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#35 Public Governance and Political Corruption: A Framework for Anticorruption Policy

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>> **ÍNDICE**

PUBLIC GOVERNANCE AND POLITICAL CORRUPTION: A FRAMEWORK FOR ANTICORRUPTION POLICY
Glória Texeira; Ary Ferreira da Cunha

>> **RESUMO**

Neste trabalho, propomos um quadro conceptual de políticas contra a corrupção política. Embora tenhamos quadros conceptuais que explicam as causas da corrupção – baseadas principalmente na teoria da agência – e embora muitos autores considerem o papel da boa governança no combate à corrupção ou a eficácia das diferentes políticas de combate à corrupção, vemos que estes ramos da literatura ainda não entraram em diálogo numa estrutura conceptual capaz de abarcar diferentes formas de combate à corrupção política.

O quadro conceptual que apresentamos baseia-se nas contribuições da teoria da agência no campo da corrupção realizadas ao longo das últimas décadas. Afinal, se discricionariedade, assimetrias de informação e não coincidência de interesses são os elementos que contribuem para a corrupção, então devem também ser os pilares visados pelas políticas de combate à corrupção. Com base em uma ampla pesquisa bibliográfica, reunimos um leque de políticas de que melhoram a governança, mostrando como podem ser formas eficazes de lutar contra a corrupção política e consideramos como estas se encaixam no quadro conceptual descrito.

Este quadro pode ajudar os decisores e assessores políticos, bem como as partes interessadas da sociedade civil, a entender e visualizar as suas opções, contribuindo para a construção de estratégias mais englobantes.

Palavras-Chave: Políticas Anticorrupção; Governança Pública; Corrupção Política

Códigos JEL: O290; K420

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>> ABSTRACT

In this paper we propose a framework of policies against political corruption. Though we have frameworks explaining the causes of corruption – mainly based on agency theory – and though many authors have considered the role of good governance in fighting corruption or the effectiveness of different anticorruption policies, we see that these branches of literature have yet not entered in dialogue to construct a framework for curbing political corruption.

The framework is based on the contributions of agency theory to the field of corruption over the past decades. After all, if discretion, information asymmetries and non-coincidence of interests are the elements of agency contributing to corruption they must also be the fundamentals targeted by anticorruption policies. Based on an extensive literature survey we gather a large array of good governance policies shown to be effective against political corruption and consider how they fit in the framework.

This framework may help decision makers, policy advisors, and civil society stakeholders understand and visualize their options, contributing to the construction of more comprehensive strategies.

Keywords*: Anticorruption Policy; Public Governance; Political Corruption*
JEL Codes: O290; K420

>> 1. INTRODUCTION

In this paper we aim to contribute to the corruption and public governance scholarship by proposing a framework to fight political corruption. We have frameworks explaining the causes of corruption (Myint-U, 2000; Treisman, 2000 and 2007) – mainly based on agency theory (Carr, 2007; Klitgaard, 1988; Rose-Ackerman, 1975 and 1999) – and many authors have considered the role of good governance (Hwang & Akded, 2011) – namely in fighting corruption (Meferson, 2009; Kaufmann, 2005; Kaufmann, Kraay & Mastruzzi, 2009) – or the effectiveness of different anticorruption policies (Klitgaard, 1998; Myint-U, 2000; Pathak et al., 2009; Schacter & Shah, 2001; World Bank, 1997). Nonetheless, we see that these branches of literature have yet not entered in dialogue to construct a framework for curbing political corruption – which helps explain the scientific relevance of this study. Furthermore, in practice, such a framework would help decision makers, policy advisors, and civil society stakeholders understand and visualize their options, when facing the need to make policy decisions in this area, contributing to the construction of more comprehensive strategies.

For the construction of the framework we will largely build upon the contributions of agency theory to corruption made over the past decades (Eisenhardt, 1989; Mitnick, 1973 and 1975; Ross, 1973). After all, if discretion, information asymmetries and non-coincidence of interests are the elements of agency contributing to corruption they should also be the fundamentals targeted by anticorruption policies. We will do an extensive literature survey to gather an extensive array of good governance policies shown to be effective against political corruption – a delimitation we made mainly to make our sample size more manageable – and we will consider how they fit in this framework.

