequence of a strong state and at the same time, it aims to balance its strength. The development of the CSOs in the Western communities did not aim at replacing the authorities of the state- the existence of the CSOs didn't aim at delegating authorities- instead the development of the CSOs, and the powerful influence was the result of the balanced development. However, in Egypt the nature of the relationship is different; it is a relationship based on tensions between the two parties. She argues that the role of the CSOs as a main partner in the reform is totally absent.
2. The political and social changes in Egypt have become the top priorities, especially after the 2011 and 2013 revolutions. She adds that the process of the social and political change is long and cumulative. Furthermore, there exist a number of active agents in this process, and at the top of the list are the State and the CSOs. To understand whether the CSOs can participate or not in this process, it is important to understand the relationship between the two parties. The CSOs were created to organise the relationship between the State and the citizen. They were created to protect the citizen from the abuse of power of the state and to represent the citizens' interests to the State. In addition, it protects the State from the unorganized social

⁹⁹⁹ المسح الاجتماعي الشامل للمجتمع المصري (المركز القومي للبحوث in "هويدا عدلي", "المجتمع المدني في مصر بعد ٢٥ يناير تحولات و تحديات ٢٠١٦ (الاجتماعية و الجنائية).

representations, which may include violence that can threaten the political system and the legitimacy of the state. There is a positive relationship between the existence of strong CSOs able to express the citizens' interests and the absence of the protests and violent movements in a society. Therefore, the author concludes from this analysis that the civil society is not a separate phenomenon from the State. In the sense that one cannot interpret the evolution of the role of the civil society without understanding the changes that the State went through. The interpretation of the relationship between the state and the civil society is the key in understanding the role of the civil society in advancing the social and political changes.

3. The civil society plays many important roles in the process of the political and social changes. These can be summarised in three main roles: first, it contributes to *balancing the power* of the State through monitoring, and accountability process it can execute; second, it enhances the role of the state through partnership; and third, it helps in empowering the society to achieve a democracy. However, this role is not played effectively by the CSOs in Egypt due to the problematic nature of the relationship between the State and the CSOs.
4. Thus, according to Adly, the relationship between the State and the CSOs does not promote cooperation to achieve the commonly perceived goals, due to the lack of trust between the parties. The situation becomes even more problematic in balancing the powers when the public security is at stake. The problem is that following the 2011 and the 2013 revolutions, the trust crisis between the state and the CSOs was magnified and the gap became wider because of the discovery of unexplained foreign and international funding, and the presence of the NGOs that promoted a radical Islamists view.

Adly further stresses that the danger was not in the existence and presence of those organizations if they were to abide with the governing law. The real danger lies in using those organizations as a tool to promote the struggle between those organization adopting the Muslim

brotherhood, and radical Muslim ideologies against the state.¹⁰⁰⁰ According to the World Development Report 2017 “When social movements are captured by narrow interests, they may reinforce existing inequalities rather than overcome them.”¹⁰⁰¹

According to the history of this unhealthy relationship, the real interests of the CSOs will determine their path of success or failure. This does not mean that civil service organizations are compelled to share the same points of view of the state and political leaders. Instead, a healthy political environment is characterized by the diversity and the expression of different points of view. The key point is to understand the limits of each party’s role. In the sense that the CSOs has to understand that it cannot replace the State, so it has to work with the State, and consider it as a partner in the change and not as an adversary. Its role is not only to criticise it but also to praise it. There is no doubt that one cannot assume that all the State’s actions will appeal to everyone, but it is certain that there are important reforms that need to be praised and celebrated. When civil society only criticizes the State failures, and never celebrate or praise the State’s successes and achievements, it does not work in contributing the desired development because people will not be motivated to pursue the development goals. Likewise, when the State limits the role of the CSOs, it loses an important partner in change, as the CSOs can better help the state in achieving its goal particularly in fighting against corruption.

The CSOs can provide many advantages. It can help in designing and implementing the programs to raise awareness in fighting against corruption, and adapt it to the different levels of education in the society. It can also help in monitoring the quality of the public service. It can create communication channels between the State and the people to express their views. It can design public hearings to understand the people’s priorities when planning new infrastructure projects. It can also help in explaining the people the benefits of the State’s development strategies.

¹⁰⁰⁰ *Ibid* at 530.(unofficial translation)

¹⁰⁰¹ World Bank, *supra* note 930at 239.

In short, the CSOs role in a successful development process cannot be marginalised or ignored. However, this role also cannot be created without a relationship based on understanding of each party's role. This understanding will not occur without creating successful communication channels. According to Adly's view,¹⁰⁰²the reconstruction of a healthy relationship between the State and the civil society cannot be restricted to a change in some articles in the governing law. It necessitates that the legislator accepts that his role will be only to provide the general framework of the role that the civil society plays, and to leave the details of the management of the internal matters of the CSOs to the board of directors or the general assembly. Moreover, it also necessitates that the civil society accepts the principles of transparency, accountability, and other internationally agreed upon principles. She concludes that any freedom also entails responsibility, and although it is important that the State grant the civil society organizations the freedom to execute their role, it is also crucial that the state puts an effective framework for the good governance of those organizations. The framework should oblige the CSOs to divulge information related to the sources of their funding, and a level of transparency in spending the funds. Also, the framework should organize the principles of accountability in front of the different responsible control authorities. The reason is that one of the main principles of good governance is that no one should be exempted from the oversight or control and no one is immune from being corrupted.

Before examining and analyzing the implementation policies, it is worth noting that despite the important role that civil society can play, the consolidation of their rights does not happen in a short time. According to Johnston:

A strong civil society, rule of law, healthy electoral systems, and congruence between legal and social value cannot just be legislated or proclaimed. Where they exist, such advantages are rooted in history, development, and contemporary social process. Their emergence often took generations, and involved considerable contention over real issues—contention that produced political and institutional settlements in which major segments of the society had a lasting stake.¹⁰⁰³

¹⁰⁰² عدلي, *supra* note 989 at 534–535. (the following paragraph summarizes the view of the author) (unofficial translation)

¹⁰⁰³ Johnston, *supra* note 964 at 12.(emphasis added)

Therefore, after understanding that the tension between the Egyptian State and the CSOs is not recent, and that the emergence of strong civil societies takes generations, we cannot expect that the participation of the civil society organizations in fighting against corruption will reach its optimal level within the time frame of the strategy. Moreover, changing the law that governs their work is a necessary but not sufficient part of the solution. But was there any improvement? This is what the research explores in the next section.

A.10.b- Revising and Creating Legal Frameworks for the Foundation (establishment) and Work of the NGOs.

Constitutional and international commitment

The right to establish CSOs is guaranteed by the 2014 Constitution, the ratified Conventions and the law.

Article 75 of the 2014 Constitution stipulates that:

Citizens have the right to form non-governmental organizations and institutions on a democratic basis, which shall acquire legal personality upon notification. They shall be allowed to engage in activities freely. Administrative agencies shall not interfere in the affairs of such organizations, dissolve them, their board of directors, or their board of trustees except by a judicial ruling.

The establishment or continuation of non-governmental organizations and institutions whose structure and activities are operated and conducted in secret, or which possess a military or quasi-military character are forbidden, as regulated by law.

The Constitutional Court concluded that civil society organizations represent a means of contract between the individual and the State. They can develop the personality of the individual as the cornerstone in building the community by raising awareness through dissemination of knowledge and public culture. Thus, they raise citizen awareness according to the basis of the culture of democracy through spreading awareness and disseminating knowledge and public culture. Accordingly, it contributes to educating the citizens on a culture of democracy and harmony within the framework of a free dialogue, and mobilizing individual and collective

efforts to bring about more social and economic development together. It also works through legitimate means to ensure transparency and entrench the sanctity of public funds and influence in public policies and deepening the concept of social solidarity and assisting the government through the experiences and voluntary projects to better perform public services and to encourage the distribution and effective planning for using the resources. (Supreme Constitutional Court: 3/6/2000, Case No. 153, Constitutional Year 21, published in the Official Gazette No. 24 of 17/6/2000)¹⁰⁰⁴

Article 11 of the Arab Anti- Corruption Convention, signed in Cairo on 21/12/2010, stipulates that Each State Party shall take appropriate measures to encourage civil society organizations to participate effectively in the prevention and combating corruption and shall support such participation by measures such as: ¹⁰⁰⁵

- 1 -Raising awareness among society on the fight against corruption, the causes and seriousness of corruption and the threat it represents to the interests of society at large.
- 2 -Conducting media campaigns to reject corruption as well as awareness programmes, including school and university curricula.
- 3- Informing people about the competent anti-corruption agencies referred to in the present Convention and providing them with means to contact those agencies so as to inform them of any incidents which may be seen as constituting an act criminalized by the present Convention.

Article 13 of the UNCAC stresses the importance of Civil society participation. It stipulates that:

¹⁰⁰⁴unofficial translation

¹⁰⁰⁵ The World Bank and UNODC, “Arab-Convention-Against-Corruption | Stolen Asset Recovery Initiative (StAR)”, online: *Stolen Asset Recovery Initiat* </document/arab-convention-against-corruption>.

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:
 - (a) Enhancing the transparency of and promoting the contribution of the public to decision making processes;
 - (b) Ensuring that the public has effective access to information;
 - (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including
 - (d) school and university curricula;
 - (e) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
 - (i) For respect of the rights or reputations of others;
 - (ii) For the protection of national security or public order or of public health or morals.
2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the re-reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

A new Civil Society Organizations Law while Keeping the Old Tensions

Law No. 70 of the year 2017, organizing the work of the NGOs and other institutions working in the field of civil work (Official Gazette: No. 20 bis (f) 24/5/2017) was promulgated. A preliminary study of the law provides two important implications: first, the lack of trust between the State and the CSOs continues to persist; second, that the law is reflection of the current circumstances the state is facing, where it is tries to control everything and to close every possible gap through the law to avoid any terrorist funding. This does not mean that CSOs contribute to the promotion of terrorism, but rather that the State wanted to make sure that all fundings and activities are approved and transparent.

In my opinion, the new law is not the real problem that bans the effective participation of the CSOs. The real problem lies in the lack of trust and the lack of communication channels and means to solve the problem. The problem may be solved through the intervention of the national council for Human Rights which may try to reopen the discussion, rebuild the trust, and finally, the CSOs can re-discuss the legal framework that governs its activities.

The current law puts many restrictions on the CSOs execution of activities; although it explicitly mentions that it will only work in the social development projects that the state will define according to the priority it will set (Article 14). Even for the execution of those activities, before starting them it needs the approval of the administrative authority after receiving the approval of the competent governor (Article 13). Moreover, pursuant to article (14) (f) of the law, the CSOs are prohibited from conducting any surveys or field research, or from publishing the results of the conducted studies, and making them available and accessible except after being reviewed by the competent authority, in order to be sure of their impartiality and authenticity. This restricts core activities of the CSOs, as they are the most competent organizations to conduct those types of studies to assess people's needs and perception, which might have been used as a valuable source by the State to better define its policy priorities. It could have allowed the State to concentrate on the important development goals, while allowing the CSOs to complement its role and to assist in achieving its development goals, especially in the changing and specific social, economic, and political circumstances that Egypt is facing. The real problem

is again a problem of trust. The desire to control and restriction of all the CSOs activities stems from the countries' doubt in their intentions and real motivations. Therefore, the restricted legal framework is the result of the "absence" of trust and not only the lack of trust. As long as the trust problem is not addressed, the CSOs will not be able to effectively assist the State in achieving its goal in fighting against corruption.

A.10.c- Encouraging the Civil Society Organizations to Prioritize the Fight Against Corruption.

Encouraging the civil society to prioritize the fight against corruption first necessitates granting them freedom and space to operate with fewer restrictions. CSOs can substantially help the State in fighting against corruption by raising awareness about the negative effects of corruption and the different ways people can participate and assume active roles to solve the problems. They can also help the state to prioritize its development strategy according to the people's needs after conducting surveys and field research. Moreover, they can also help the state by explaining to the people the reasons for which the State adopts a certain policy over another in order to help the State gain more support. CSOs are more competent than the state in executing this role because of their easy exposure to the public and their geographical dissemination.

Article (13) and Article (14), however, restrict the ability of the CSOs to execute the aforementioned roles. The problem lies in the fact that the CSOs have mostly taken the position of an adversary to the State. It only tried to expose the State's inadequacies and shortcomings in applying different strategies. In other words, it has always understood its role as being responsible for exposing the State's failure. Therefore, the State tried to use its authority to limit the role of CSOs, since it cannot get rid of them because of its commitment with the international conventions and agreements that clearly stipulates that the State has to allow the CSOs to participate in fighting against corruption.

