АДМИНИСТРАТИВНОЕ ПРАВО, ФИНАНСОВОЕ ПРАВО, ИНФОРМАЦИОННОЕ ПРАВО

HOW TO COMBAT CORRUPTION — A CIVIL SERVANTS' VIEW

Karin Hilmer PEDERSEN, associate professor, Ph.D.

The Department of Political Science of the Aarhus University

Bartholins Allé 7, DK-8000 Aarhus C, Denmark

E-mail: khp@ps.au.dk

Lars JOHANNSEN, associate professor, Ph.D.

The Department of Political Science of the Aarhus University

Bartholins Allé 7, DK-8000 Aarhus C, Denmark

E-mail: johannsen@ps.au.dk

Presented article addresses the question from the point of civil servants'. Using a survey among Baltic civil servants, the authors assess their views on three types of anti-corruption instruments (awareness, punishment, extraordinary investigations rights) and question if the recommendation will change according to where they perceive corruption to be most critical. The article contains a short theoretical discussion about individual incentives to accept bribes linking these to policy recommendations. The authors conclude that reforms and ethical training are needed to promote professionalism and meritocracy among the civil servants as an important factor for curbing corruption. Conducted study shows that despite of the fact that penalties for civil servants are recognized as important tool for counteracting corruption, it should be strictly followed principle of legal state based on maintenance of rule of law emphasizing that tradeoffs with respect to civil rights are unacceptable.

Keywords: fighting corruption, civil servants, prevention of corruption, Baltic states, anti-corruption education.

КАК ПОБОРОТЬ КОРРУПЦИЮ В СИСТЕМЕ ГОСУДАРСТВЕННОЙ ГРАЖДАНСКОЙ СЛУЖБЫ

ПЕДЕРСЕН Карин Хилмер, доцент Орхусского университета

Дания, г. Орхус

E-mail: khp@ps.au.dk

ЙОХАННСЕН Ларс, доцент Орхусского университета

Дания, г. Орхус

E-mail: johannsen@ps.au.dk

В статье рассматриваются вопросы противодействия и профилактики коррупционных правонарушений со стороны государственных гражданских служащих. Используя эмпирические данные, которые были получены в ходе исследований практики деятельности государственных гражданских служащих в трех балтийских государствах (Эстонии, Латвии и Литве), авторами статьи представлена оценка трех типов инструментов противодействия коррупции (антикоррупционное просвещение, применение мер уголовного преследования, а также наделение и использование чрезвычайных полномочий по расследованию антикоррупционных правонарушений). Кроме того, представлены рекомендации относительно применения мер противодействия коррупции в зависимости от степени и характера восприятия коррупции среди государственных гражданских служащих. В статье содержится вывод о необходимости поддержания высокого уровня профессионализма и этического воспитания государственных гражданских служащих как необходимого условия для противодействия коррупции. Проведенное исследование показало, что, признавая важность применения мер наказания к лицам, виновным в совершении коррупционных правонарушений, следует строго придерживаться принципов правового государства, основанного на поддержании верховенства права. В связи с этим чрезмерное ограничение прав человека и гражданина даже в целях противодействия коррупции не может быть признано допустимым и обоснованным.

Ключевые слова: противодействие коррупции, государственные гражданские служащие, профилактика коррупции, страны Балтии, антикоррупционное просвещение.

DOI: 10.12737/21832

Corruption undermines democratically made decisions on allocation of public resources in the interests of private actors and bends principles

of equality and impartiality of the rule of law. The consequences are that corruption harms democracy, impedes social fairness, diminishes trust and lower

economic growth (Fisman & Svensson, 2005; Holmes 2006; Liu & Mikesell, 2014; Serritzlew et al. 2012). To address the issue international organizations have recommended strengthening the institutional framework for anti-corruption policies (Lambsdorff 2007; McCoy and Heckel 2001). In response a number of Central and East European countries the turn of the millennium overhauled legislation, requested personal information from bureaucrats and politicians to detect wrongdoing, and conducted anti-corruption campaigns (Johannsen and Pedersen; 2011a and b).

Corruption is, however, as old as the state and the question remains if the policies adopted are effective and, furthermore, if the same type of policies apply equally well given different forms of corruption? That is whether corruptions is political, administrative or even systemic (Karklins, 2002; Pedersen and Johannsen, 2006 and 2007). Some argue that punishment should be stronger and investigation more effective. Others point out that the problem is individual moral and solutions are therefore more information and better education but are these equally effective and recommendable whether the wrongdoers are politicians, civil servants or for that matter judges?

This article addresses the question from the point of civil servants'. The common definition of corruptions as "Misuse of public position for private gain" (Klitgaard, 1988) places civil servants right in the heart of the issue, possessing a public position, and even if it is politicians that enrich themselves using their public positions, civil servants run the risk of accomplishment if they become privy to misuse but do not act upon it. Using a survey among Baltic civil servants¹ we assess their views on three types of anti-corruption instruments (awareness, punishment, extraordinary investigations rights) and question if the recommendation will change according to where they perceive corruption to be most critical.

