

# Normative Model to Alleviate Corruption

## A Synoptic Case Study of South Africa

**T Majila, J D Taylor and K Raga**

Department of Public Administration  
Nelson Mandela Metropolitan University  
South Africa

### ABSTRACT

*Curbing corruption has become a key priority for a number of countries and innovative initiatives have been taken towards achieving this goal. Such initiatives have increased through the inauguration of specific anti-corruption institutions, watchdog organisations and anti-corruption legislation. These agencies and laws are required to closely monitor public ethics and they attempt to achieve levels of transparency, especially with regard to public sector decision-making.*

*The European Commission emphatically states that the overall objective of these efforts is, inter alia, to contribute to the prevention and control of corruption so that it no longer undermines the confidence of the public in the political and judicial system, democracy, the rule of law, and economic and social development. Comprehensive anti-corruption legislation and the implementation thereof are necessary to advance the rule of law and prevent corruption. Anti-corruption agencies are regarded as part of a number of strategies that can be utilised to reduce corruption in a government. Numerous countries such as Hong Kong, India and Singapore have embarked on various anti-corruption initiatives and perceive these agencies as an integral part of these initiatives.*

*The purpose of this article is to provide a comprehensive literary review of anti-corruption agencies in Hong Kong, New South Wales and South Africa and to recommend a suitable normative model for the Republic of South Africa based on the findings of the review.*

### INTRODUCTION

South Africa is among several countries that have established anti-corruption agencies in an attempt to mitigate corruption. However, unlike Hong Kong and New South Wales, as pointed out by Pereira, Lehmann, Roth and Attisso (2012:28), South Africa has adopted



a multi-agency approach in its fight against corruption. Both Hong Kong's Independent Commission against Corruption and New South Wales's Independent Commission against Corruption agencies are, according to Bassiouni (2008:974), recognised as significant organisations in the successful fight against corruption in their respective countries.

The report by the Public Service Commission on a review of South Africa's national anti-corruption agencies (2001:8) divides these into three groups, namely constitutional and oversight bodies, and the criminal justice agencies.

The constitutional and oversight bodies are the Office of the Auditor-General, the Office of the Public Protector, the Public Service Commission, and the Independent Complaints Directorate. These bodies are required to audit and report on the accounts, financial statements and financial management of all public sector agencies; to investigate and make recommendations to state departments on any conduct which may have prejudiced the citizens; to evaluate the effectiveness of anti-corruption agencies and to suggest amendments where necessary; and investigate incidences of police misconduct.

The Criminal Justice Agencies include the South African Police Service Commercial Crime Unit; the South African Police Service Anti-Corruption Unit; the Directorate for Priority Crime Investigation (Hawks); and the Special Investigating Unit and the Financial Intelligence Centre. Investigating all cases of commercial crime; investigating allegations of corruption amongst South African Police Service members; combating, investigating and preventing national priority crimes such as serious organised crime, serious commercial crime and serious corruption; and dealing with money-laundering are the responsibilities of these agencies.

Other anti-corruption agencies referred to are the Department of Public Service and Administration, the National Intelligence Agency, the South African Revenue Services, and the National Anti-Corruption Forum (Public Service Commission, 2001:8).

In addition to the above-mentioned agencies, the former Minister of Public Service and Administration announced the establishment of the Anti-Corruption Bureau that would have legislative authority to investigate, intervene and, where necessary, assist departments, provinces and local governments in dealing with cases of corruption-related misconduct. The decision was taken based on the realisation that the current capacity is inadequate and poorly resourced to effectively fight the battle against corruption (South African Government 2014).

## **ANTI-CORRUPTION AGENCIES**

Del Mar Landette (2002:3) writes that strategies to combat corruption are often led by independent anti-corruption agencies created specifically to spearhead the fight. Specialised, well-financed and independent anti-corruption agencies have the advantage of being exclusively devoted to fighting corruption. The agencies need support from the government, judiciary as well as law enforcement to enable them to execute their tasks properly. Above all, they need to establish their credentials as independent investigators dedicated to fighting corruption both inside and outside government (Transparency International 2014).

The first anti-corruption agency was set-up in Singapore in 1952, followed by Malaysia and Hong Kong, giving Asia the reputation as the 'cradle' of anti-corruption agencies (ACAs).

Today, there are approximately 150 such entities throughout the world. ACAs often emerge in a context of corruption scandals. They are formed through broad political consensus and are regarded by most stakeholders as the ultimate response to corruption. However, they find themselves at the centre of political controversy if they decide to investigate those in power (Transparency International 2014).