>> 2. AN AGENCY VIEW OF PUBLIC GOVERNANCE AND POLITICAL CORRUPTION

In this context, we can say citizens – as principals – retain sovereign power, but delegate political authority to politicians – as agents – who get to make decisions on behalf of the people. Consecutively, account is rendered to citizens directly, and to their representatives, who help them ensure compliance through debate, sanctions and rewards (Bovens, 2007). As hinted before, the problem with political agency is – in summary – that politicians face non-coincidental interests and asymmetric information, will often use their discretion of power to act on their behalf, instead of acting on behalf of the people. Corruption – together with tyranny, indolence or blame-avoidance and other pathologies – offers one of the key ways in which this non-coincidence of interests works. When a politician takes a bribe or appropriates public resources for private ends, he or she prioritizes private regarding interests instead of the public interest by conferring, enlarging or anticipating an advantage, or of avoiding, reducing or differing a disadvantage, for him or herself, and/or for individuals with whom he or she is tied through ties of private regarding influence (Teixeira & Cunha, 2014: 61). Furthermore, information asymmetries mean that politicians can hide their past, present and future actions; as well as their knowledge, goals, preferences and aversion to risk, or their skills, experience, honesty, and commitment. Finally, there is plenty of discretion in politics, as politicians are expected to use their special skills and knowledge to make better judgments regarding their use of authority. Combined, non-coincidence of interests, information asymmetries and discretion create the motives, opportunities and means – respectively – to political agency pathologies, and – particularly amongst those – for political corruption.

But what does this have to do with governance? The common denominator of most governance definitions is that governance describes formal and informal ways through which authority is exercised (Michalski, Miller & Stevens, 2001; Williamson, 1996). This is certainly true, but that it leaves behind another important aspect about it: the flow of accountability. Canada's Institute on Governance (2002) says that governance describes "who has power, who makes decisions, how other players make their voice heard and how account is rendered". So to understand the governance of any kind of organization it is not only important to understand the flows of power, but also the flows of accountability.

This is why Shleifer & Vishny (1997: 773) – as well as Boubakri, Cosset & Guedhami (2005: 370) – have argued that governance issues are agency issues. Authority flows from principals to agents, who exercise it on behalf of the later; this generates a duty to render account and usually a corresponding power to pass judgement on the agent – directly and/or through other agents. So improving public governance requires looking at political agency – or rather at the array of principal-agent relationships between the people and various holders of political office – and searching for ways to make sure agents comply with their duties.

Because governance describes only the flow of authority and accountability, it is in itself is a neutral concept (United Nations Development Programme, 1997: 9). Yet the relevance of governance as a concept and as a field of research depends both on providing tools to understand and describe those processes, but also in identifying good and bad ones, and helping to promote the former in detriment of the latter. This is where agency problems – such as corruption – and good governance notions get intertwined: some ways in which authority is granted and accountability ensured seem to expand the means, motives and opportunities for political agency pathologies, and namely to corruption, while others seem to be better at preventing those pathologies. This gives us a way to think about good governance as a governance that fulfils its mission in protecting a normative standard and ensuring politicians comply with it. In the next section we will see in greater detail how governance can help us fight corruption.

9

PUBLIC GOVERNANCE AND POLITICAL CORRUPTION: A FRAMEWORK FOR ANTICORRUPTION POLICY
Glória Texeira; Ary Ferreira da Cunha

WORKING PAPERS
Nº 35 / 2015
OBEGEF – Observatório de Economia
e Gestão de Fraude
http://www.gestaodefraude.eu

>> 3. FRAMEWORK(S) FOR ANTICORRUPTION POLICY

Though earlier authors seem to be very fatalistic about the prospects of anticorruption efforts (Wraith & Simpkins, 1963: 208) theoretical developments and empirical observation have showed that progress can be made. Though hard, it is possible to disrupt high equilibria of corruption and make dramatic improvements (Gunardi, 2008; Klitgaard, 1988; Mauro, 2004). But what changes induce these improvements?

Frameworks provide us with a systematic way of understanding something. In this case, a framework for anticorruption policy would allow us to understand what our options are when looking at anticorruption policies. And given what we said about the link between anticorruption efforts and governance, anticorruption policies will often imply governance improvements.