We are not facing a vicious cycle or an unsolved problem, since some CSOs had found ways to effectively participate in fighting against corruption. For example, the accountability lab has adopted an innovative strategy in fighting against corruption. Instead of using the name and shame strategy, which is one of the preferred strategies of the CSOs in Egypt, they used the name and fame strategy, in which they created a competition for people to praise and name honest civil servants. This initiative has been successfully applied in Nepal, Liberia, and South Africa.¹⁰⁰⁶ This policy has two important implications: first, it allows people to change their perception about civil servants and try to find honest civil servants around them. Even though at the end of the competition only one civil servant will be selected, it allows the people to see that “not all the civil servants are corrupt”. The activity may represent a first step in creating a partnership between the CSOs and the State, since they allow some representatives of the state to assist in the evaluation committee, therefore creating a better communication environment that focusses on issues of integrity instead of corruption. Finally, it helps in discouraging the civil servants and public officials from engaging in corrupt deals, since their good conduct will be rewarded, and it restores the public officials and civil servants positive image, since these tend to be seen as corrupt. According to Blair Glencorse this initiative is “ turning civil servants into celebrities.”

Restoring the trust and creating the communication channels is the first step towards creating partnership opportunities, and later starting to assist the government in improving its performance by helping it to better direct its efforts.

A.10.d- Facilitating the CSOs Access to Available Information Without Contradicting Public Security or Interest, and Creating Communication Channels to Link Civil Society Organisations and the Regulatory Bodies in the State

¹⁰⁰⁶ Blair Glencorse, “This Man Is Turning Civil Servants into Celebrities”, (10 October 2018), online: *TwentyThirty* <<https://twentythirty.com/this-man-is-turning-civil-servants-into-celebrities/>>.

Allowing the CSOs to access information will not be easy as long as the struggle and the tension persist. Furthermore, the implementation strategy aims at providing the CSOs with information that will not contradict the public security or the public order. Including this condition may limit the ability of the CSOs to access the information because the public security and public order may be given a broad definition. The positive element is that the the government recently opened some channels for communication and partnership with the civil society.

The desk review has shown that there were not many attempts to promote the role of civil society in fighting against corruption. The ministry of social solidarity held two conferences where (as published in the news) a large number of civil society organizations were invited to participate. The first conference was held in July 2017¹⁰⁰⁷ and the second conference was held in March 2018.¹⁰⁰⁸ The two conferences were held with the participation of representatives from the regulatory bodies, members of the civil societies committee, members of the regional committee in different governorates, and members of the committee created by the presidential decree. These representatives were able to activate the role of the CSOs in participating in fighting against corruption within the framework of the national strategy to fight against corruption. The main aim of the conferences was to create communication channels between the different stakeholders to better achieve the goals in fighting against corruption. In the first conference, the participants discussed the necessity of taking measures to increase the cooperation between the CSOs and the regulatory bodies to achieve the national strategy to fight against corruption goals, and issued a number of recommendations.¹⁰⁰⁹ They also discussed the necessity to fight against corruption within the CSOs themselves and to consolidate principles

¹⁰⁰⁷ July 2017), online: <https://www.youm7.com/story/2017/7/31/-المواطنین-وتوعية-مكافحة-الفساد-وتوعية-المواطنین-بمخاطره> (31 July 2017), online: <https://www.youm7.com/story/2017/7/31/-المواطنین-وتوعية-مكافحة-الفساد-وتوعية-المواطنین-بمخاطره>.

¹⁰⁰⁸ (أمنية فرحات), online: <https://m.akhbarelyom.com/news/newdetails/2639640/1/-الثاني-لمكافحة-ال-تنظم-المؤتمر-الثاني-لمكافحة-الفساد> (03:03 2018), online: <https://m.akhbarelyom.com/news/newdetails/2639640/1/-الثاني-لمكافحة-ال-تنظم-المؤتمر-الثاني-لمكافحة-الفساد>.

¹⁰⁰⁹ March 2018), online: <https://www.mobtada.com/details/708498> (15 March 2018), online: <https://www.mobtada.com/details/708498>.

of transparency, and disclosure of information. They further discussed the importance of the role the CSOs has to play to raise awareness of the negative effects of corruption and the different preventive measures that can be taken, as well as the different channels available to report corruption to the ACA. They also stressed the importance of organizing sessions to train the trainers to raise awareness about different measures to fight against corruption, the legal framework to fight against corruption, and the role of religion in fighting against corruption.

Representing civil society organizations in anti-corruption bodies

After restoring the trust and creating communicating channels, we hope that civil society organizations will be represented in anti-corruption bodies as a partner in combating corruption. CSOs are to be present in environmental affairs committee as a partner with the government to achieve its goals. Two articles of the Environment Law, amended by Law 9 of 2009, support this as follows:

1. Article 6 provides for the presence of three members of non-governmental organizations in the membership of the Board of Directors of the Environmental Affairs Agency for Environmental Affairs, selected in agreement with the Minister for Environmental Affairs.
2. Article 15 of the same law provides for the presence of a representative of the civil societies concerned with the environment in the formation of the board of the environmental protection fund, chosen by the minister concerned with environmental affairs on the basis of the president of the General Union of NGOs.

A.10.e- Organizing the CSOs Publication of Information, and setting a Protect the Subjectivity and the Accuracy of the Published Information.

Article (14) (G) of law n.70 of 2017 prohibits the CSOs from publishing information before they are approved by the competent agency to ensure its accuracy and impartiality. Although this policy and the article of the law represent a real restriction of the work of the CSOs, it is the result of the lack of trust between the CSOs and the governmental agencies. The only way to remove this restriction is to work on rebuilding the trust.

According to the Ibrahim Index of African governance which is “a tool to that measures and monitors governance performance in African countries:”

The Mo Ibrahim Foundation defines governance as the provision of the political, social and economic public goods and services that every citizen has the right to expect from their state, and that a state has the responsibility to deliver to its citizens. In the IIAG, country performance in delivering governance is measured across four key components that effectively provide indicators of a country’s Overall Governance performance. The key components form the four categories of the IIAG ...are Safety & Rule of Law, Participation & Human Rights, Sustainable Economic Opportunity and Human Development.¹⁰¹⁰

According to Annual average trend from 2012-2016, the participation and human rights index measure for Egypt has deteriorated and reached a warning sign.¹⁰¹¹ Pursuant to the score, it has reached its lowest category score of 27.2 in participation and human rights.

To improve this indicator, measures have to be taken to decrease the restrictions over the civil society work, and create a better environment for coordination and participation.

¹⁰¹⁰ Mo Ibrahim Foundation, *supra* note 506.

¹⁰¹¹ *Ibid.*

Chapter Four: How Were Egypt's Efforts to Fight Corruption Reflected in the International Measures? Towards More Constructive Recommendations

Following the literature review of reforms undertaken to fight corruption and the experiences of other countries in this respect, the research examined Egypt's efforts to fight corruption within the framework of the Strategy developed in 2014 and implemented in the four-year period from 2014 to 2018. The research discussed what was actually carried out, and provided recommendations as to what should have been done. It was vital to wait until the end of the implementation period of the Strategy to have a complete picture of the degree of progress achieved. It is also important to note that only a few days before finalising the research, on the 11th of December 2018, Egypt launched the second National anti-corruption strategy, to be implemented from 2019 to 2022. While the research cannot fully analyse the new Strategy, due to the time limitation, it will refer to this new Strategy in some instances since the new Strategy evaluates the degree of execution of the ten main goals. It is to be noted that nine of these ten main goals of the first Strategy are found in the new Strategy. The only goal which does not appear in the new Strategy is: Raising the standard of living of citizens and realising social equality.

The question remains, how can the research evaluate the progress over the four-year period? Can the research limit the evaluation by assessing the execution of the implementation policies in the framework of the Strategy? How can the research evaluate the level of success in applying the implementation policies? Were they successfully implemented? Did the policies serve the intended goal? Following an examination of the ten main goals, the research found that the majority of the implementation strategies were partially executed. However, knowing that this is only the beginning of a successful experience in fighting corruption, and certainly the subject itself suggests further study, this part of the research explores how the actual efforts in fighting corruption were reflected in the international measures.

Without a proper analysis and appraisal of what was actually accomplished, the research could not recommend how to make future efforts in applying further strategies to fight corruption more successful and inspiring. Therefore, the research focused on a detailed post-mortem analysis and evaluation of the Strategy as it was scheduled to conclude by the end of 2018.

Success stories of other countries reviewed in this research were defined with respect to the degree of progress achieved in accordance to international indicators. The international community and international organizations defined the efforts in fighting corruption as successful in terms of the positive changes in accordance to international measures. This research, therefore, attempted to do the same by celebrating successes within certain areas, and providing constructive recommendations in other areas. However, it is important to note that a debate has existed over the reliability of those indicators for measuring corruption in a given country. Are they reliable? Do they give a true and precise reflection of the actual situation in a country?

In this section, the research discusses the reason it relied on international measures for evaluation. It also examines Egypt's performance in fighting corruption based on different international indicators developed by a number of international organizations. According to the UNDP governance indicators user's guide, it is important when using data to: "Use a range of indicators. No single indicator allows for comprehensive, balanced comparison. Using just one can produce a false assessment, but too many can be confusing. A balanced set is needed."¹⁰¹² Therefore, the research uses: the World Governance indicators (WGI) and the Ease of Doing Business indicator (DB) developed by a group of researchers at the World Bank, the Corruption

¹⁰¹²"Governance Indicators: A Users' Guide", online: GSDRC<<https://gsdrc.org/document-library/governance-indicators-a-users-guide/>>.

Perception Index (CPI) and the Mo Ibrahim index for African countries developed by the Mo Ibrahim foundation.

A- Are International Indicators a True Reflection of Progress?

The debate over the reliability of the international measures to fight corruption is not new. However, one cannot deny that international measures are widely used by policy makers and international organizations to evaluate the performance of countries in different areas. The improvement in the quality and diversity of data provided and the constant review of the methodology, as well as the experience the developers of those indicators gained over the years has made them more reliable over time. Furthermore, there is more than one indicator to measure performance in different countries that are developed with different approaches. The latter makes it easier to measure the progress based on different approaches. The advances made in developing the indicators has made them a valuable resource to be used in research to measure and evaluate a country's progress over the years.

Although the indicators are never 100% accurate, because most of them depend mainly on perceptions, those perceptions come from a diversified group of people and use a variety of sources. Moreover, people's perceptions matter. People's perception about corruption in Egypt and in most of the countries that experienced the so called "Arab Spring" was the main catalyst for the revolutions of 2010 and 2011 in Tunisia, Egypt and Libya. One important advantage of the indicators is that they measure both the change in performance within the studied country and the performance in comparison with other countries. Thus, the research not only tracks the changes in the measures by comparing a given country's performance with other countries, it also compares the changes in the indicators level within the country itself over the years. In this research, the indicators at the beginning of the period of the implementation of the Strategy in 2014 will be used as a benchmark to evaluate the changes that the Strategy brought over the years.

Scholars and International organizations have often justified the use of the International indicators in measuring and comparing a country's level of corruption, despite knowing that they are not 100% accurate. Matthew Stephenson argues that :

I think that the impact of the CPI on the world has been positive for two reasons: First and most straightforwardly, perceptions of corruption also matter, even if perception are not that closely correlated with reality. But even putting that point aside, it is possible that the publications of the CPI has raised the profile of anti-corruption generally paying attention to an issue they might otherwise ignore. On top of that, since virtually all developing countries get less than ideal score, the publication of the CPI may give domestic political constituencies a rallying point-and some leverage-in putting pressure on the governments in some of those countries to do something about the problem, which might be a good thing even if it turns out that the relative CPI rankings were not well grounded in reality.¹⁰¹³

Therefore, according to Stephenson's view, even if we know that the corruption indicators are not 100% accurate (this is not to claim that it is not important to improve the accuracy of the indicators), we cannot deny the positive impact they have had in encouraging and improving the quality of the initiated reforms.

According to the Gateway Corruption Assessment Toolbox developed by Transparency international, the purpose of the assessment:

From an anti-corruption perspective, the purpose of many local governance assessment is to identify integrity, transparency, and accountability weaknesses in public institutions at the sub-national level which may present opportunities for corruption to arise, with a view to identify areas of reforms. Such assessments may be undertaken by local government actors themselves for self-evaluation purposes or by local civil society as a means of monitoring performance of their local representatives and advocating for reform. In this sense, a key objective of local government assessments is to strengthen both the internal and public accountability of local government units.¹⁰¹⁴

¹⁰¹³ Matthew Stephenson, "Does the Social Value of Corruption Indicators Depend Solely on Their Accuracy?", online: Glob Anticorruption Blog <<https://globalanticorruptionblog.com/2014/03/21/does-the-social-value-of-corruption-indicators-depend-solely-on-their-accuracy/>>.