Heilbrunn (2004), Stapenhurst and Langseth (1997), Pope and Vogl (2000), Del Mar Landette (2002), Man-wai (2006), Jennett and Hodess (2007), Neumann (2005) and Boone (2002) provide a compendium of features of effective anti-corruption agencies (ACAs). In addition, Heilbrunn (2004) suggests reasons why ACAs fail, thereby indicating what an anti-corruption agency ought to be.

## **FEATURES OF EFFECTIVE ANTI-CORRUPTION AGENCIES**

The characteristics of effective ACAs as identified by writers are that they should have integrity, political backing, be adequately resourced, be independent and be educational. Other than sufficient monetary resources, a number of important requirements that can be identified for an anti-corruption agency to function effectively include sufficient staff and resources with specific knowledge and skills, special legislative powers, high level information-sharing, and co-ordination and operational independence (Camerer 1999:2).

According to Heilbrunn (2004:18), crucial elements of effective anti-corruption agencies include the independence of a commission, a clear reporting hierarchy and commitment by the government to enact reforms that may be politically difficult. Stapenhurst and Langseth (1997:324-325) argue that to operate successfully, an anti-corruption agency should possess committed political backing at the highest levels of government; political and operational independence to investigate even the highest levels of government; adequate powers of access to documentation and to question witnesses; and leadership which is publicly perceived as being of the highest integrity.

As corrupt practices become even more sophisticated, conventional law enforcement agencies are less well placed to detect and prosecute corruption cases (Transparency International Sourcebook 2000:41-42). It is suggested that specialised and independent anti-corruption agencies should have preventive and educational components as well as the ability to gather intelligence, process complaints, and advise government and private agencies (Transparency International Sourcebook 2000:41-42).

Heilbrunn (2004:14-15) asserts that strategies such as the independence of commissions need a clear reporting hierarchy (comprising executive officials, parliamentary authorities, and oversight committees) and governments should have a commitment to enact reforms that may be politically difficult. Given that prevention is always better than prosecution, a small investigative and monitoring unit with appropriate authority and political independence could probably be better placed than other government agencies to ensure that effective preventive steps are identified and taken (Stapenhurst & Langseth 1997:324).

Heilbrunn (2004:14-15) further suggests that for a government to be able to enact these strategies requires negotiations among key actors in the government, civil society and the media. The Transparency International Sourcebook (2000:104), De Sousa (2010:16) and Lo (2006:2) provide indicators for assessing anti-corruption agencies such as appointment



procedures for the head of the agency; independence of heads of the agency from political control; adequacy in resourcing of the agency, training and remuneration of staff; and accountability to the executive, the legislature, the courts and the public.

A prime challenge in many countries is to mobilise the necessary political will to establish such agencies (Pope & Vogl 2000:6). In support of this statement, the Anti-Corruption Handbook (2005) states that while the approach taken in designing a successful national strategy will vary depending on a country's prevalent patterns and levels of corruption as well as the political and economic systems currently in place, it is possible to say that anti-corruption strategies should be driven by political will (Anti-Corruption Handbook 2005:1). Participatory approaches to fighting corruption, and especially the importance of active involvement by civil society and the media, are now generally accepted as fundamental to any successful anti-corruption reform programme. However, political will is frequently the missing ingredient (Lincoln 2000:41).

Analysts Pope and Vogl (2000), Stapenhurst and Langseth (1997), and Jennett and Hodess (2007:2) emphasise the importance of the procedures according to which the ACA's employees are dismissed, and their integrity. From the outset, the shape and independence of a commission may well be determined by how the office holder is appointed or removed (Stapenhurst & Langseth 1997:324). National anti-corruption agencies should not be run by hand-picked supporters of politicians in power, as such leaders could be deployed to intimidate political opponents (Pope & Vogl 2000:8).

The challenge of making executive appointments to anti-corruption agencies is to ensure that persons of integrity are selected, that they enjoy independence from political (and private sector) interference, and that they are held to account for their actions (Jennett & Hodess 2007:2). If the appointing mechanism ensures consensus support for an appointee through parliament, rather than government, and an accountability mechanism exists outside government (for example, a parliamentary select committee on which all major parties are represented), the space for abuse for non-partisan activities can be minimised (Stapenhurst & Langseth 1997:324). Furthermore, credibility and effectiveness depend on the exemplary behaviour of the anticorruption agency itself. It must act, and be seen to act, in conformity with international human rights norms. It must operate within the law and be accountable to the courts (Pope & Vogl 2000:8).

Jennett and Hodess (2007:2) provide a further criterion for selecting appointees, namely executive, non-executive and seconded personnel for anti-corruption agencies. Pope and Vogl (2000:8) add that appointment procedures need to address the issue of whether the proposed mechanism sufficiently insulates the process to ensure that persons of integrity are given the leadership and that they are protected from political pressures while they are in office. Comparative analysis of ACAs suggests that more important than the status of an ACA's personnel in determining the probabilities of success or failure are aspects such as the integrity of staff, credibility and effectiveness of an ACA, and regulation of appointments and dismissals (Jennett & Hodess 2007:2).