There can be multiple ways to arrange anticorruption policies. For example, Kiewiet and McCubbins (1991) in the delegation literature (some of which focuses on citizen-politician issues) identify the following mechanisms to avoid agency loss: (1) contract design, (2) screening and selection mechanisms, (3) monitoring and reporting requirements, and (4) institutional checks [1]. Warren's (2013) framework is centred in what he calls the elements of democratic accountability: (1) vulnerability to delegated power, (2) justification and (3) empowerment. Klitgaard (1988: 75) by explaining corruption as the sum of monopoly plus discretion minus accountability may also offer us – at least implicitly – a framework for political agency pathologies. There are also some frameworks in the public governance literature (Independent Commission on Good Governance in Public Services, 2004: 5), but they usually built as codes of conduct for existing institutions to follow and therefore aren't very useful for those interested in changing governance

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[1] Strøm (2000: 63) summarizes their framework: "The former two are mechanisms by which principals seek to contain agency losses ex ante, that is, before entering any agreement. Principals may subject potential agents to careful scrutiny and/or insist on retaining as much residual power as possible. Contract design typically seeks to establish shared interests, or incentive compatibility, between principals and agents, e.g., by giving the agent a cut of the principal's gain. Screening and selection represent efforts by the principal to sort out good agents from bad ones before delegating to them. In politics, consider the ways in which parties, for example, help voters screen candidates for public office, or how parliament screens potential cabinet members. The remaining mechanisms operate ex post. That is to say, they are ways to contain agency losses after the contract has been made. Monitoring and reporting force the agent to share with the principal information that the latter might not otherwise receive. In politics, legislatures require cabinet members to file annual reports, audit their budgets, or summon them to appear in parliament to answer oral or written questions, to furnish documents, or to testify at hearings conducted by regular committees or committees of inquiry (see Mattson and Strøm 1995). Finally, institutional checks subject particularly critical agent decisions to the veto powers of other agents or a third party. As the concept implies, such practices are common in checksa nd-balances systems"s.

at a more fundamental level, which we would call "constitutional" level. Furthermore none of these frameworks was designed to deal with the issue of political corruption (except perhaps in part Klitgaard's), the language they use is often fairly hermetic, and they don't allow us to incorporate the contributions of agency theory.

The framework we proposed rests upon the ingredients for agency pathologies we referred to in the previous section: discretion, non-coincidence of interests, and asymmetry of information. It rests upon the idea that reducing the breaches to the normative standard for political agency requires not only fighting the manifestations of those breaches once they appear but also the root causes of agency pathologies – what some in anti-corruption policy terminology would call an indirect approach (Kaufmann, 2005: 41; Rothstein, 2011; World Bank, 2000). Indeed, without discretion, and/or perfect coincidence of interests, and/or information asymmetries, there would be no breaches.

Some policies directly try to influence directly one of these variables. Just by themselves, clear rules can work as discretion curbs – by reducing the scope of grey areas open to interpretation, the manoeuvre to work around procedures and requirements, and forcing solutions where the judgment of the agent would otherwise by trusted – but they do little to provide different incentives for agents or greater information to principals or their monitoring agents. By increasing rewards and sanctions, or promoting the internalization of certain norms, we can change the external and internal incentives politicians face, and align their interest with the public interest and the compliance with the normative standard; but their ability to exercise their judgment would remain the same – even if the consequences of doing so would vary – and no additional information reaches the people or its monitoring agents. Finally, increasing transparency and creating conditions for whistle-blowing provides principals or monitoring agents with additional information sources, reducing asymmetries, but without the means to ensure that information is translated into positive or negative consequences the coincidence of interests may remain unchanged, and the ability to use judgment to make autonomous decisions is left untouched.

These policies provide the three vertices of our triangular policy framework and, despite possible interactions between then, they work through very different mechanisms by tackling three different variables and having – by themselves – little influence outside their respective variable. But not all policies work like that. Some work by influencing two variables. If principals or monitoring agents threaten to take or end up taking discretion away from corrupt agents and institutions, or promise to increase the autonomy of those

how prove to be less corrupt – a form of contract (re)design – their actions are playing both with discretion and with a interest alignment – considering there is an interest in having greater discretion. Similarly, political competition – manifested namely through elections – allows voters to choose politicians according to perceptions about their type, as well as past and future actions, including their perceived inclination for corruption. This rewards politicians with selection, and sanctions them through non-selection, while also incentivizing them to work with other monitoring agents to reveal their actions and type, and provide information about the actions of their political adversaries. And if we increase participation, having citizens more involved in public discussions, it will probably decrease information asymmetries, as they will know more about the type and actions of politicians; while at the same time decreasing discretion, as everyone will all have a more accurate understanding of popular preferences, and thus politicians would have a smaller margin to speculate over a notion of public interest built upon those preferences.

Lastly, checks and balances can be tied to rewards and sanctions – think of no-confidence motions – but also to information asymmetries – think of communication duties – and discretion – think of judicial reviews.