¹⁰¹⁴ Transparency International, Gateway Corruption Assessment Toolbox (Transparency International, 2016).

Therefore, local governance assessment and performance evaluation are important to monitor and improve the performance of the governments.

International organizations like the IMF use the international indicators based on people's perceptions in their countries' reports. According to one of the latest IMF reports on Egypt's performance, issued in January 2018:

Perceptions-based corruption indices show high levels of perceived corruption in Egypt compared to most regional peers and other emerging market economies. Literature suggests that a reduction in the perception of corruption could have very strong economic effects.¹⁰¹⁵

The IMF report base its argument on a research conducted by Ugur and Dasgupta, which according to the report found that:

A one unit improvement in the perceived corruption is associated with an increase of 0.59-0.86 percentage point in per capita GDP growth. In this vein, the perception of corruption might have mitigated to some extent the impact of past reforms on growth, although it would be difficult to estimate the precise effect.¹⁰¹⁶

Thus, according to this view, corruption perceptions have contributed to reducing the effects of the reforms on growth.

To summarize, despite the lack of their complete accuracy, international indicators remain an important measurement when evaluating a country's performance with regard to its anti-corruption reforms program.

¹⁰¹⁵ International Monetary Fund, *Arab Republic of Egypt 2017 Article IV Consultation, Second Review*, IMF Country Report No. 18/14 (Washington, D.C., 2018) at 13.

¹⁰¹⁶ Mehmet Ugur & Nandini Dasgupta, "Evidence on the Economic Growth Impacts of Corruption in Low-Income Countries and Beyond" (2011) ResearchGate, online: <https://www.researchgate.net/publication/265113324_Evidence_on_the_Economic_Growth_Impacts_of_Corruption_in_Low-Income_Countries_and_Beyond>.

B- Different Indicators Call for Different Policy Reforms

The research discussed earlier the different indicators used to measure corruption in chapter two part one of the research. The research will not discuss the sources used to build every indicator as it was covered earlier. The study will be limited to giving a brief idea of exactly what the indicator measures and Egypt's score from 2014 (since the Strategy started in December 2014) till the last year measured by the indicator, to measure Egypt's change in the performance level.

B.1- The Worldwide Governance Indicators' Report (WGI)

The Worldwide Governance Indicators (WGI) measures governance in a country according to six indicators. The estimates of governance performance range from -2.5 (weak) to 2.5 (strong). The six indicators are:¹⁰¹⁷

1. Voice and Accountability: “reflects perceptions of the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association and the free media.
2. Political stability and absence of violence and terrorism : measures the perceptions of the likelihood of political instability and/or politically motivated violence, including terrorism.”
3. Government effectiveness: “reflects the perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.

¹⁰¹⁷ Daniel Kaufmann, Aart Kraay & Massimo Mastruzzi, “The Worldwide Governance Indicators: Methodology and Analytical Issues” (2010) 3:2 Hague J Rule Law 220–246, online: <<http://papers.ssrn.com/abstract=1682130>> at 3–4.

4. -Regulatory quality: “reflects perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote the private sector.”
5. Rule of law: “reflects perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police and the courts, as well as the likelihood of crime and violence.”
6. Control of corruption: “ reflects perceptions of the extent to which power is exercised for private gain, including both petty and grand forms of corruption, as well as “capture” of the state by elite and private interests.”

As shown in the figures below, according to the WGI, Egypt has improved from 2014 to 2017 in the political stability and absence of violence and terrorism, the government effectiveness, the rule of law and control of corruption measures. However, the voice and accountability and the regulatory quality indicators have deteriorated in the same period.

	2014	2015	2016	2017
Voice and accountability	-1.18	-1.20	-1.25	-1.478
Political stability and absence of terrorism	-1.63	-1.50	-1.44	-1.42
Government Effectiveness	0.82	-0.75	-0.65	-0.62
Regulatory Quality	-0.16	0.84	-0.92	-0.86
Rule of law	-0.66	-0.59	-0.51	-0.53
Control of corruption	-0.62	-0.64	-0.65	-0.54

Table 1: The Worldwide Governance Indicators (WGI)

B.2. The Ease of Doing Business Index (EDB)

The Ease of Doing Business (EDB) is an indicator developed by the World Bank and it ranks countries against each other based on how the regulatory environment is conducive to business operation stronger protections of property rights. Economies with a high rank (1 to 20) have simpler and more friendly regulations for businesses.¹⁰¹⁸

According to the EDB, Egypt has jumped from 126 in 2014 to 120 in 2018. This shows that Egypt improved remarkably in this indicator, which implies better formulated and simplified regulations to improve the business environment.

B.2.c The Ibrahim Index for African Governance

According to the Mo Ibrahim foundation website:

The Ibrahim Index of African Governance (IIAG) is a tool that measures and monitors governance performance in African countries. The Mo Ibrahim Foundation defines governance as the provision of the political, social and economic public goods and services that every citizen has the right to expect from their state, and that a state has the responsibility to deliver to its citizens. In the IIAG, country performance in delivering governance is measured across four key components that effectively provide indicators of a country's Overall Governance performance.¹⁰¹⁹

It measures the governance performance in 54 African countries according to four categories:

- The Safety & Rule of Law
- Participation & Human Rights
- Sustainable Economic Opportunity
- Human Development

¹⁰¹⁸ Trading Economics, *Ease of Doing Business in Egypt | 2019* (2019).

¹⁰¹⁹ Mo Ibrahim Foundation, "Ibrahim Index of African Governance (IIAG) Data Portal", online: <<http://iiag.online>>.

As shown below, IIAG

Ibrahim Index of African Governance	2014	2015	2016	2017	AT '14-'17
Overall Governance	44.8	47.2	48.6	49.9	+5.1
Safety & Rule of Law	42.0	44.9	49.5	52.2	+10.2
Participation & Human Rights	28.5	27.1	26.6	26.2	-2.3
Sustainable Economic Opportunity	53.6	57.7	58.4	61.1	+7.5
Human Development	55.3	59.2	59.9	60.3	+5.0

Table 2: Ibrahim Index of African Governance

The table shows that Egypt improved in the overall governance, safety& rule of law, sustainable human development, human development indicators. However, it deteriorated in the participation and human rights indicator.

B.3- The Corruption Perception Index (CPI)

CPI is an indicator developed by (TI). “It ranks countries by their perceived levels of public corruption as determined by experts’ opinion assessments and opinion surveys”.¹⁰²⁰ Since the number of countries that are assessed through CPI and the ranking of one country in comparison to another may not be a reflection of the country’s performance, the most important

¹⁰²⁰ Transparency International, “How corrupt is your country?”, online: *Corrupt Percept Index 2014 Detail* <<http://www.transparency.org/cpi2014/infographic>>.

indicator is the change in the country’s score throughout the years. CPI ranks countries on a scale of 0 (very corrupt) to 100 (very clean). According to CPI, Egypt developed as follows:

	2014	2015	2016	2017
Egypt	32	36	34	32

Table 3: Corruption Perception Index (CPI)

Thus, the CPI indicators show that Egypt has not improved on this measure from 2014-2018.

C- The Main Themes of the Recommendations

It is clear from the above that Egypt has not been progressing significantly in the area of fighting corruption. Accordingly, this research has proposed recommendations and measures that, if well implemented, will provide a strong likelihood that its ranking improves. These recommendations and measures include social, legislative, economic and public administrative aspects. The following is a summary of those recommendations:

The recommendations issued focus on the main themes covered in the ten main goals in the Strategy, especially that they were repeated in the new Strategy. The ten main goals can be summarized as improving the performance of the public sector and the quality of the public service, reviewing and updating the anti-corruption laws and supporting the authorities responsible to fight corruption, implementing judicial reforms, raising public awareness on the negative effects of corruption and increasing the civil society participation.

The recommendations cannot be discussed without first highlighting the role that the media plays in achieving the country’s anti-corruption goals due to incomparable power to shape people’s beliefs about the level of corruption in a country and the importance of the measures taken to control it.

C.1-The Role of the Media in Shaping People’s Perceptions

The media have an enormous power to form people’s perception about corruption, whether in a positive or negative way. Its collective real power lays in the hands of those who know how to use it. An interesting incident happened in Peru to reflect the power of the media. In the 1990s the president of Peru used his secret officer to pay bribes (which he carefully recorded) for those who were entitled to check his power. According to the report, “the typical bribe paid to a television-channel owner was about 100 times larger than that paid to a judge, which was about the same as that paid to a politician. That is because television was the most forceful of all the checks and balances of the Peruvian government power.”¹⁰²¹ The media must be employed strategically and effectively to achieve the goals of anti-corruption strategies in Egypt.

The media often focus on scandalous or dramatic incidents, and the influence on people’s perception about corruption reflects this. As discussed when studying the Strategy, the media in Egypt have concentrated mainly on reporting incidents of detection of corruption cases, and the arrest of high-level, corrupt officials. This is positive in the sense that it implies an important message that no one is above the law, and that the risk of engaging in corrupt deals has increased since the probability of detection, and punishment has also increased. It also serves to reflect the political leaders’ commitment to fight corruption to achieve the revolution goals as stipulated in the 2014 Constitution. Furthermore, these types of incidents and news are appealing to Egyptians, since it is quite “new” for them to encounter the types of cases in which public officials are convicted on corruption charges. The media will always look to provide appealing information to attract a large population. This, however, can be quite problematic. The real problem is that this type of information, that is, news on corrupt and convicted public officials, was not balanced by the delivery of information on the important reforms that were undertaken

¹⁰²¹“HOW TO STEAL A DEMOCRACY / In Peru, bribes were bigger for media barons than for judges - SFGate”, online: <<https://www.sfgate.com/opinion/article/HOW-TO-STEAL-A-DEMOCRACY-In-Peru-bribes-were-2506198.php>>.

to improve the government performance and the quality of public services that could reduce corruption. For example, the automation of a number of public services could also have attracted people's attention, were they publicized in a strategic manner by the media. The main media message which was transferred is that "everyone is corrupt" and that corruption is still prevailing.

A study conducted by a group of researchers looked at the effect of using descriptive norms such as "everyone is corrupt" on the prevalence of corruption. The study concluded that "the descriptive norms highly correlate with corruption."¹⁰²² Moreover, Matthew Stevenson explains that "the belief that everyone is corrupt can be self reinforcing."¹⁰²³ Thus, the research finds that one of the main problems is not finding the right balance between delivering a clear message that corruption is no longer tolerated, as it was in the past, and on the other hand, delivering constant and sufficient information about the efforts that the government is taking to control corruption in general and improve the quality of public services.

In the framework of the anti-corruption strategy that Georgia adopted as explained in part one of the research, the president was committed to giving updates regularly on the execution of the strategy, which created a more participative spirit and sense of ownership by citizens. In Egypt, some people knew that the government is committed to fight corruption, but citizens might not have information about the seriousness of the measures taken and about the existence of the Strategy.

¹⁰²²Nils C Köbis et al, "Who Doesn't?—The Impact of Descriptive Norms on Corruption" (2015) 10:6 PLOS ONE e0131830.

¹⁰²³Matthew Stephenson, "Watch Your Language: Not 'Everyone' Is Corrupt—Anywhere.", (23 August 2016), online: GAB Glob Anticorruption Blog<<https://globalanticorruptionblog.com/2016/08/23/watch-your-language-not-everyone-is-corrupt-anywhere/>>.

A survey was conducted by Transparency International organization (TI) in 2016 which asked people in the Middle East and North Africa their opinion of the degree of corruption in their country. In the framework of this survey, the researchers asked people about what they thought had changed in the level of corruption over the past years (whether it increased, decreased or stayed the same). The results showed that

Egypt and Morocco are the only two countries where people have more mixed views on how the level of corruption has changed, with relatively equal proportions saying that corruption either increased, stayed the same or decreased”¹⁰²⁴ The results showed that “In Egypt, 28 percent say ‘increase’, 30 percent say ‘stay the same’ and 31 percent say ‘decrease’”

Therefore, the research concludes that the lack of information about the measures taken to fight corruption, and the updates about the use of successful tools have resulted in people being unsure about the anti-corruption efforts status. This does not mean that corruption is not a serious problem in Egypt.