In 2012 a set of standards and principles for what makes a good anti-corruption agency were agreed upon by the anti-corruption community at a meeting in Jakarta. It was agreed that ACAs should have a broad and clear mandate to tackle corruption, and legally guaranteed permanence such as a constitution or special law to ensure the permanence of the institution. In addition, there should be neutral appointment of ACA heads; the ACA heads should have

security of ensure and can only be dismissed through a procedure established by law; and ACAs should adopt codes of conduct that set high standards of ethical conduct for their employees and have a solid compliance regime. During any political crises (for example, Thailand) no side may 'hijack' the agenda of the anti-corruption commission and the work is allowed to continue free from threats and intimidation (Transparency International, 2014).

## **REASONS FOR FAILURE OF ANTI-CORRUPTION AGENCIES**

As stated earlier, some authors identify variables that determine the failure of ACAs. Pope and Vogl (2000:6) assert that although anti-corruption agencies can be critical in preventing corruption before it becomes rampant, not only are they difficult to set up but they often fail to achieve their goals once they have been established. In this section reasons are provided for the failure of anti-corruption agencies.

The Transparency International Sourcebook (2000:95) provides reasons why anti-corruption agencies fail. The following reasons are postulated: weak political will, fear of the consequences, unrealistic expectations, and the agency itself becoming corrupt. Anti-corruption agencies may be so beholden to their political masters that they dare not investigate even the most corrupt government officials; they may lack the power to prosecute; and they may be poorly staffed (Pope & Vogl 2000:6). Heilbrunn (2004:14) summarises key variables that might explain a failure of an anti-corruption agency to reduce corruption as the absence of laws necessary for its success, a lack of independence from interference by the political leadership, an unclear reporting hierarchy, and the absence of oversight committees.

Anti-corruption agencies have proven to be successful in Hong Kong, Singapore and Botswana (Del Mar Landette 2002:3). However, according to Man-wai (2006:198), of these, the Hong Kong model has been the most successful in fighting corruption. According to Markov (2003:1) though, most of the analyses of the experience of special anti-corruption agencies identify Hong Kong and New South Wales (Australia) as the most successful and effective. Both models are discussed below, beginning with the Hong Kong's Independent Commission against Corruption.

## **HONG KONG INDEPENDENT COMMISSION AGAINST CORRUPTION (ICAC)**

Heilbrunn (2004:3) differentiates among four types of anti-corruption commissions. The first is the universal model with its investigative, preventative, and communicative functions.

*"The universal model is typified by Hong Kong's Independent Commission against Corruption. Second, the investigative model is characterised by a small and centralised investigative commission as operates in Singapore's Corrupt Practices Investigation Bureau (CPIB). Both the universal and investigative models are organisationally accountable to the executive. Third, the parliamentary model includes commissions that report to parliamentary committees and are independent from the executive and judicial branches of state. The parliamentary model is epitomised by the New South Wales Independent Commission against Corruption that takes*



a preventative approach to fighting corruption. Finally, the multi-agency model includes a number of offices that are individually distinct, but together weave a web of agencies to fight corruption” (Heilbrunn 2004:3).

The Hong Kong’s Independent Commission against Corruption possesses the following elements that contribute to its success:

- A strong, enforceable legal framework;
- Independence of action, resources and staff, and the power to investigate and pursue corruption at the highest levels of government.
- Political and bureaucratic support, and the capacity to access information, witnesses and documentation; and
- Community involvement and support, and adequate accountability mechanisms that involve civil society (Del Mar Landette 2002:4).

The ICAC consists of eleven components, namely a three-pronged strategy; enforcement led; professional staff; an effective deterrence strategy; an effective prevention strategy; an effective education strategy; adequate law; a review mechanism; equal emphasis on public and private sector corruption; a partnership approach; a top political will; independence, and adequate resources.

**Table 1: Hong Kong and New South Wales Models**

COUNTRY	ACA/TYPE	ESTABLISHMENT	POWERS	INDEPENDENCE & ACCOUNTABILITY
Australia (New South Wales)	NSW Independent Commission Against Corruption	NSW ICAC Act 1988 Response to scandals leading to imprisonment of senior judge and minister, disgrace and discharge of deputy police commissioner	Investigations and public hearings; Prevention and advice to government departments; Educating public; 1994 legal amendment extended scope to parliament; Scope includes private sector	Commissioners appointed to non-renewable five-year term; Oversight by two parliamentary committees
Hong Kong	Independent Commission Against Corruption	ICAC Ordinance 1974 Response to rampant police corruption, Godber scandal and Commission of Inquiry	Investigations, Prevention, Education & Public support Crimes investigated include excess wealth Prevention of Bribery Ordinance gives ICAC power to search bank accounts, seize travel and other documents, require suspects to provide details of assets	Reports directly to executive; Subject to judicial review, legislative oversight; Independent complaints committee; Four citizen advisory (oversight) committees: general, and one for each of the three departments; Explicit performance standards; Policy of pursuing all corruption allegations with no selection