The article opens with a short theoretical discussion about individual incentives to accept bribes linking these to policy recommendations. This is followed by a short outline of the design of the study and the survey used. The third part discusses the findings. The concluding part takes the findings a step further confronting them the success story of Denmark as an (almost) corruption free zone.

Fighting corruption — a question of changing individual temptations.

Klitgaard (1988) argue that corruption is a function of the civil servants' control of decision-making and the degree of discretion when making the decision under the condition of control or, in more straightforward language,

the risk of getting caught. Considered in materialistic terms this implies that the civil servant will calculate the possible gains (from being corrupt) against the risk of detection and the severity of the penalties if getting caught. According to this line of argument extraordinary investigation rights and increased punishment can, under certain conditions, recommended as efficient anti-corruption instruments. These instruments are thought to decrease individual temptations and have been applied with success in Singapore and Hong Kong (Klitgaard, 1988; 94—97).

The look toward increasing investigation rights reflects that detection of the crime is a main problem dealing with corruption. In most countries corruption is a criminal offence. But in contrast to 'ordinary crime' — violence or theft — corruption does not have an immediate victim who suffers and accordingly has an interest in reveal the crime in order to get justice. In contrast the victim of corruption is the whole society while those committing the crime share the benefits. This raises the problem of detection because no one is as an individual interested in revealing the case. Thus, giving authorities extraordinary rights seems a good idea. Extraordinary investigation rights come, however, with a twist. Assuming guilt before a case is settled by the judiciary circumvents the principles of justice inherent in the rule of law. As an instrument against corruption — however appealing it may be — extraordinary investigation rights would just add to the undemocratic effect of corruption itself.

Increasing penalties — also an appealing choice if corruption is a choice of material benefits — is problematic too. Punishment is in laboratory experiments found to reduce or eliminate undesired behavior. However, "positive reward" systems are often found more desirable instruments because they generate a sense of belonging and contribute to higher productivity (Arvey and Ivancevich 1980). Furthermore, it is argued that sanctions must relate to the offence committed if they are to be legitimate (Ostrom 2000). Because corruption is a crime made in secret and is victimless the willingness of people and especially civil servants themselves to come forward with information to the authorities is of outmost importance. Imposing harsh penalties on corruption may have a direct effect on the willingness to tell.

Awareness is a third and a very different tool to curb corruption. Sometimes — and especially in countries where corruption has been and still is ingrained in institutional practices — it may not be obvious what is right and wrong. Education and courses in ethics may in these cases come in not only as a desirable mean but also as a necessary mean in order to increase awareness. In the individualized cost-benefit calculation above ethics is an internalized control that increases the costs of being corruption. Following Weber, this is the controlling effect of meritocracy that runs through the civil servants intrinsic values of impartiality, equal treatment and fairness which increase the individual value of behaving

¹ The term "civil servant" is used broadly for public employees irrespectively of their formal terms of employment. The survey was developed by the authors and conducted by TNC-Gallup International Denmark and national offices. We thank The Danish Research Council for funding grant No. 10-080446.

Table 1

Descriptive statistics: Sample size, distribution on countries, level of administration and gender (N; Pct.)

		Estonia		Latvia		Lithuania		Total	
		N	Pct.	N	Pct.	N	Pct.	N	Pct.
Administrative level	State	155	22.0	123	24.6	152	30.4	430	25.2
Administrative level	Sub-national	551	78.0	377	75.4	348	69.6	1276	74.8
Gender	Female	516	73.1	283	56.6	294	58.8	1093	64.1
Gender	Men	190	26.9	217	43.4	206	42.2	613	35.9
Country sample		706	100.0	500	100.0	500	100.0	1706	100.0

non-corrupt (Klitgaard 1988, 71; Rothstein 2014, 746; Evans and Rauch 1999). The principle of meritocracy gains its merit from civil servants' professionalism in terms of prescribed courses of training and special examinations as well as a specific sense of duty to the purpose of the office (Weber, 2013 [1959]; 959). Another line of argument stresses that appointment through meritocratic procedures disconnects the political and administrative chain of command which protects civil servants from undue pressure (Weber, 2013[1959]; 961; Christensen 2012, 110; Dahlström et al. 2012; O'Dwyer 2006). Research has repeatedly stated that the meritocracy increases professionalism and integrity and thereby diminishes corruption (Anechiarico and Jacobs 1994; Dahlström, Lapuente and Teorell 2012; Rauch and Evans 2000). Courses in ethics, anti-corruption awareness campaigns and reforms to increase transparency within the administration is all measures which increase professionalism and thereby the probability that civil servants act according to their values of what they find right and wrong and not personally or politically convenient. Before turning to the findings a few words about the data and the country selection are in order.