The same survey conducted by TI asked people to rate their own government’s performance in eradicating corruption in the government. The result showed tha:

Unanimously across the eight countries where we asked this question, a majority of people rated their government negatively in how it is handling the fight against corruption. This suggests either that governments are not doing enough to fight corruption, or at best they are not publicizing the efforts they are making.”¹⁰²⁵

In Egypt, the results showed that 58% viewed that the government was doing badly and 33% viewed the government as doing well in fighting corruption in the government. It is the belief of the research that this shows that the media were not used as an effective channel to clearly communicate with the public the vision of the Strategy to create¹⁰²⁶“a culture that refuses corruption” and to update the general public on the government’s efforts and performance to achieve the ten main aims. This view is supported by the recently-published new National Anti-

¹⁰²⁴ Transparency International, *People and corruption: Middle East and North Africa survey 2016*, Survey (Transparency International, 2016) at 7.

¹⁰²⁵ *Ibid* at 12.

¹⁰²⁶ *Ibid* at 13.

Corruption Strategy to be launched for 2019-2022. The text of this new Strategy stated that among the reasons behind the lack of implementation of the Strategy for 2014-2018 is the lack of communication between the government and the media, and the concentration on the efforts to “fight” corruption and not on steps taken to “prevent” corruption.

Recommendations for a better use of the media

Below are six recommendations to better use the media to reduce corruption.

- The meaning of the media has to encompass social media, since the latter is a powerful tool used extensively in Egypt. Therefore, it is highly recommended that the government communicate through the modern language that the majority of the population prefer to use.
- The hiring and training civil servants in every sector of the State Administrative Apparatus has to include modern media channels. Training civil servants should include how to communicate with the public through the social media (twitter, Facebook, Instagram) about the government’s commitments to fight corruption, its performance in achieving this goal through improving the quality of services, simplifying the procedures, and providing special services depending on the nature of the service delivered by the public agency.
- The creation of a special account on social media would also improve media efficacy. This account would update the public in general about the government’s efforts to fight corruption in the framework of the Strategy and provide real people’s testimonies on how they experienced the improvement in the performance of the public sector, or the quality of the public service, or any other related issues to the Strategy.
- Media must publicise and celebrate relevant successes. The Strategy contributed to some important successes that were uncelebrated. For example, according to the open Budget Index which measures the Government’s transparency, Egypt jumped from 15 in 2015 to 41 in 2017; this is considered an important success (countries are ranked from 0 to 100 where 100 is the most transparent). However, people may not either know about the

“citizens budget,” which publishes the budget in a simplified way to help citizens understand, or they do not know about the improvement in the transparency measures. Moreover, the improvement in one of the six indicators that measure the level of safety and rule of law in 54 countries, the accountability indicator in the Ibrahim Mo Governance 2017 Index over the last five years was neither heard of, nor celebrated. Moreover, the WGI developed by the World Bank showed an improvement in the political stability and absence of violence and terrorism, the government effectiveness, the rule of law and the control of corruption measures but they were never announced through the media.

- Media must improve the communication channels with the public and seek companies experienced in behavioural science to advise on the timing, frequency and types of messages to be delivered to the public to give important updates on the anti-corruption reform programs in cooperation with the government and the media.
- A special program, similar to “integrity idol” in Nepal, South Africa and other countries, must be created in order to encourage citizens to participate in nominating honest public servants. This program may contribute to changing the public servants’ image as “all corrupt,” and will show the general public that there may be unknown public servants with high integrity that they can nominate. This will also improve the people’s involvement in the process of fighting corruption.

C.2- Raising Public Awareness on the Negative Effects of Corruption and Encouraging Public Participation

According to the new national strategy to be launched (2019-2022), although some steps were taken to raise public awareness, more have to be completed to create a “societal culture that refuses corruption”. Accordingly, it is important that the research contribute to finding effective tools and measures to increase public participation and awareness. This section of the research presents the results of a survey conducted by TI in the Middle East and North Africa. The survey sought to ask people about issues related to public participation in fighting

corruption, the CSO participation in raising public awareness and at the end it issued recommendations to improve the public service awareness and the CSO participation to fight corruption.

Raising public awareness

Raising public awareness about the negative effects of corruption, and the available channels to report corruption, is a pre-requisite to encourage public participation in fighting corruption. The survey conducted by TI in the Middle East and North Africa asked people why they don't report corruption in their countries. The results showed that:

A lack of awareness of reporting channels is also a fairly popular response. With one in eight people saying that he or she didn't know where or how to report a case of corruption (13 percent). In Algeria and Egypt the proportion of people mentioning that they didn't know about the reporting mechanisms raises to a quarter (24 percent in each), including a more acute need in these countries to establish and raise awareness of existing safe reporting mechanisms.¹⁰²⁷

The results of the survey in the case of Egypt are quite problematic due to the diversity of the existing reporting channels. This shows that the developed mechanisms to receive people's complaints are unknown to those whom the service was created to benefit. In Egypt, there exists a number of channels through which the public can report corruption. The most important, as explained earlier in this research, are the Unified Complaint system developed by the cabinet of ministers, which receives complaints about all the State Administrative Apparatus and monitors the response to the complaints, in addition to the Central Reporting Management (CRM) which is managed by the Administrative Prosecution Authority, and the ACA website, which offers the possibility of posting corruption complaints on its site.

The lack of knowledge about the existence of the reporting channels reflects the gravity of the communication problem and the absence of effective programs to raise public awareness.

¹⁰²⁷ *People and corruption: Middle East and North Africa survey 2016*, Survey, by Transparency International, Survey (Transparency International, 2016).

As explained when discussing the mechanisms for drawing up the strategy, “the effectual participation of all the concerned bodies in building a unified block against corruption” requires the participation of the concerned parties to raise people’s awareness about the negative effects of corruption and the different channels through which they can actively participate in this important mission. The role of raising public awareness can be effectively played by the national councils such as the National Council for human rights and the National Council for women, through their branches in the different governorates. The role can also be played by religious institutions in Egypt, since these were on the list of participating authorities in the execution of the Strategy. This cannot replace the important role that CSO can play in raising public awareness about the negative effects of corruption and encouraging the public to participate in fighting corruption through organised channels. Meanwhile, the NCHR can act as a mediator to reduce the tension between the government and the CSO, and open effective communication channels among the different players in the conflict.

Encouraging citizens’ participation

Concerning the citizen’s participation in fighting corruption, it is crucial to encourage citizens to actively participate in fighting corruption. However, encouraging citizens to participate is an abstract concept. The parties involved in the execution of the Strategy (especially the CSO, the national councils and the religious institutions) should find concrete and effective measures to help citizens participate. The parties involved in the execution of the Strategy are also expected to explain to the citizens how their participation can make a difference, in addition to constantly providing follow ups on their positive engagement results.

According to the survey conducted by TI when they were asked if they think that they can make a difference in fighting corruption, the results showed that

Citizens in Morocco, Algeria, Lebanon and Egypt are more divided in this issue. Only around a half of the citizens of these countries (from 50 to 53 percent) agreed that ordinary people can make a difference in fighting corruption, while a sizeable minority feel disempowered.... While generally, younger people tend to slightly be more likely than the

older people to say they can make a difference 59 percent of those aged 18 to 34, versus 53 percent of those aged 55 and over).¹⁰²⁸

The survey recommends that “Anti-corruption activities in the region should look to engage people from both genders, and also young people to build on citizens desire for involvement in tackling the corruption problem.”¹⁰²⁹

These survey results are alarming since half of the studied population believe they cannot do anything about corruption. However, the fact that more than half of the youth believe they can make a difference makes it imperative and urgent to use their motivation and desire to make a difference by designing anti-corruption programs in which youth can actively participate.

Civil society participation

The role of the CSO in fighting corruption is very important. Without a true participation and monitoring of the civil society organizations, international and national efforts to fight corruption would stay on the books and not have proper implementation. It is important for the government (as the more powerful party) to introduce partnership programs to improve the communication channels with the CSOs. According to the EU report “Mistrust and misunderstanding of civil society’s role has a direct negative impact on dialogue and cooperation.”¹⁰³⁰ This mistrust makes the role of the CSOs in fighting corruption in Egypt almost absent, which also affects the results of the implementation of the Strategy.

The effectual participation of all concerned bodies, especially the CSOs, in fighting corruption as set in the strategy, in addition to the participation of the citizens, may also contribute to improving international indicators. This is because, according to the Voice and

¹⁰²⁸ Transparency International, *supra* note 1024 at 22.

¹⁰²⁹ *Ibid.*

¹⁰³⁰ EEAS, Egypt EU Country Roadmap for Engagement with Civil Society, 2014-2017 (EU, 2014) at 8.

accountability indicator developed WGI by the World Bank, Egypt's ranking and score decreased from -1.18 in 2014 to -1.25 in 2017. In addition, according to Ibrahim Index of African Governance, Egypt's measure in Human Rights and participation measure has also decreased from 28.5 in 2014 to 26.2 in 2017.

According to the new National Anti-Corruption Strategy (2019-2022), there were many challenges in the implementation of the newly promulgated CSOs that were raised in the World Youth Forum. It was therefore decided to conduct a community hearing with the coordination with all the concerned Ministries to take the necessary measures to amend some of the articles of the law.¹⁰³¹

Recommendations to develop better programs to raise people's awareness

The following ten recommendations would contribute to the development of better programs to raise awareness.

1. Developing and organising specially designed, specific programs to raise people's awareness, and coordinating between the national councils, the religious institutions and the CSO to apply those programs. One of the main reasons of the successful anti-corruption experience in Hong Kong is that it was based on three pillars "Investigation, prevention and education." These three pillars were given extra weight. One drawback in Egypt's anti-corruption system is that it heavily concentrates on the investigation and prosecution, while the efforts in prevention and education are minimal or almost non-existent. Egypt needs to take serious steps towards implementing the anti -corruption educational programs to "build the anti-corruption societal culture" to enhance the prevention measures and to guarantee the sustainability of the anti-corruption program results. To achieve the anti-corruption educational goal, it is recommended to develop and organise specially designed programs to raise

¹⁰³¹ National anti-corruption Strategy 2019-2022

people's awareness according to the different needs and coordinating between the national councils, the religious institutions and the CSO to apply those programs. The educational program developed by the OECD called "Education for Public Integrity"¹⁰³² can be used and adapted to the Egyptian contexts to compensate the limited financial resources available. One of the ways that may prove its effectiveness to achieve this goal is to seek the assistance of the youth especially university graduates who are obliged according to the law 76 of 1973 to spend one year of social service to implement those programs and helps raising public awareness in schools and other places. This will help enhance the youth participation in shaping the future of the country and will help them better understand the negative effects of corruption. Moreover, it may be an effective an inexpensive way for the government to achieve its goal and raise people's awareness about the negative effects of corruption

2. Raising public awareness about the negative effects of corruption, not only in general terms, but also how it may specifically and directly affect the quality of people's lives.
3. Providing citizens with organized channels to participate in fighting corruption by using proactive and reactive tools: The proactive tools can be inspired from the *Punjab experience*, in which citizens received text messages to rate the quality of the public service they had received and to report any corruption cases.¹⁰³³ This may help citizens to participate in monitoring the public service performance and fighting corruption.

¹⁰³²"Education for Public Integrity - OECD", online: <<http://www.oecd.org/gov/ethics/integrity-education.htm>>.

¹⁰³³"Punjab Model for Proactive Governance: New anti-corruption drive makes waves", (19 February 2012), online: Express Trib <<https://tribune.com.pk/story/338621/punjab-model-for-proactive-governance-new-anti-corruption-drive-makes-waves/>>.

4. The reactive tools can be inspired from the program initiated in Nigeria called the “eyes and the ears of the government” in which the government encouraged citizens to participate in monitoring the infrastructure projects.¹⁰³⁴
5. Providing effective channels to enable the CSO to prioritize fighting corruption as set in the strategy and to help the government in raising public awareness about the government’s achievements in this regard.
6. Corruption in municipalities represents a real challenge in Egypt. Policymakers have realised the importance of introducing important reforms to address this problem. Therefore, the MOPMAR, with the partnership of other ministries, have introduced reforms in a number of municipalities to improve the quality of services and reduce corruption. Egypt can benefit from some of the reforms introduced in La Paz by Juan Del Granado, its elected mayor in 1999, where he adopted a participative approach in which citizens were encouraged to participate in the reform process by creating the “ District Neighborhood Hearing” ,the “Municipal development plan”, and setting the budget priorities for “Local Public Project” . Those types of programs can help in the Egyptian context. Introducing a participative approach, where citizens can express their views about the budgeting priorities of the projects they can benefit from, can help in creating communication channels where officials can exchange views which will help in a better allocation of the budget and will enhance the principles of monitoring and accountability since citizens will be empowered with information about the budget to be allocated for the potential projects. This strategy will most importantly also help in restoring the trust between the citizens and the public servants in the municipalities which is a pressing need within the Egyptian context and within the framework of the national strategy to fight corruption which has also highlighted the importance of restoring the trust

¹⁰³⁴How citizens have become ‘eyes and ears’ in Nigeria’s Kaduna State | Open Government Partnership”, online: <<https://www.opengovpartnership.org/stories/how-citizens-have-become-eyes-and-ears-nigeria-s-kaduna-state>>.

between the citizens and the government. Improving the transparency and complaints measures can contribute in reducing corruption.