Source: Meagher (2002:87-88)

## THE NEW SOUTH WALES (NSW) INDEPENDENT COMMISSION AGAINST CORRUPTION

Markov (2003:2) states that the organisational structure of the Commission is similar to that of the Hong Kong ICAC and includes the following three departments: the Department of Investigations, the Department of Research, Control and Statistics, and the Department of Community Education. The principle functions of the Commission are stipulated under section 13 of the New South Wales ICAC Act and can be summarised as follows:

- To investigate allegations of corrupt conduct and, where appropriate, report the results of those investigations;
- To provide advice and assistance to the public sector on preventing and eliminating corrupt conduct and to do so in co-operation with public authorities and public officials; and
- To advise and educate the public sector and the community at large on strategies to eliminate and prevent corrupt conduct and to generally enlist and foster public support in the task of doing so (Pritchard 2006:206).

Neither the ICAC of Hong Kong nor the NSW Commission have any power of prosecution in the courts. In the case of the ICAC, power to prosecute after completion of investigations is vested in the Attorney General, while the NSW Commission makes recommendations for prosecution and may forward evidence to the relevant Director of Public Prosecution, who is responsible for the decision whether to commence proceedings (Markov 2003:2).

## STATE OF ANTI-CORRUPTION AGENCIES IN SOUTH AFRICA

South Africa has adapted the multi-agency model as used by the United States of America and most of Western Europe. This involves putting measures in place to address gaps, weaknesses, and new opportunities for corruption (Meagher & Voland 2006:20). According to Boone (2002:43), the presence in South Africa of no fewer than 12 agencies which have anti-corruption as part of their mandate is proof, if it were needed, that there is a strong political will to tackle corruption and resources are being made available.

The extensive literature review and empirical survey undertaken by Majila (2012) revealed that the *status quo* of anti-corruption agencies in South Africa was assessed and the level of the success by the South African anti-corruption agencies evaluated as being limited. This result has been attributed to impediments such as weak political will, lack of resources, political interference, inadequate laws, insufficient accountability, and failure to involve the community (Majila 2012:253). Arguing against President Jacob Zuma who stated in his State of the Nation Address that the government has demonstrated a concerted effort to break the back of the scourge of corruption in the country, Africa Check ([www.africacheck.org](http://www.africacheck.org)) claims that:

- although there are at least eleven agencies in South Africa that have a mandate to investigate corruption, a number of key anti-corruption institutions are in turmoil;
- the Special Investigations Unit (SIU) is without a permanent head following the resignation of Vas Soni in January;



- the Hawks – who are meant to investigate organised crime and corruption cases – have reportedly been plunged into disarray with the suspension of their head, Anwa Dramat;
- there are also concerns about the independence of the National Prosecuting Authority;
- the South African Revenue Service (SARS) is under pressure with the suspensions of key managers amid allegations of a “rogue investigations unit”;
- some have argued that SARS is being “purged” as a result of politically sensitive investigations into Zuma’s cousin Khulubuse and the holding up of a multi-million rand consignment of ANC election T-shirts. SARS have denied the allegations ; and
- there is what has been described as the “neopatrimonial” character of the Zuma presidency and accusations that the president has surrounded himself with loyal acolytes who will protect him at any cost.

Echoing this sentiment, the Oxford Analytica states that the suspensions are the latest example of what are meant to be agencies operating at an arm’s length from government are being made more directly accountable to ministers allied to President Jacob Zuma (Oxford Analytica, <https://www.oxan.com>).

The government is duty bound to ensure that an agency responsible for investigating corruption is sufficiently independent to prevent political interference in the cases it investigates (Berning & Montesh 2012:7). However, multiple suspensions of senior officials are causing turmoil in South Africa’s anti-corruption agencies (Oxford Analytica, <https://www.oxan.com>).

Citing examples, authors attribute South Africa’s failure to fight corruption to political interference. Referring to the disbanding of the Scorpions, Berning and Montesh (2012:7) explain that intense political pressure as a consequence of pursuing investigations that involved high level politicians contributed to the downfall of the Directorate of Special Investigations (DSO). According to Rosenberg (2010:4), the politically-tinged dismissal of the head of the Office of the National Director of Public Prosecutions (NDPP), Vusi Pikoli, raised serious questions about the political independence of senior civil servants in South Africa. The immediate effect of such suspensions and dismissals was delayed and, in some instances, the cessation of investigations into high profile politicians and police officers (Oxford Analytica, <https://www.oxan.com>).