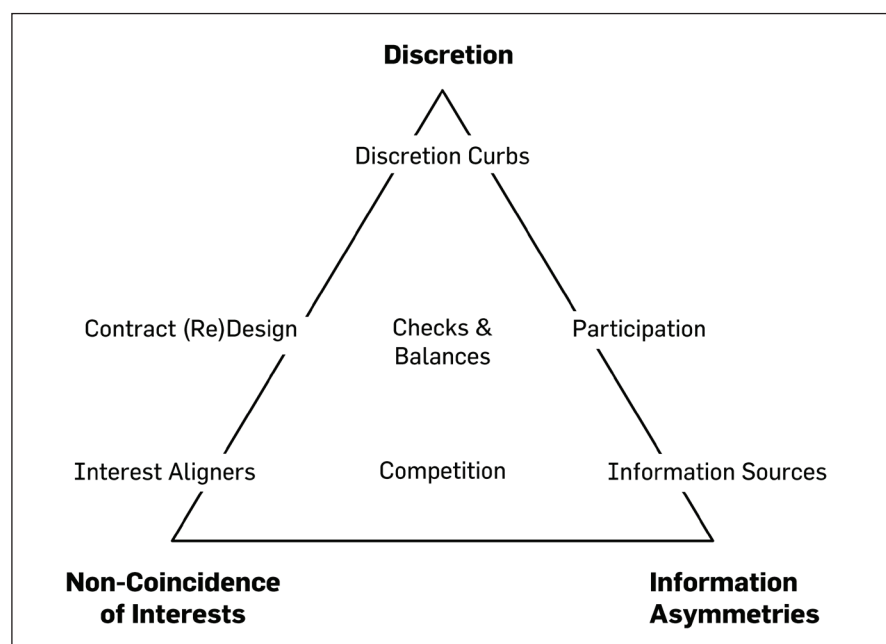Graphically, this framework can be presented in the following way:

Fig. 1: Framework for Political agency Therapies

12   **PUBLIC GOVERNANCE AND POLITICAL**
            CORRUPTION: A FRAMEWORK FOR
            ANTICORRUPTION POLICY
            Glória Texeira; Ary Ferreira da Cunha

WORKING PAPERS
Nº 35 / 2015
OBEGEF – Observatório de Economia
e Gestão de Fraude
http://www.gestaodefraude.eu

>> 4. DISCUSSION OF THE PROPOSED FRAMEWORK

After the presentation of the outlines of our framework, we can discuss its potential critics, caveats and merits; allowing us to address its significance, true meaning and internal logic.

4.1. Potential Critics

Firstly, it could be surprising that a framework for policies meant to curb political corruption doesn't specifically mention some typical specific policies: like the creation of an anticorruption agency, creating awareness campaigns, introducing external auditors, or increasing salaries and sentences for criminal behaviour (Klitgaard, 1988).

Yet all these policies and many more can fit in our framework quite well: an anticorruption agency with prosecuting powers would work within a the system of checks and balances; awareness campaigns are meant to increase participation; external auditors should offer additional sources of information; and criminal sanctions and salary raises should align interests by increasing the risk of getting caught and diminishing marginal utility of political corrupt actions. There are so many specific policies that no framework could just list them all and remain comprehensible. Just looking at interest aligners, we must consider intrinsic motivators, policies which help agents internalize norms and foster a commitment to ethical behaviour, promotions and (re)elections, changing terms of length and term limits, paying for performance, increasing salaries, perks and other benefits, strengthening political, civil, disciplinary and criminal liability, or selection policies like choosing politicians randomly amongst citizens, or just amongst born citizens. And we could even decompose each of these policies further – there are many ways to pay for performance, for example.

A second layer of critics may have to do with the place of each set of policies within our policy triangle. We have briefly justified the position of each one above and so we will not repeat why, for example, participation stands between discretion and information asymmetries. Of course policies have implications beyond the corner in which they are located, most of the times because they have natural connections with others: participation is more useful combined with the ability to use elections to reward and sanction politicians; and even more useful within a competitive political system (Bartolini, 1999: 437; Strøm, 1992). Yet we will further consider this in the caveats section.