7. Using the youth conferences as an important venue to raise the youth awareness on the problem of corruption, introduce them the Strategy and to encourage them actively participate in finding effective and creative solutions to the problem of corruption. Some programs may be created to help them monitor important infrastructure projects (since Egypt is undertaking a number of important infrastructure projects those days) similarly to the successful experiences held in Indonesia and Philippines as explained in part one.
8. Policy makers can encourage public servants in public agencies providing public services to citizens to streamline the procedures and issue a manual explaining the different procedures needed to receive a service to be inspired from La Paz successful experience in curbing corruption.
9. Developing effective channels to raise people's awareness about the different services that the government has developed to control corruption, such as the 'one stop shop' and automated public services.
10. Explaining to the citizens in a simplified way the laws and regulations that can support the fight against corruption and the available channels to report and fight corruption.

C.3- The Legal and Judicial Reforms

According to the WJP, the rule of law is defined as

Effective rule of law reduces corruption, combats poverty and disease, and protects people from injustices large and small. It is the foundation for communities of peace, opportunity, and equity- underpinning development, accountable government, and the respect for fundamental rights. The rule of law is not just the rule of lawyers and judges: all members of the society are stakeholders.

Ensuring the respect for the rule of law is the main foundation of a fair society. It guarantees an effective system of checks and balances, and sets the foundation for holding public officials accountable in case of deviation from the rules. Although the law is not the sole ingredient in any anti-corruption strategy, it is the main ingredient, and an important catalyst for change. It sets the basis through by which citizens and other stakeholders can claim their rights, especially when the law is applied by an independent judicial system. Therefore, it is important to ensure that the legal framework in Egypt encompasses important laws that have proven to be crucial in fighting against corruption. It is also imperative to amend and update laws to ensure that they comply with the country's main goals in fighting corruption. According to the new anti-corruption Strategy which was issued in December 2018, to be implemented (2019-2022), some laws, such as the Right to Information Act and the Protection of Witnesses Act.(p18), were not yet promulgated. Moreover, according to the new Strategy, the revision of the presidential decrees that govern the work of each ministry had not been executed. This part of the research provides recommendations for legal and judicial reforms. However, the importance of coordination among the different agencies responsible for fighting corruption is also addressed since this is paramount for a better administration of corruption cases. According to the new National Anti-Corruption Strategy, effective measures were not taken to coordinate among the different agencies responsible for fighting corruption.¹⁰³⁵

Recommendations for better legislative and Judicial reforms

Each of the following twenty-two recommendations speaks to an element of the legal and judicial systems.

1. It is crucial to promulgate a right to information Act as it was planned (but not fulfilled) in the Strategy as a means of enhancing principles of transparency and accountability. This was proven in a number of research studies; one clear example

¹⁰³⁵ The National Strategy to fight Corruption (2019-2022)

is that of India: a research experiment showed that the right to information holds the same power of a bribe .¹⁰³⁶

2. The guarantee of greater safety in reporting corruption cases by promulgating the whistleblowers and witnesses' protection Act is vital to encourage citizens to report. Ensuring the protection of whistleblowers and witnesses is the cornerstone of any successful anti-corruption strategy.
3. The granting of amnesty in specific situations is also a focal element of these recommendations. To reduce the level of bribery in Egypt, it may be beneficial to consider the model developed by Cooter and Groupa. In it, they suggest granting amnesty and bounty to the first party taking the initiative and confessing that he committed the crime.¹⁰³⁷ They argue that this model may be effective because it relies on disrupting the trust between the bribe giver and bribe taker. According to their study, this model may be effective especially in countries where corruption is widespread, because being able to convict parties in corruption cases requires honest officials to implement the law.
4. The legalization of the role of intermediaries or agents, based on their role in facilitating corruption cannot be ignored. This practice is successfully implemented in the UAE, where certified offices called 'Takhlees' exist that allow people to approach this office to finalise all governmental services. The MOPMAR has already created a partnership program with the UAE to benefit from its experience in developing the performance of the public sector and improving the quality of the public services. Egypt can learn how to adapt this successful experience to the Egyptian context.
5. -A review of the anti-corruption laws to ensure that they comply with the new anti-corruption goals is paramount. This strategy was used in almost every successful

¹⁰³⁶ Pande, *supra note* 135.

¹⁰³⁷ Cooter & Garoupa , *supra note* 362.

country experience (e.g., Hong Kong, Singapore, and Georgia) to curb corruption. The importance of reviewing the existing laws that aim at fighting corruption to make certain that they comply with the national context and international commitments cannot be overstated.

6. - Inter-agency coordination is also imperative. According to the new national anti-corruption strategy, not enough efforts were made to coordinate among the different anti-corruption agencies . A lack of coordination results in a waste of resources, time and effort. It is worth noting that the coordination should not be limited to conducting regular meetings among the different agencies representatives; using Information communication technology to link the different agencies is a paramount.
7. The recruitment system should be based on meritocracy, as per the text of the civil service Law 81/2016, Article (30) of the executive regulations stipulate that the CAO is responsible for the recruitment process.-The new Civil service law has put the recruitment authority on the Central Agency for Organization and Administration. This measure was taken to reduce the discretionary power the different governmental institutions had over the process, since they were responsible for setting the exam and selecting the candidates. However, concentrating the authority in the hands of the CAO may create a monopoly power over the recruitment process. It is recommended to amend the article of the law to give the authority to the public agency to recruit according to its needs. However, it may be supervised by the CAO.
8. Requiring that the regulatory agencies publish their annual reports as stipulated in Article (217) of the 2014 Constitution since this Article of the Constitution was not applied until the end of the 2018.
9. A revision of the law No.63 of the year 2014 which sets the maximum wage, is suggested. In the current law, the maximum wage is 35 times the minimum wage, and the maximum salary is 42,000 Egyptian pounds. The maximum wage law was stipulated to reduce the inequality in wages. There is, however, one important drawback in that it does not encourage skilled public officials and professionals to

continue serving in the State Administrative Apparatus once they reach the maximum wage. This in turn may may cause ‘brain drain,’ since the qualified public servants or officials may not be willing to continue working according to the pre-set salary level. This does not encourage people with new and needed skills to join the State Administrative Apparatus. This condition may negatively affect the realization of the Strategy’s goal in developing the performance of the public sector and improving the quality of the public services.

10. The amendment of laws that no longer serve a purpose is crucial. The transitional period following the revolution necessitated the promulgation of certain laws, such as the “Conciliation Law”. This law was necessary during this period because the real problem was not only the “corrupt people” but the system, which was “corruption friendly” and conducive to corruption. However, following this transitional period, this law has to be amended in order not to encourage corruption, especially since the probability of detection in Egypt is relatively low.
11. The Central Auditing Organization (CAO) is an important regulatory body and the law that organises its work should grant it the authority to execute its supervisory role efficiently. According to Abd EL Moneim, the law 157/ 1997 which amended the law 144 /1988, which considered not replying to the comments of the CAO constitute an administrative offence and not a financial offence. This results in a reduction of the CAO authority and helps in concealing corruption.¹⁰³⁸
12. A focus on the application and enforcement of laws, rather than on simply promulgating and amending them, is recommended. According to a World Bank report, the problem in Egypt is not the absence of laws and regulations, but their application. Reducing the number of amendments to the existing laws, and the promulgation of new laws and concentrating instead on taking appropriate measures to enhance the enforcement of the law would support anti-corruption efforts.

¹⁰³⁸ عبدالمنعم, *supra* note 671.

13. A review of all Ministerial decrees that govern the work of all ministries to make sure that they are not contradictory, is needed. Contradictions in the ministerial decrees can make it harder to convict in cases of corruption. Moreover, it is important to inform employees with all the ministerial decrees that govern their work and to make them available.
14. Completing the automation of the Justice system in the framework of “Imposing and enforcing the law project” to reduce corruption and achieve prompt justice is essential.
15. Due to the important supervisory role that the CAO plays, the members of the CAO should be granted Judicial arrest authority by amending their governing law, and not through a ministerial decree which can be easily cancelled. A study conducted by Olken on road projects in Indonesia showed that an increase in auditing helped in reducing the price of all inputs when compared to the expenditures.¹⁰³⁹ Therefore, equipping the monitoring authorities with adequate power to execute their roles can contribute in a more effective and efficient manner to the execution of their roles in reducing corruption.
16. It is crucial to guarantee the full independence of the judicial authority. Therefore, it is recommended that the Judicial auditing Unit be affiliated to the judicial Council and not to the Ministry of Justice which represents the executive authority and is the current case.
17. The Money Laundering Unit should be an independent regulatory authority. The fact that it is affiliated to the Central Bank creates a conflict of interest since the Money Laundering Unit is responsible for reviewing some suspected financial transactions that may include corrupt practices. It cannot supervise those transactions with complete independence when it is affiliated to the Central Bank.

¹⁰³⁹ Benjamin A Olken, Monitoring Corruption: Evidence from a Field Experiment in Indonesia, Working Paper 11753 (National Bureau of Economic Research, 2005).

18. It is also vital to improve the checks and balances guarantee between the three branches of the government by giving the Judicial branch the authority to nominate the different Judicial authorities heads without the interference of the Executive Authority. It is also important to guarantee the independence of judges. Okella stressed the importance of guaranteeing the independence of the judiciary because when judges are not independent, the executive can abuse its power by appointing those who support their system, or can affect the benefits granted.¹⁰⁴⁰ Therefore, it is important to allow the judicial authority to choose its head without interference from the executive authority. The current law amended law No 17 of 2017 and allows the president of the State the right to choose the head of the APA, the State Council and the State lawsuits Authority from a list of three candidates that each committee in the respective judicial authorities choose.
19. Providing advanced training opportunities for investigators, prosecutors and judges to deal with corruption cases, especially those types of cases that are new in the Egyptian context, is an essential recommendation. Empowering those concerned with managing the corruption cases through appropriate training may guarantee a better application of the law and a higher conviction and punishment and deterrence.
20. Updating the technological infrastructure to facilitate and coordinate the work of the investigators, prosecutors and judges is another important recommendation. Technological advances may also result in better management in the administration of justice, improve prompt justice and reduce the probability of corruption. This can be achieved because of the transparency and monitoring facilities information that communication technology offers.
21. Seeking the assistance of behavioral scientists would ensure a better application and compliance with the law. According to a research conducted in partnership between the World Bank and the Behavioral Insights Team in Guatemala, using behavioral

¹⁰⁴⁰ Duncan Okello & Konrad-Adenauer-Stiftung, *Towards sustainable regional integration in East Africa: voices and visions* (Konrad-Adenauer-Stiftung, 1999).

science messages reduced the problem of tax evasions .To ensure a better compliance with some laws and to reduce the incidence level of fraud in such areas as the Declaration of Assets law and the Taxes law, policy makers can design the forms in such a way as to induce the applicants to provide true information. Research has shown that requiring the applicants to declare that the information they provide is true, and stating at the beginning of the form, before the applicant completes the form, that delivering false information may result in punishment increases the probability that applicants will provide true and authentic information in comparison when the same statement is provided at the end of the form.¹⁰⁴¹

22. The judicial system is an important pillar in every successful reform strategy. Egypt has introduced the “imposing and enforcing the law project” to improve the administration of justice system and achieve prompt justice. Egypt can benefit from Kenya’s experience in the “Judiciary transformation network” by improving the transparency measures in the courts. This can be accomplished by requiring every court to streamline the court procedures (knowing the high illiteracy rate in Egypt, this measure may be of major importance) and creating a billboard including a service chart with all the requirements, fees and timelines for the respective services. Moreover, Egypt’s justice project can also benefit from Kenya’s successful reforms, which were also based on a participative approach wherein judges, administrators, employees and drivers were invited to workshops to assess the problems of corruption and find effective solutions to curb corruption. This participative approach can be beneficial in the case of Egypt for two important reasons. First, it will reduce the resistance of the judges and employees to apply the reforms. Second, it helps in reducing the power distance in a hierarchal country like Egypt, when judges and employees of different ranks gather for a common cause.

¹⁰⁴¹ Langevoort, *Supra note* 183.