Again, such failure to fight corruption is ascribed to patronage. Even if South Africa adopts the best possible statute to establish a truly independent anti-corruption agency, a great deal will depend on who is appointed to manage and run it (Berning & Montesh 2012:2). The Public Service Act (PSA) provides for civil service hiring based on equality and other democratic values and principles enshrined in the Constitution. However, merit and open competition are often subordinated to political affiliation and nepotism (Rosenberg 2010:4). A 2006 survey by the Public Service Commission revealed that favouritism of friends and family was the biggest problem undermining professionalism in management decisions (Rosenberg 2010:4).

The Public Service Anti-Corruption Strategy (2002:14) states that of the 12 agencies, only the Special Investigating Unit (SIU) has an exclusive (albeit narrow) anti-corruption mandate and none of the existing mandates promote a holistic approach to fighting corruption. The Public Service Anti-Corruption Strategy (2002:14) further argues that this situation of



fragmentation, insufficient coordination, poor delineation of responsibility and assimilation of corruption work into a broader mandate directly affects the resourcing and optimal functioning of these agencies.

Echoing the sentiments of the Public Service Anti-Corruption Strategy above, Boone (2002:43) writes that, as a number of representatives involved in the South African campaign have noted, the sheer number of agencies makes an integrated national approach to the problem difficult.

Writers such as Heilbrunn (2004:3), Del Mar Landette (2002:4) and Man-wai (2006: 196-201), as shown above, are in favour of the Hong Kong ICAC model, which is a typical example of a single anti-corruption agency. In support of such authors, one would infer that it is unnecessary to have a number of agencies working towards the same goal. In a developing country such as South Africa available resources would better be utilised optimally by one agency towards strengthening its functionality in promoting anti-corruption strategies. Based on the identified factors that hinder the success of a multi-agency model, a single-agency approach to fight corruption is proposed.

## **SINGLE ANTI-CORRUPTION AGENCY APPROACH**

Hong Kong, through the Independent Commission against Corruption (ICAC), has provided the standard for powerful, centralised anti-corruption agencies (Meagher & Voland 2006:10). The issue of having one anti-corruption agency in South Africa has been debated by a number of researchers, including Meagher and Voland (2006), Camerer (1999), and the Public Service Commission (2001). There have been conflicting opinions. For some, the question is whether South Africa can afford a single agency approach to fighting corruption while others recommend that the country should establish such an agency.

While some support the idea of establishing a single anti-corruption agency in South Africa, real concerns exist about its location, funding and mandate (Public Service Commission 2001:5). The Public Service Commission (2001:5) argues that a single agency should not be encouraged because the current mechanisms are not functioning optimally; it is important to establish whether existing agencies can be restructured and transformed before planning the establishment of a new body; and risks involved in establishing a new single agency include the addition of another layer of bureaucracy to the law enforcement sector and the diversion of already scarce resources from existing agencies and other government priorities. However, according to Camerer (1999:11), in the light of the criteria which underlie effective anti-corruption agencies, a number of conclusions can be drawn in relation to the relative success of both the Hong Kong and South African case studies in fighting corruption (Camerer 1999:11).

Camerer (1999:11) indicates that criminal investigations are central to the ICAC's mandate; activities are supported by a well-resourced police force and criminal justice system and that it acts within a 'supportive' political environment, while in South Africa tension exists when it comes to institutional capacity to deal with corruption; and owing to a lack of support by a sympathetic context to corruption reform or an effectively functioning criminal justice system, the weaknesses in the system become apparent. The first key variable that might explain a failure to reduce corruption through the



establishment of an anti-corruption agency is the absence of legislation necessary for its success (Heilbrunn 2004:15).

It can be inferred that anti-corruption agencies are meant to spearhead the fight against corruption. However, there is evidence that for ACAs to be able to serve this purpose there are characteristics regarded as essential. A number of such features have been presented by a preponderance of literature. Various types of anti-corruption agencies have been identified. Literature revealed that Hong Kong's Independent Commission against Corruption (ICAC) symbolises a universal model. Functions of the universal model are investigation, prevention and communication.

The New South Wales Independent Commission against Corruption takes a similar approach to fighting corruption as that of the Hong Kong's Independent Commission against Corruption. However, the New South Wales Independent Commission against Corruption reports to parliament and is independent from the executive and judicial branches of state.

South Africa has adopted a multi-agency model that includes a number of offices which are meant to be individually distinct, but together weave a web of agencies to fight corruption. However, this is not happening. As exposed by the literature review, the model is riddled with problems.