13

**PUBLIC GOVERNANCE AND POLITICAL
CORRUPTION: A FRAMEWORK FOR
ANTICORRUPTION POLICY**
Glória Texeira; Ary Ferreira da Cunha

WORKING PAPERS
Nº 35 / 2015
OBEGEF – Observatório de Economia
e Gestão de Fraude
http://www.gestaodefraude.eu

4.2. Caveats of the Framework

A good understanding of the framework recognizes the limitations of its significance and applicability. Firstly, regardless of the present categorization, it is useless to perceive policies in isolation. Policies from different groups interact with each other: greater transparency is virtually worthless if the people and its monitoring agents have little chance to act upon that information; and those chances are worthless without proper information. This means that policies may be anchored in a given position in the triangle, but have connections and ramification beyond it. Because of agency costs implied by using and abusing of certain instruments, they are better administered in a mix whose balance has to be tuned to the context in which it is going to be implemented. Without discretion there would be reduced chances for political corruption, but also no ability for us to use the skills and knowledge of politicians on the public interest. There is a trade-off between unleashing the potential of agents to act on behalf of the people, and preventing them from doing the wrong things. This framework could indeed be complemented with another one that would look at how different policies can be integrated to assemble strategies that improve governance – perhaps building upon the summary of anticorruption strategies presented in Cunha (2015).

Secondly, concrete policies may still not easily fit into one or other category. Difficulties here will likely relate to the interactions and mixes of different kinds of policies: if we establish an anticorruption agency whose main concern is to raise awareness by the people we are probably trying to strengthen participation, but if that same awareness campaign is targeted at politicians we may be aligning interests by increasing their intrinsic motivation to comply. This is a further reason why we are happy to move away from table designs where each category occupied a well-defined rectangle to a triangle where sectors are more loosely defined and we can recognize and display the position of policies that combine changes in two or three variables, thus moving them away from the vertices.

Thirdly, we can't read this framework as a blanket recommendation to reduce discretion, enhance the mechanisms for participation, and increase rewards and sanctions, access to information sources, boost competition, and tighten checks and balances. All these policies have explicit and hidden costs: it's not just that rewarding, and even monitoring and sanctions politicians costs money it also may reduce their intrinsic motivation (Frey, 1997); and eliminating discretion would make politicians useless as agents, making them unable to use their special skills and knowledge.

Finally, we can make an extensive interpretation of this framework so it can encompass preconditions, or auxiliary conditions, to good governance. These may be important to set out the stage for other mechanisms but they don't improve good governance or reduce political corruption themselves. For example, market competition and transparency, decreases the possibility of rent-seeking behaviour and prevents the entrenchment of wealthy political elites (Broadman & Recanatini, 2001), therefore reforms in these areas are likely to work towards reducing potential benefits of corruption, therefore aligning interests – or at least reducing the non-coincidence of interests. On another example, education or gender equality may be seen as precondition to full and fair participation (Kaufman, 2005; World Bank, 2000: 77).

4.3. Merits of the Framework

Firstly, the framework lays out a comprehensive list of policy clusters meant to improve governance and prevent breaches to the normative standard, which are labelled in reasonably plain language, organized in a systematic and logical manner, and displayed in simple and visually memorable way. This should help those concerned with improving policy to understand and visualize their options, aiding – especially non-specialists – to make the leap from complains regarding the problems that we have to the design of proposals meant to curb them.

Secondly, a framework based on the problematic elements of agency forces people to think about the root causes of corruption, to make a diagnose of what is going wrong within the context they are operating, and promotes not a streamlined solution for political corruption as if there could be a "one-size-fits-all" solution.

Thirdly, a anticorruption policy framework based on the problematic elements of agency may further allow us to think about anticorruption efforts as good governance efforts; which may help us develop policies with benefits not limited to corruption. As Bukovansky (2006: 198) said, "while there may be a number of institutional ways to check corrupt behavior, anti-corruption efforts ultimately require a vision of 'good governance' which carries enough moral weight to motivate people, since moral behavior (...) is part and parcel of good governance". In other words, the framework offers an integrated way to think about good governance and a tool for policy design, particularly useful when considering the most macro levels.

>> CONCLUSION

We believe to have achieved our goal of presenting a framework that is comprehensive enough to embrace all the relevant good governance policies we found without significant distortions to make them fit into the categories we have drawn, while remaining visually compelling, straight-forward, and easy to understand. We believe this may contribute not only to bridging different strands of research still largely unconnected, but at the same time promoting more integrated approaches by those willing to improve governance and fight political corruption.

16

PUBLIC GOVERNANCE AND POLITICAL CORRUPTION: A FRAMEWORK FOR ANTICORRUPTION POLICY
Glória Texeira; Ary Ferreira da Cunha

WORKING PAPERS
Nº 35 / 2015
OBEGEF – Observatório de Economia e Gestão de Fraude
http://www.gestaodefraude.eu

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