C.4- Reforms in the State Administrative Apparatus: Improving the performance of the civil service and the quality of public service

According to Egypt's new anti-corruption Strategy, intended to be executed in 2014-2019, some of the aims that were set in the previous Strategy were not completed. Examples include the automation of more public services, and the completion of the creation of all websites for some of the public agencies in the State Administrative Body among others. Moreover, there existed some challenges in sharing the information and coordinating among different public agencies as well as among the anti-corruption agencies. Therefore, it is important to find the best tools to guarantee a better implementation results for future Strategies. The following fourteen recommendations may help in improving the performance of the civil service performance and the quality of public service:

1. Posting the Strategy on all the State Administrative Apparatus websites will reflect the government's commitment in fighting corruption and in engaging all its public officials and public servants.
2. Considering institutional multiplicity and institutional bypass, as suggested by the Brazilian model in which more than one institution is charged to do the same functions, in order to compensate for the dysfunctional institutions, is also valuable.
3. Equipping public servants at all levels in the State Administrative Apparatus with seminars and workshops will provide them with better knowledge about the Strategy and the ways they can contribute in implementing it in a more effective way.
4. Setting fair, clear and concise criteria for performance evaluation in accordance with the civil service law, and clearly explaining to public servants the evaluation system and the public agencies expectations will reduce the abuse of power.
5. Introducing integrity pacts to the procurement system will guarantee that no one will engage in corrupt deals. In a case of suspect corruption, the contract winner will be committed to open his books to prove that he did not engage in corrupt deals.

6. Enhancing the measures to encourage employees' participation would be beneficial. The reforms strategies should be shared with employees rather than imposed on them. The leaders are to develop the general vision and share it with the public servants in every agency in the State Administrative Apparatus. The public servants and the middle managers have to participate in developing the reforms policies, and in identifying the areas more vulnerable to corruption. There are two main reasons for this. First, public servants and middle management are more aware of the details of the procedures, and thus can find creative solutions to make the system less conducive to corruption. Second, the participation will decrease the public servants' resistance to change, since they will experience a sense of ownership of the ideas and will work hard to implement them. Egypt can benefit from the experience of Mauritius, as it won the award for "The innovation in Public Service". The ICAC started by conducting a survey in which it asked citizens about the most common forms of corruption they encountered. Accordingly, ICAC identified 21 priorities areas, issued an anti-corruption policy template and required each public agency to draft its own anti-corruption strategy according to the sector's vulnerabilities and risk. The role of the ICAC was limited to reviewing each agency's strategy, monitoring the progress and setting performance indicators. One of the important foundations of the Strategy as formulated in the text is "monitoring the most important manifestations of corruption." Although policy makers have formulated a general vision, each agency, entity or body in the public sector has to assess its main risks and problems according to the nature of the service it offers or according to the assigned role. The NCCCC or the ACA can play the role of the ICAC after conducting a survey to identify the priorities that each Agency has to include in fighting corruption, and according to the national anti-corruption strategy goals. However, it is still important to develop a participative approach in which public servants are encouraged to assess the particular risks associated with the nature of their work, and to find effective solutions accordingly. This will help reduce the resistance on the part of public officials and will result in better crafted solutions and prevention strategies on the problem of corruption.

7. Changing the public servants' image and public perception as corrupt, and encouraging those who act with integrity and honesty by using the "name and fame" strategy instead of 'name and shame,' as successfully applied in Nepal, South Africa, and other countries can have important implications. For citizens, it can help them change their perception of public servant as corrupt, and change the widespread perception that everyone is corrupt. For the public servants, it will help in improving their performance since their good behaviour will be rewarded.
8. Solve the lack of competence and bureaucracy problem by using the system's strengths and enhancing principles of competition rather than substitution. Sometimes the change toward a public service-oriented mindset takes time, so it is better to compensate for this lack with outsourcing. This strategy was successfully implemented in the Egyptian Ministry of Investment and International cooperation according to Article (22) of the Law No 72 of the year 2017, which allowed investors to seek the assistance of accredited registration offices to register their businesses instead of waiting to deal with bureaucrats. The strategy has also previously proved successful in La Paz, when its mayor decided to use the abundance in the number of engineers in compensating for the system's deficiency. He allowed accredited engineers from the Professional Association of Architects to provide construction permits according to some pre-set rules to improve the system's efficiency.
9. The government should aim to increase the salaries of the State Administrative Apparatus as part of achieving its strategy goal to improve the quality of public services and to decrease the probability of corruption. This was shown when the levels of Salaries increased in Sweden and Singapore as part of the anti-corruption reforms, and the level of corruption decreased and was sustainable.
10. It is important to increase the number of automated public services in order to reduce opportunities for corruption. The quality of public services shapes people's perception about the level of corruption in the country and the government's commitment to provide timely and quality services to the public.

11. Enhancing the training programs offered to the public servants according to their needs would help to reduce their resistance to change and equip them with skills to cope with the new system's requirements. It also important to train public servants to develop a service-oriented culture.
12. Introducing ethical training programs to train public servants at different levels to make ethical decisions is vital. This will inform employees about the codes of conducts to create a culture of integrity rather than a culture of compliance. This should also include helping them to make decisions based on values of honesty and integrity when faced with different challenges and opportunities to engage in corrupt deals.
13. Improving the transparency measures can be accomplished by streamlining, and printing booklets to inform the public about the procedures needed to execute public services.
14. Improving and applying effective monitoring measures to hold public employees accountable in case of abuse of their power, demanding bribes or violating the rules in general.

D- Anti-Corruption Strategy Essentials

Anti-corruption strategies are not easy to implement and there exists no blue print for effective reforms strategies. However, the research suggests some essential basic steps to increase the probability of success of the anti-corruption strategies. They can be summarized in seven important ideas: **Assess, Invite, Coordinate, Improve, Measure, Track and Share.**

1. Assess the risks, problems and opportunities in implementing the anti-corruption strategy.
2. Invite all stakeholders to participate in fighting corruption, including public servants, CSOs, the private sector, the media, anti-corruption agencies and citizens.
3. Coordinate among the different agencies responsible for fighting corruption.

4. Improve the information technology infrastructure to enhance the communication among different governmental agencies and to reduce the interaction with the public. Make sure to remember Klitgaard equation: $C=M+D-A$, and improve the transparency, monitoring and accountability measures.
5. Measure the level of corruption to set a baseline and monitor the change.
6. Track the performance of the Strategy
7. Share with the public, through the media channels, the results of the efforts in fighting corruption to celebrate the successes and be aware of the challenges.

Part two: Conclusion

Part Two of the research provided a critical analysis of the first drafted national anti-corruption strategy in Egypt's history. Based on the literature review and the study countries experiences, the research analysed the execution of the medium and short term goals and recommended some legislative and non-legislative recommendations. Part two ended with a study of Egypt's efforts to fight corruption by reviewing Egypt's performance in tackling corruption according the international indicators to measure corruption in an attempt to better perform in future strategies.

Conclusion

This thesis examined and discussed the measures undertaken by the Egyptian government to by providing a critical post-mortem interdisciplinary constructive study of the first drafted national anti-corruption strategy which was implemented from 2014 to 2018. It sought to examine the extent to which the implemented policies-were likely to achieve their goals, given the high rate of administrative corruption and the governance problems that strongly affected the implementation of the reforms proposed in the strategy. The main aim is to face the problem of the existing gaps between the intended governance reforms and the reality on the ground by attempting to formulate custom-made recommendations for reforms. To achieve this goal, the thesis sought to answer the following research question: how can Egypt's legislative governance benefit from an inventory of anti-corruption remedies? To respond to this question, the methodology relied on secondary data that combined desk review, trainings in anti-corruption and management institutions, review of international organizations' reports, observations and knowledge of the countries' particular context. Furthermore, this research undertook a literature review of effective reform solutions, and successful and in-progress countries' experiences in controlling corruption. The study aimed to create a dialogue among disciplines in an attempt to identify and describe effective measures to guarantee the success of the future anti-corruption strategies.

The review of the historical background of Egypt's efforts to fight corruption from 1952-2014 has shown that political leaders in Egypt have faced every corruption problem by promulgating laws without giving much attention to the degree of their implementation. The research argues that promulgating and amending laws to fight corruption and to ensure the "theoretical" application of the national anti-corruption strategy should not be viewed as the "only" or "first resort" remedy in anti-corruption reform strategies.

The research concluded that policy makers may seek to adopt an approach that is at the same time more disseminative, more participative, more protective, and more motivating in an attempt to achieve better results when implementing future strategies to control corruption. In addition to the comprehensiveness of this proposed approach, in all cases, the political will to support anti-corruption measures is of paramount importance.

The disseminative approach should aim to inform all stakeholders of the existence of a national anti-corruption strategy, as it reflects the political will to take significant measures to approach and rectify the problem of corruption. The research found that although the Strategy's main goal was to create an anti-corruption societal culture, not enough attempts were made to disseminate information about the Strategy. The Strategy was not posted on the websites of the different ministries, the State Administrative apparatus or the agencies responsible for fighting corruption, with the exception of the Administrative Control Authority that posted the strategy on its website in three languages. The media in all its forms did not play its expected role in informing the public about the existence of the Strategy or about progress in its implementation. The Strategy was not also included in the monthly youth conference which addressed various kinds of problems that the country faced even though this could have offered a fertile environment for the diffusion of the Strategy. Moreover, specialised research centers such as the National Center for Social and Criminal Studies and the Al Ahram Center for Political & Strategic Studies did not issue any publications or studies concerning the Strategy. Therefore, adopting effective measures to ensure the dissemination of future Strategies is a paramount to guarantee a better implementation of the anti-corruption reforms. Dissemination is a prerequisite to participation.

The participative approach should seek to include all stakeholders in the implementation of the Strategy, to ensure better results in the application of the Strategy. The participation of such stakeholders as government employees, CSOs, citizens and the private sector as each stakeholder plays a unique and important role, and each is described below.

- **The government's** participation in fighting corruption: The research found that government employees did not actively participate in the execution of the Strategy. According to the literature reviewed and the successful countries' experiences, to ensure the success of the implemented policies to fight corruption, the government's employees should participate in assessing the system's vulnerabilities to create opportunities for corruption. The advantage of inviting the employees to participate in fighting corruption is twofold. It reduces their resistance to implement the policies, and helps them feel a sense of ownership of the reforms. Both of these are advantageous to the success of the reforms. The aim here is to have proposed rather than imposed solutions to tackle corruption, which in turn guarantees a better implementation of the reforms. The research recommended that public officials invite public servants to participate in assessing the problems and finding solutions (for example, how to simplify procedures and make the system less conducive to corruption) to attain better results in achieving the strategy's goals in general, and in improving the performance of the public sector and the quality of the public service in particular.

- **The Civil Society organizations'** participation in tackling corruption is also paramount in ensuring the effective implementation of future strategies. CSOs can play an effective role in raising public awareness about the destructive effects of corruption and in enhancing principles of accountability. The research found that due to the existing tension and the lack of trust between the CSOs and the government, starting in 1952, the CSOs had almost no participative role in the execution of the strategy, with the exception of participating in few conferences with the Ministry of Solidarity in 2017. The role of the CSOs diminished even more following the promulgation of the law No 70 of 2017 governing the work of the CSOs. The research recommended that the government, as the more powerful party in the conflict, should invest more efforts to rebuild the trust and cooperate with the CSOs by opening new communication channels to achieve its goals in fighting corruption. Moreover, the amendment of the above mentioned law should be considered to

guarantee a better participation of the CSOs in achieving the strategy's goals in tackling corruption.

- **The Citizens:** The participation of citizens in fighting corruption is crucial to achieve better results in the Strategy's implementation. Most citizens have legitimate and direct interest in fighting corruption. The researcher is aware that fighting corruption will not be of interest to the whole population because some interest groups benefit from corruption. However, the vast majority of the population suffers from corruption and thus will have direct interest in helping the government to control it if given the opportunities and the tools. In addition to the importance of raising their awareness in fighting corruption which can help Citizens can help to fight corruption in both reactive and proactive ways. The reactive tools include encouraging citizens to report corruption through the appropriate reporting and complaints channels, especially when they are informed about those channels and they find that the competent authorities are responsive to their claims. The research argued that although Egypt's government offers various reporting tools so that citizens report corruption (for example, the Citizen Relation Management and the Unified Complaints Unit), according to Transparency International Survey in 2016, citizens either do not know about those tools or they do not trust that the government will respond to their claims. However, by informing citizens about those tools and by providing constant statistical information about the number of complaints that the government has successfully responded to, citizens can actively contribute to fighting corruption by reporting corrupt deals. Reporting corruption is crucial especially due to the secret nature of corruption. In addition to e reactive tools, proactive measures are also key, and, in this sense, prevention is always better than a cure. The government can invite citizens to participate in fighting corruption and improving the quality of public services by designing programs similar to Punjab experience, where citizens received a text message to evaluate the quality of the service received and to report corruption. The research recommended the application of similar programs in Egypt to enhance the principles of citizen participation to improve the monitoring and accountability tools, which will also contribute to

controlling corruption. Finally, due to the increased number of construction and infrastructure projects in Egypt, the research recommended that the government train its citizens to participate in monitoring the infrastructure projects by introducing successful programs similar to “The Eyes and the Ears” of the government in Kenya.