## **RESEARCH METHODOLOGY**

The survey approach was employed for this study because it is appropriate for the topic under investigation. Data was gathered by means of an extensive literature review, questionnaires and interviews. The targeted participants were drawn from the officials of the Eastern Cape and Northern Cape Provincial departments. The departmental employees who were handed questionnaires were selected randomly. Anti-corruption officials who are attached to the Premiers' offices of both the Eastern Cape and Northern Cape provinces as well as the heads of the Child Support Grant, the Social Relief of Distress, the Disability Grant and the Old Age Grant units from the Eastern Cape and Northern Cape Provincial Governments were interviewed.

The total sample size was 108. The population of 100 officials and eight selected senior managers were targeted. A response rate of eighty-four per cent was achieved. The research findings are based on completed questionnaires and five (of eight) interviews.

In the following section recommendations are provided which emanate from the empirical search and literature review which formed part of the study.

## **RECOMMENDATIONS**

The agency should emulate the Hong Kong ICAC's functions, namely, deterrence, prevention and education. As mentioned earlier, the agency should be divided into three departments: the Operations Department; the Corruption Prevention Department and the Community Relations.

The Operations Department would be responsible for investigating alleged corruption. The Corruption Prevention Department would examine the systems and procedures in the

public sector, identify corruption opportunities and make recommendations to eradicate ambiguity and inadequacy in the anti-corruption legislation. The Community Relations Department would focus on educating the public against the immorality of corruption and soliciting their support and partnership in combating corruption.

The agency should allocate sufficient resources to the Operations Department. This would indicate the government's commitment to fighting corruption as this division would deal with investigations. The agency should also ensure that its personnel are highly skilled in their various tasks.

The agency's strategy to ensure effective enforcement should consist of an effective public complaint system to encourage the reporting of corruption by members of the public and referrals from other institutions; a quick response system to deal with complaints; proper investigation of all reports of alleged corruption, irrespective of whether they seem to be serious or minor in nature; a review system that ensures that all investigations are professionally and promptly investigated; and the publication of successful enforcement in the media to demonstrate effectiveness and to deter the corrupt.

A corruption prevention strategy should be adopted by the agency which will minimise corruption opportunities in government departments and public entities through improved systems control, improved staff integrity, streamlined procedures, proper supervisory checks and control, efficiency, transparency and accountability, and the promotion of staff codes of conduct and ethics.

The agency should have a wide range of education strategies in order to enlist the support of the entire community in a partnership to fight corruption. These should include media publicity, media education, school ethics educational programmes, community education, ethics development seminars for public officials and the private sector, the issuing of anti-corruption prevention best practices and guidelines, websites for publicity and reference; and youth education.

In terms of investigative power, the agency should have powers to search, arrest and detain; check bank accounts; require witnesses to answer questions under oath; restrain properties suspected to be derived from corruption; and hold the suspects' travel documents to prevent them from fleeing the jurisdiction of the investigation. Employees of the agency should not only be empowered to investigate alleged corrupt offences in the government and the private sector; they should also investigate all crimes which are connected with possible corruption.