- **The Private sector:** The public sector is a very important stakeholder in the fight against corruption; this is due to its active involvement in most of the corruption cases. Corrupt deals usually takes place between the private sector and the government or public sector. The research found that the role of the public sector in drafting and executing the Strategy was almost absent. The private sector can provide valuable information on the ways the parallel system works. The information provided can help policy makers to design better aligned reforms policies. Moreover, the research recommended that the private sector contribute to designing its own compliance programs to fight corruption. In addition, the introduction of “integrity pacts”(as explained by TI) programs to protect the procurement sector, which is one of the sectors most affected by corruption, can also represent an important tool in engaging the public sector to fight corruption. Since a corrupt deal requires two parties or more, reform policies also have to involve those parties in an attempt to increase the probabilities of successful reforms. Thus, an inclusive rather than an exclusive program can lead to more successful reform programs, especially when the formulated anti-corruption strategies are protective.

A protective approach in fighting corruption: To ensure an effective strategy in fighting corruption the system has to protect the citizens who report corruption. It has also to protect the integrity of public servants and the independence of the judicial authority. Reporting corruption can be life threatening. In the absence of effective laws that guarantee the protection of witnesses and whistleblowers, it will be more difficult to convict in corruption cases. The research found that the legal framework in Egypt does not include a law that protects witnesses and whistleblowers, which may make it more difficult to unveil corruption cases. The research recommended the promulgation of a law that protects the witnesses and the whistleblowers for a more effective battle against corruption.

Protecting the integrity of public servants is important, since the research argued that a successful anti-corruption strategy should aim to target the system that leads people to engage in corrupt deals, rather than targeting only the people involved in corruption. The research recommended not only to introduce code of conducts for the work of the public servants, but also to help public employees to create a culture of integrity rather than a culture of compliance. The research also recommended that the Strategy implement more effective measures by improving the transparency, monitoring, and accountability measures, and to protect the integrity of public servants and improve the performance of the public sector. The first step in improving the transparency measure is by promulgating the Right to Information Act to reduce the public servants' monopoly, abuse and discretionary power over the information. The monitoring measures can be improved by introducing more automated governmental services to reduce the interaction between the public servants and the public. It can also be improved by allowing more bottom up and top down supervision. The accountability principles can be enhanced by increasing the probability of conviction and punishment of public servants in cases of violation of the laws, and regulations to improve the deterrence effect of the law. To improve the deterrent power of the law necessitates an independent judiciary system.

The research recommended that to protect the integrity of the judiciary system and to enhance the principles of checks and balances of the three authorities (legislative, executive and judiciary).

A motivating approach necessitates encouraging all the stakeholders to pursue their fight against corruption. Following the literature review and the experiences of other countries' successful in fighting corruption, it is important to seek the cooperation of the media to inform the public about the government's effort to fight corruption. The efforts should not be limited to the conviction of the corrupt officials. The efforts to improve the performance of the public sector, the quality of the public services should also be disseminated. The research found that the belief that everyone is corrupt is self-reinforcing and can magnify people's perception about

the degree of the problem. Therefore, the research recommended the introduction of programs like “integrity idols” to praise honest public servants.

The problem of corruption is multi-faceted and does not lend itself to a “one size fits all” solution. This thesis fills an important gap in research by providing an interdisciplinary study of the problem of administrative corruption in Egypt that is not solely centered on changing the laws. This thesis proposes effective ways to serve the spirit of the law and the intention of the legislators. It also contributes to providing the first postmortem critical analysis of the first drafted anti-corruption strategy, which in the researcher’s view is a milestone in Egypt’s effort to fight corruption. The study attempted to issue recommendations based on the researcher’s knowledge of the country, to lay the groundwork to improve the implementation of future strategies. Drafting one strategy after another without an external view (not only the policy makers’ view) of the problem based on a review of the literature and countries’ successful experiences may make drafting strategies “window dressing” rather than a “tool” to enhance the measures taken to fight corruption.

Finally, although the research highlighted the importance of designing compliance programs for the private sector, and not to approach solely the public sector, future research is recommended to design those programs. Moreover, future research can study effective ways to disseminate the message about future strategies while seeking the consultation of behavioral scientists on the frequency, intensity, form and timing of the messages.

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Egypt's National Strategy to Fight Corruption

<https://www.aca.gov.eg/arabic/AntiCorruption/Documents/Strategy.pdf>

The goal of the strategy

Combating corruption in the Egyptian society through the development of objectives, policies, programs and mechanisms in order to curb corruption and build an anti-corruption societal culture. Methodology of building a national anti-corruption strategy

The plan of designing a national strategy to combat and prevent corruption depends on identifying its real causes, setting goals, policies, programs and mechanisms that promote the principles of transparency, integrity and accountability with no partiality or discrimination, and contributing to preventing and fighting it through the concerted efforts of all parties of the national system so as to combat corruption and identify the roles of each party.

Foundations of the strategy

- 1 - Monitoring the most important manifestations of corruption.
- 2 - Accurate diagnosis of the problem of corruption to find out the causes.
- 3 - Identifying the main strengths and weaknesses of the work system and combating corruption in Egypt.
- 4 - Identifying threats faced by the work system to fight corruption in Egypt and opportunities that can be exploited to support it.
- 5 - Pinpointing targets and achieving them on the short and medium terms.
- 6 - Defining policies to be followed to achieve the goals and addressing the factors causing corruption.
- 7 - Identifying the actions required for effective participation in combating corruption of all concerned bodies, on top of which the regulatory bodies, law enforcement bodies, governmental authorities, and the civil society organizations.
- 8 - Developing mechanisms for the implementation of the national anti-corruption plan.

Mechanisms for drawing up the strategy

- 1 - Development of work systems in a manner that stems corruption.
- 2 - Effectual participation of all concerned bodies in building a united front to fight corruption.
- 3 - Activating the anti-corruption mechanisms (organizational structure control / human resources development / application of the principles of transparency, integrity / ...).
- 4 - Setting near/medium-term goals with the possibility of achieving the target in a way that will not conflict with other goals.
- 5 - Making available all (human / material) resources for the implementation of the strategy.
- 6 - Distribution of tasks and responsibilities in the light of the strategy's axes.
- 7 - Development of alternative mechanisms when necessary to achieve the flexibility required for dealing with any changes that may get in the way of implementing the strategy.
- 8 - Providing national indicators to monitor the implementation of the strategy.

Section 1: The problem of corruption in Egypt

- 1 - Definition of corruption and its types:

A - Definition of corruption: There is no agreed-upon definition of corruption among researchers in this area, and this is due to the complicated nature of the phenomenon and the various perspectives through which this phenomenon can be considered. However, there are some definitions that have received great acceptance and are being used on a large scale. The most

important definition is the World Bank's definition of corruption as "abuse of public power for private gain", but this definition is given a bad press on the basis that it limits corruption to the governmental and public sectors. On the other hand, an international organization has offered a definition of corruption as "Abuse of authority for private gain". It is clear from this definition that it expands the term corruption to include that corruption in the private sector as well. And this definition is the most widely accepted definition at the global level. B - Types of corruption: There are different types of Corruption: administrative, financial, and political. They vary according to the standard adopted as a basis for discrimination. Two criteria have been chosen. The first criterion is the size of gains from the crime of corruption and the employee's rank, and the second criterion is the nature of the sector in which corruption occurs. In terms of the size of the gains obtained from the crime of corruption and the employee's rank, there is that type of corruption that is referred to as Petty Corruption, which is done by junior staff and officials, and the size of the gains from it is often small and is characterized by being unstructured and the purpose of it may be to facilitate the complex procedures but it just could be a reason to complicate the procedures where the employee puts obstacles in the citizens' way by creating routine obstacles to induce offering bribes. There is also that Grand Corruption done by senior staff and officials, and the size of the gains achieved from it is often enormous. It is constructed and is usually known in the developing and least-developing countries suffering from the lack of rules and regulations governing their work.

2 - The phenomenon of corruption in Egypt from the domestic and external perspectives: A - At the domestic level: Since 2008, attention has been paid to the phenomenon of corruption in Egypt, where research, studies, surveys of public opinion and numerous reports have been conducted and published, on top of which those reports of the Transparency and Integrity Committee from the Ministry of State for Administrative Development, in addition to the report on the Third United Nations Conference of the Member States of the Anti-Corruption convention in Doha from 9 to 13 November 2009, and the study of cultural frameworks governing the behaviour of Egyptians and their attitudes toward the values of transparency, integrity and anti-corruption (1). That is in addition to the Social Contract Centre's studies on "diagnosing the Egyptian reality by examining the legal and institutional framework to combat corruption in Egypt", the surveys of the Decision Support Centre on "assessing the degree of the spread of administrative corruption at the geographical level in all

governorates of the republic and assessing the degree of its spread at the level of governmental sectors" and the "installation and application of indicators to measure the administrative corruption in Egypt, with a suggested perception of the expansion of measuring the recognition of the phenomenon of corruption among citizens more deeply." Studies and different working papers have also been conducted by the government on "strengthening the citizens' access to justice and legal aid support in the Arab world" and "transparency and the society's participation in drawing up the state's General Budget." Other studies have been carried out by the centres affiliated to Helwan University and some civil society organizations, such as the Egyptian NGO Support Centre, on "the role of civil society organizations in promoting transparency and accountability in the governmental organizations", "the Egyptian society's realization of the meanings and forms of administrative corruption and ways of enhancing transparency and accountability " by the Development & Institutionalization Support Centre (DISC), and the "Article 13 Coalition of Anti-Corruption " by the Egyptian Association For Community Participation Enhancement. Reports of the Transparency and Integrity Committee are available on the following link:http://www.ad.gov.eg/Ar/GovernanceDetails.aspx?subject_id=1054

In addition to: "The work environment of small and medium-sized projects in Egypt and the relationship between small and medium-sized enterprises and the governmental departments" by Al-Ahram Center for Political and Strategic Studies; "Small and medium-sized companies, issued in 2009, by the Center for International Private Enterprise (CIPE) - (1)" where the results of the poll surveys of a number of these companies showed that nearly half of such companies had found it very difficult to deal with governmental bodies to take the foundation procedures and many of them said they had been forced to pay bribes to finish these procedures; "Transparency in purchases and governmental projects to ensure equal competition for small and medium-sized businesses" by the Center for the International, Private Enterprises. Most of the previous studies have focused on analyzing one or more aspects of the phenomenon of corruption without addressing the phenomenon in a comprehensive manner. B - At the external level: A number of studies have been conducted by some foreign organizations that focused on measuring corruption in Egypt from 2009 to 2014, mostly drawing an inaccurate picture of the reality of corruption in Egypt due to the lack of participation of the Egyptian anti-corruption bodies in preparing such studies. 1 -Reports issued by the Center for International Private Enterprise (CIPE) in collaboration with the Al-Ahram Center for Political and Strategic Studies. <http://www.ad.gov.eg/Admin/EditorDocs.pdf>

3 – Measurement of corruption in Egypt: Most of the efforts dedicated to measuring corruption have focused on laying down criteria for perceiving it, as the measurement of corruption is extremely difficult because there is no inclusive and comprehensive definition of it, nothing to say of the multiplicity of its manifestations, the absence of accurate statistics and lack of information, which makes the measurement of it - in general – inaccurate. However, efforts have been made to develop methods to measure corruption, where most of these efforts have been directed to measure the financial corruption due to its serious repercussions on the overall economic development in Egypt, as it negatively affects the attraction of foreign investments to Egypt and the confidence of citizens in the state's bodies, which, in turn, reduces people's productivity. The measurement of corruption through estimating the size of illegal gains is performed via two methods: A - First method: It involves using macroeconomic data and depends on estimating the size of gains resulting from the phenomenon of unofficial or underground economy (1) as a percentage of the official GDP. Such unofficial or underground economy in many developing and non-developing countries stimulates corruption. Some may see that the procedures of having their economic activities registered would require additional registration papers and cost extra money (the high cost of transactions) because they may need to pay bribes as well as legal costs, and that is why they do not have their economic activities recorded in order to avoid this cost, preferring to stay in the dark. B - Second method: The second method is used to measure the corruption of the data collected concerning recorded crimes, such as tax and customs evasion by the tax institutions and law enforcement bodies, where the total volume of tax evasion amounted to about 61 billion pounds in 2013 (Examination and Collection Authority) of the estimated total tax receipts of about 366 billion pounds, namely 16.7% (2), whereas the total volume of customs evasion reached about 1.2 billion pounds (In the published cases only) in 2013 of the total tariff revenue estimated at 21.546 billion pounds, 0.248%, although the trade deficit reached about 220 billion pounds in the same year. (3)

1 – Unofficial economy is all those unregistered economic activities that are not monitored by the state's bodies. This takes many forms in Egypt, the most serious of which are the manufacturing processes that take place without sticking to the safety and quality standards. Samer Al-Najjar, Economic and Financial Cost of Corruption in Egypt, Analysis of the Cost of Corruption in Egypt, an unpublished study, Governance Center, 2014, p. 37. 2 - Samer Al-Najjar, Mohamed Ali, The Financial Costs of Corruption in the study " Analysis of the Cost of Corruption in Egypt, an unpublished study, 2014, p. 38 3 - Samer Al-Najjar, Mohamed Ali, The Financial Costs of Corruption in the study " Analysis of the Cost of Corruption in Egypt, an unpublished study, 2014, p. 36

4 - Causes of corruption in Egypt: Over the past three decades, the Egyptian society has witnessed many political, social and economic changes, the most important of which is the transition to capitalism - like all other countries - and the increased wealth, the inequitable distribution of it, and lack of access to the fruits of development to low-income classes which plunged into that sense of injustice and indifference, something that helped to spread corruption whose causes in the Egyptian society are as follows: A - Economic causes: (1) The low and different levels of income: Some international standards used to measure the degree of poverty and justice in the distribution of income indicate the lower-income level. The most important and accurate of these standards is GINI Coefficient (1) reaching 32.1% in Egypt in 2011 and indicating inequality compared to 36% in 2009. It witnessed a further decline in 2012 to reach 28% due to that decline in the growth rate, 2.2%, and rising unemployment. The absence of social justice and the unfair distribution of income and wealth, as part of the economic and social landscape, have led to low and different levels of income, and wealth, on the other hand, fell in the hands of a class that is more capable of exploiting the opaque activities in Egypt. This has also caused a large section of the Egyptian citizens to become unable to meet their basic needs of goods and services, and, therefore, some of them pursued other corrupt practices to fulfill such needs. Some of the most important reasons for the low and different cash income levels and its purchasing power are as follows: • Low salaries and wages in many sectors in the state administrative bodies, especially the units concerned with providing services. • Some individuals and companies adopting monopolistic practices that led to the rise of prices of many goods and services, especially strategic goods, with no economic justification. • Steady increase in inflation rates which led to the rise of prices of goods and services and the lower purchasing value of money prices, which devour any increases in incomes and negatively affects their actual values. • Encouraging the consumption culture among individuals and this caused the consumption rates to be incompatible with the incomes and insufficient to satisfy the needs of individuals, with no appropriate awareness. 1 -Gini Coefficient measures the extent to which the income or consumption expenditures of individuals and families in the national economy deviate from the optimal distribution of incomes and wealth. The indicator consists of "Lorenz" curve which reflects the cumulative percentages of the total income obtained against the cumulative number of its owners, starting from the poorest individuals and families, in addition to the "Hypothetical" curve which refers to absolute equality. Gini Coefficient measures the space / gap between the "Lorenz" curve and the "Hypothetical" curve by the largest distance under the "Hypothetical" curve. The "Zero"

indicator refers to absolute equality, whereas the 100 indicator refers to absolute inequality. <http://data.worldbank.org/indicator/SI.POV.GINI>

(2) Government overspending: Despite the assurances of the State and the government's continued efforts to adjust the public administration spending, especially with regard to government procurement, there is still that administration overspending, leading the state resources in the wrong direction. This results in negative effects, the most serious of which are: • Assigning a significant portion of the state's resources, which should be directed to other areas of government spending to benefit citizens, to achieve some personal purposes of the officials in the administrative body, such as overspending on cars, equipment and office furniture. • A decrease in government spending on development projects affecting the level of per capita income and the citizens' satisfaction of their needs, and the associated increase of the chances of corruption. (3) Expansion of the establishment of special funds: Special funds are a range of finance charges imposed on citizens and kept in funds affiliated to several bodies. They are not included in the state budget, and, therefore, their details are not presented to parliament although they should be subject to review by the Central Auditing Organization. According to the founding laws of such funds, the president is not the only one empowered to establish them; governors and chiefs of centers and villages are empowered to do so as well. This, in turn, has led to the massive expansion of setting up funds and the difficulty of knowing how many they are. All that creates a fertile soil for corruption crimes related to such funds. B - Administrative causes: There are many weaknesses in the public administration systems in Egypt, which have had a major role in the prevalence and penetration of corruption and the ineffectiveness of the actions that have been taken to uproot it. The following are the most essential administrative causes of corruption and their impact on the spread of corruption: (1) Deficiency in the organizational structures of the state's governmental and administrative bodies: The state's governmental and administrative bodies suffer from several problems, the most important of which are: - Absence of regular reviewing and updating systems causes such bodies to not meet the aspirations of the citizens with regard to the government services. - The large overlap of functions between government entities gives rise to conflicts in disciplines in a way that hinders the government's work wheel and interests of citizens and weakens accountability. - Inaccurate specification of functions within a single entity, which leads to the circulation of responsibility within the entity, impedes the internal control mechanisms and makes them lose their effectiveness, and increases the ability of officials to evade responsibility and throw it mostly on junior staff. (2) Government bureaucracy and complexity

of procedures: Government services suffer from many bureaucratic problems and complicated procedures which contribute greatly to the creation of an environment for corruption, in terms of increasing the burden of work on the staff where they offer the services, along with the accumulation of citizens who wish to receive such services. The most important problems are: - The enormous amount of time taken to provide services with no fixed date for fulfilling them. - Lack of adequate powers granted to employees to show flexibility toward some complicated procedures.- Poor treatment at the hands of employees and their tendency to complicate procedures without censorship. - Lack of sufficient means to familiarize citizens with the procedures for obtaining services in advance. - Lack of clear and effective communication channels between the public service recipients and senior officials in the service units to solve any problems that arise, as well as the spurious actions taken to investigate the complaints of poor service performance. - Inadequacy of the places providing services with the public's requirements, both in terms of location, facilities, or waiting areas. - Non-use of technological means by some service-providing units and relying heavily on the human element.

(3) Weak internal controls on government bodies: The weak and ineffective internal controls on government bodies cause the occurrence and spread of corrupt practices to increase. The most important aspects of this weakness are: - Non-observance of the conflict of interests by the official to whom some of the reports of the internal control departments of the state's administrative units are offered. - The weak central control of the sub-units of the state, including the assurance of the effectiveness of internal control in those units. - Lack of an effective mechanism for periodic check of the staff's commitment to the rules of professional behavior. - No effective, deterrent punishments are inflicted in cases of irregularities. This, thus, enhances the culture of neglect and corruption in the administrative sector. - The poor financial allocations made for trainings and the lack of controls to make sure such allocations are in the right direction, and this all leads to manipulating them. - The internal control systems includes no rules relating to the principle of informing the employees of corrupt practices. (4) The appointment, evaluation and promotion rules for working for the Civil Service: The deficiencies in the recruitment, evaluation and promotion systems, in addition to the reliance in many cases on the appointment of the children of employees and involving the principle of favoritism have caused the government bodies to be crowded with employees who are not really needed, sagging the government structure and establishing job ranks and numerous administrative levels without objective justification, something that increases the complexity of the government's procedures. (5) Salaries and wages systems: The deficiencies in

the salaries and wages systems in the state's administrative units have given rise to an atmosphere for various aspects of corruption, including bribery, profiteering and stealing public money. The following are the most important deficiencies: - Lack of justice in the distribution of wages among workers within the state's administrative units. - The variable wages are not connected with actual performance despite the fact that the bulk of salaries and wages is variable wages, but many government bodies give all employees equal, variable wages regardless of their performance, bearing into account the economic conditions.

(6) Weakness of Administrative Skills: The lack of appropriate administrative skills of those managing governmental offices leads to the spread of idleness, neglect and indifference, providing the opportunity for manipulation, profiteering and grabbing public finance.

c- Legal Reasons: (1) The weakness of witnesses, experts, victims, and reporters protection: The lack of existence of a full legislation regulating the protection of witnesses, experts, victims, and reporters. (2) The length of the legal and judiciary proceedings: The investigation and trial in corruption crimes take a considerably long time, which weakens the legal deterrence against corruptors, increases their chances of escape outside the country before the trial, or leads to the loss or destruction of evidence, or affecting the witnesses or not benefitting from them due to travelling or death. All this contributes to the general belief in the lack of seriousness in the legal and judiciary proceedings for anti-corruption in Egypt, and the resulting delay of the restoration of rights and return of money. (3) Inaction in executing the penalties issued in corruption crimes and the weakness of the determined penalties for some of these crimes: Inaction in the execution of the penalties issued in corruption crimes led to the lack of the required deterrence in such issues, as well as the fact that some of the penalties determined penalties for public finance cases are weak, like in the case of smuggling the subsidized goods, leading to its spread for the weakness of its punishment. (4) The diversity and overlap of the laws and regulations regulating work in governmental authorities: Work in governmental authorities is regulated by several laws, regulations, and decisions, resulting in gaps in application due to their overlap, as follows: (a) The dispersion of employees concerning the current state of applied procedures in governmental work, favoring the regulation that suits personal interest, whether with good or bad intentions, which enforces corruption practices. (b) The increase in bureaucratic practices, for employees apply several controlling regulations, opening a wider scope for corruption. (c) The difficulty for the regular citizen to understand the laws and resulting regulations, which puts him under the control of the specialized employee, increasing corruption through bribery and more. (d) Issuing several regulations

for some public sector companies that depend on public finance, being under the competence of the legal administration to investigate financial irregularities according to the general legislation stipulated in the followed laws. Such regulations are issued by a ministerial decree, which is regarded as a legislative level below the law, expanding the establishment of discipline councils, which in turn are under the control of the managing authority. This leads to concealing some financial irregularities, in addition to employees' protection from the managing authority abuse.

d- The lack of appropriate transparency: Anti-corruption and limiting its negative effects requires providing precise and updated information and data, along with the importance of their availability and freedom of exchange among people unless they are confidential or related to national security requirements. Despite that Egypt authorized the two international convents for economic and social rights and political and civil rights in 1966, as well as the United Nations Anti-Corruption Agreement in 2005, stipulating article 68 of the 2014 Constitution, there are still a number of obstacles in information availability. In fact, some articles of the United Nations Anti-Corruption Agreement stipulated the accessibility to the information concerning the public affairs of citizens upon three standards; the ease of access to information, the low expenses for viewing if any, and providing it at a considerable time.

e- Reasons related to the institutional arrangements for anti-corruption: Despite the diversity of the control authorities concerned with anti-corruption in Egypt, there are some challenges hindering the execution of such roles effectively, as follows:

- (1) The challenges facing some external control authorities:
 - (a) Some procedural constraints in investigating the employees in high positions in the administrative offices of the state.
 - (b) The administrative authority's abuse of its power, which might contradict with the final opinion of the control authority neglecting the efforts of the anti-corruption offices.
 - (c) The shortage in immunities for control offices' members to conduct their role.
 - (d) The shortage in financial and individual sources in some control authorities.
 - (e) Non-disclosure of some investigation authorities of the restoration reasons concerning the reports transferred to them from the control authorities.
- (2) The dependence of some control offices concerned with anti-corruption in Egypt on the executive authority, which might affect its independence.
- (3) The limit of coordination between control authorities: The coordination mechanisms are limited among the control authorities, along with the non-dependence on the modern technological systems and applications that simplify discussion and information exchange in investigations.
- (4) The Inexistence of sufficient awareness among the people in anti-corruption authorities in Egypt:
 - (a) Despite the diversity in control authorities in Egypt, they

are not known to most of the people and because of the inexistence of such awareness, when some people were deprived of their right, they presented several complaints to the concerned and unconcerned authorities starting with the President till the neighborhood where they live, which resulted in compiling the complaints at the control authorities, losing the complaint mechanism and the important role it plays in anti-corruption. (b) The lack of definition of the control office itself and its role to the citizen. e- Social Reasons: The spread of the principles of transparency, integrity and loyalty in the communities is one of the main means of protection against corruption crimes; yet, the Egyptian community has been suffering of several social issues negatively affecting such principles, as follows: (1)The decline in values and behavioral habits: This is clear in the spread of the negative behavioral characteristics that are resulting from the successive economic and political circumstances. (2)The weakness of confidence in successive governments: The negative practices of former systems, like weakness of transparency, the inaction against monopolism, the spread of corruption in governmental organizations, the absence of questioning and control, and the disrespect to the law led to the loss of confidence in the successive governments and the acceptance of some corruption as a fast method from their point of view to obtain their rights.

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