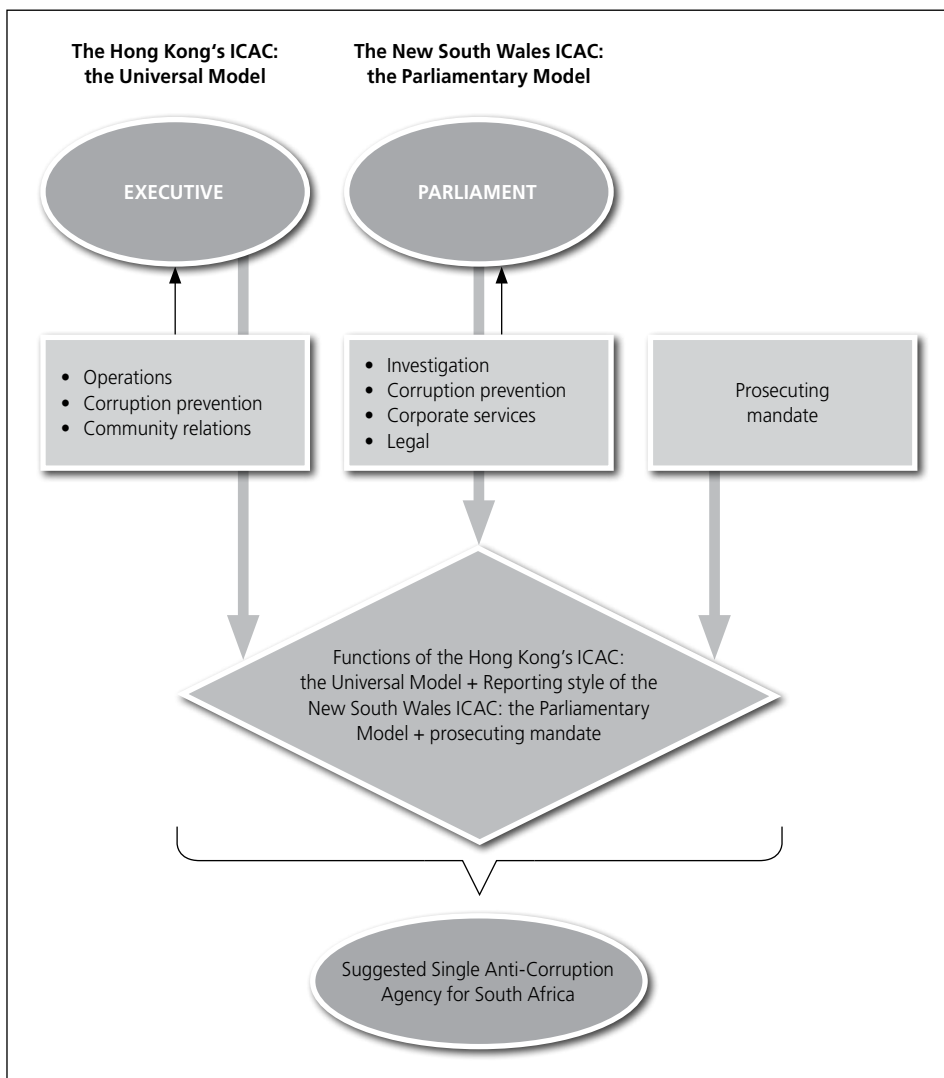
With the provision of wide investigative powers, there should be an elaborate system of checks and balances to prevent the abuse of such powers. The agency should place equal emphasis on public and private sector corruption in order to prevent double standards in society. Effective enforcement against private sector corruption will safeguard foreign investment and ensure the maintenance of high levels of integrity in the business environment.

Ideally, the agency should adopt a partnership approach to organise all sectors to fight corruption together. The key strategic partners of the agency should be all government departments, the business community, professional bodies, non-governmental organisations, community-based organisations, institutions of higher learning, the mass media and international organisations.

South Africa should demonstrate the political will for the agency to succeed in the eradication of corruption. Such political support should be translated into the provision of



**Figure 1: Proposed Normative Model to alleviate corruption**



sufficient resources, both human and financial. The Hong Kong ICAC, which the suggested agency seeks to emulate, is one of the most expensive anti-corruption agencies in the world.

In terms of reporting, the agency should resemble the New South Wales ICAC which is accountable to parliament. This will ensure that the agency is free from any interference in discharging its mandate. As in the case of the NSW ICAC reporting to the premier, it is proposed that while independent of the politics of government, the agency would report informally to the president.

Committees that would be responsible for checks and balances would also be appointed by parliament. For example, in the case of the Hong Kong ICAC, the Operations Review Committee is a high-powered committee, with the majority of its members from the private sector. This committee reviews each report of corruption and investigation to ensure that

all complaints are properly dealt with and that there is no 'whitewashing'. It publishes an annual report to be tabled before the legislature for debate. The Hong Kong ICAC also has an independent Complaints Committee where members of the public can lodge any complaint against the ICAC or its officers, or both, and there will be an independent investigation. It also publishes an annual report to be tabled before the legislature.

The findings revealed that when prosecutions begin to implicate politically connected individuals, the function of the agency is often compromised and manipulated by those who have authority. Based on these findings and the exposé by the literature review, the following normative model is proposed for South Africa.

The proposed model that follows is derived from primarily two models: the Hong Kong's ICAC: the Universal Model and the New South Wales ICAC: the Parliamentary Model.

As indicated above, the two Independent Commissions against Corruption have almost the same core functions. The difference between the two is that the Hong Kong's ICAC accounts to the executive while the New South Wales ICAC accounts to the parliament.

Neither of the ICACs has a prosecuting mandate. Owing to the findings relating to the ineffectiveness of anti-corruption agencies, the suggested anti-corruption agency needs to be authorised to prosecute individuals implicated in corruption in order to uphold a coherent sequence in handling anti-corruption cases.

## CONCLUSION

This study conducted a literary analysis of anti-corruption agencies in dealing effectively with corruption in South Africa. It examined the nature and extent of corruption; identified factors affecting the effectiveness of anti-corruption agencies; compared and analysed the effectiveness of anti-corruption agencies; and identified and analysed factors associated with compliance or non-compliance with the anti-corruption agencies.

An examination of relevant literature relating to anti-corruption agencies revealed that anti-corruption initiatives fail in most countries. The literature attributed this situation to a number of impediments. The study highlighted acute interference by politicians in investigations pertaining to corruption. This hinders the functioning of anti-corruption agencies. The more politicians make decisions that are influenced by vested interests on behalf of the anti-corruption agencies, the more these agencies are likely to become ineffective.

Other obstacles that anti-corruption initiatives are faced with are the exclusion of citizens from decisions that affect them; the lack of political will; incompetent agency employees and the victimisation of whistle-blowers. These were endorsed by both the literature and the survey.

Unless a suitable and effective mechanism for fighting systemic corruption is devised, South Africa will not succeed in improving the effectiveness of anti-corruption agencies.

## REFERENCES

Africa Check. 2015. State of the Nation Address 2015. *Key claims fact-checked*. (Online). Available at: <http://africacheck.org/reports/sona-2015-key-claims-fact-checked-part-1/>. [Accessed 17 February 2015].



- Bassiouni, M.C. 2008. *International criminal law*. 3d ed. Leiden, The Netherlands: Martinus Nijhoff.
- Berning, J. and Montesh, M. 2012. Countering corruption in South Africa – the rise and fall of the Scorpions and Hawks SA. *Crime Quarterly*, 39(3):13, March 2012.
- Boone, R. 2002. Corruption & anti-corruption in Southern Africa. *Regional seminar on Anti-Corruption Investigation Strategies with particular regard to Drug Control for the SADC Member States*. 23–26 October, 2001, Gaborone, Botswana
- Camerer, L. 1999. *Tackling the multi-headed dragon—evaluating prospects for a single anti-corruption agency in South Africa*. Pretoria: Institute for Security Studies.
- Del Mar Landette, M. 2002. *Combating corruption: What the Ecuadorian anti-corruption agency can learn from international good practice*. Birmingham: University of Birmingham School of Public Policy International Development Department.
- De Sousa, L. 2010. Anti-corruption agencies: between empowerment and irrelevance. *Crime Law Social Change*, 53(1):16.
- Handbook on Fighting Corruption. 1999. *Center for Democracy and Governance Bureau for Global Programs, Field Support, and Research*. Washington: U.S. Agency for International Development.
- Heilbrunn, R. 2004. Anti-corruption commissions: Panacea or real medicine to fight corruption? Washington: The World Bank.
- Jennett, V. and Hodess, R. 2007. *The criteria for selecting appointees for anti-corruption agencies*. Berlin: Transparency International.
- Lo, S.S.H. 2006. *Ethical governance and anti-corruption in Greater China: A comparison of Mainland China, Hong Kong and Macao*. Waterloo, Canada: University of Waterloo.
- Man-wai, T.K. 2006. Formulating an effective anti-corruption strategy – The experience of Hong Kong ICAC. *United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders*. Resource Material Series No.69.
- Markov, D. 2003. *The establishment of special anti-corruption bodies: Overview of international practice*. Sofia, Bulgaria: Center for the Study of Democracy.
- Meagher, P. 2002. *Anti-corruption agencies: A review of experience*. College Park: IRIS Center, University of Maryland.
- Meagher, P. and Voland, C. 2006. *Anti-corruption agencies*. Washington: United States Agency for International Development.
- The Oxford Analytica Daily Brief. 2015. *Purges will hamper SA's anti-graft agencies*. (Online). Available at: <https://www.oxan.com/display.aspx?ItemID=ES197504> [Accessed on 31 January 2015].
- Pereira, P.G., Lehmann, S., Roth, A. and Attisso, K. 2012. *South Africa anti-corruption architecture*. Basel: Basel Institute on Governance.
- Pritchard, J. 2006. *Introduction to the New South Wales Independent Commission against Corruption*. Resource Material Series No. 69: pp. 202–226.
- Pope, J. and Vogl, F. 2000. Making anti-corruption agencies more effective. *Finance & Development*, 37(2):18.
- Public Service Commission. 2001. *A review of South Africa's national anti-corruption agencies*. Pretoria: Government Printers.
- Rosenberg, Y.M. 2010. *Countries at the crossroads 2010: An analysis of democratic governance*. New York: Freedom House.
- Stapenhurst, F. and Langseth, P. 1997. The role of the public administration in fighting corruption. *International Journal of Public Sector Management*, 10(5):21.
- South African Government. 2015. *State of the nation address 2015*. (Online). Available at: <http://www.gov.za/state-nation-address-2015>. [Accessed on 10 February 2015].

Transparency International Sourcebook. 2000. *Independent anti-corruption agencies*. Berlin: Transparency International.

Transparency International. 2006. *Using the right to information as an anti-corruption tool*. Berlin: Transparency International.

Transparency International. 2014. *Fighting corruption: The role of the anti-corruption commission*. Berlin: Transparency International.