A few words about country selection and the data.

Estonia, Latvia, and Lithuania constitute a most similar systems design which reduces the effect of background variables such as late statehood, direct inclusion in the Soviet economic, political and administrative practice, and post-transitional choices of political institutions controlling for standard causes associated with corruption (Treisman 2000; 2007 and Johannsen and Pedersen 2011b). Despite background similarities and external pressure from international organizations after occupation, changing administrative practices have been mediated by political interests (Sarapuu 2012, 818; Nakrošis and Budraitis 2012). We therefore rely on individual data when discussing civil servants

perceived effectiveness and acceptability of anti-corruption measures.

To analyze civil servants attitudes towards anti-corruption measures, we use a survey which was conducted among public employees in April 2011 in the three Baltic countries. In total we have responses from 1706 public employees of which 25 percent were employed at state level and 75 percent at sub-national levels (see table 1).

Carrying out a cross-country survey is not problem-free. Two reservations need mentioning. First, the response rate differs: 37 — Estonia, 76 — Latvia, and 25 percent Lithuania. The survey was carried out according to national views on how best to approach civil servants which resulted in different sampling strategies: a web survey in Estonia and telephone interviews in Latvia and Lithuania. Moreover, the Latvian bureau used an elaborate introduction to the project. Different sampling strategies may introduce a bias in who you reach and how they respond. For example a web survey is expected to be less intrusive and answers therefore suffer less from a social desirability effect. The high number of respondents and the overall representativeness should, however, compensate for these differences.

Changing civil servants' incentives.

To avoid priming our respondents we by random asked one half with of seven policy options the found effective and the other half were asked which options they could recommended. In table 2 we report these findings having grouped the options according to the three parameters — discouragement, detection, and awareness and ethics.

Table 2 show that increasing *awareness* through courses in ethics, public anti-corruption campaigns and increasing transparency in administration are all desired and recommended as steps that should be taken in the fight against corruption. But the civil servants do not find that these steps are very effective. Rather

Table 2

Effective and recommended instruments in the fight against corruption

	All countries			
	effective		recommended	
	N	Mean	N	Mean
<i>I Discourage</i>				
Increase punishment for civil servants	824	5.66	810	5.64
Increase punishment for private firms and actors	823	5.56	815	5.67
<i>II Detection</i>				
Grant extraordinary investigation rights	775	4.45	774	4.39
Change the burden of proof	758	4.09	771	4.22
<i>III Awareness and ethics</i>				
Courses in ethics	827	4.60	826	5.31
Increase awareness through campaigns	826	5.04	829	5.58
Administrative reform to increase transparency	819	5.44	818	5.65

Note: All questions run from 1 to 7, where 1 indicates “not at all effective” and 7 indicates “very effective” on the items tapping the effectiveness of anti-corruption measures.

For differences between the three Baltic countries see Johannsen and Pedersen (2012).

they should be accompanied with *discouragement* — increasing punishments both on civil servants and the private actors — which according to civil servants are both recommended and effective.

The least recommended but also the least effective mean for curbing corruption are efforts aimed at increasing the risk that the crime is revealed. *Detection* — giving the extraordinary detection rights to the police or secret

services and changing the burden of proof — are not cherished among civil servants but they do not find it effective either. Our data does not give precise answer why civil servants oppose to increasing investigation rights. But it may not be surprising given that civil servants hold positions where the risk of unjust accusations for being corrupt is especially high. Giving the authorities extraordinary detection rights and changing the burden

Figure 1. Where corruption is found

Question: I will read out some statements in the following. Using a scale from 1 to 7, where “7” means “often” and “1” means “never”, how often do you think that misuse takes place...?

Table 3

Regression on recommendations of discouragement, detection, and awareness and ethics

	Discouragement			Detection			Awareness & Ethics		
	Unstandardized Coefficients		Sig.	Unstandardized Coefficients		Sig.	Unstandardized Coefficients		Sig.
	B	Std. Error		B	Std. Error		B	Std. Error	
(Constant)	3.592	0.485	0.000	0.684	0.569	0.230	4.437	0.543	0.000
Political corruption	0.080	0.074	0.280	−0.072	0.088	0.415	0.025	0.083	0.760
Administrative corruption	0.020	0.086	0.815	0.145	0.101	0.152	−0.043	0.096	0.650
Judicial corruption	0.099	0.051	0.052	0.018	0.059	0.758	0.000	0.056	0.998
Trust (interpersonal)	0.032	0.033	0.332	0.065	0.038	0.089	0.055	0.037	0.131
Latvia	0.805	0.140	0.000	1.602	0.164	0.000	0.256	0.156	0.102
Lithuania	0.539	0.141	0.000	1.525	0.165	0.000	0.74	0.156	0.000
Gender (men=1)	0.206	0.116	0.078	0.437	0.136	0.001	0.224	0.131	0.087
Level of adm. (Local =1)	0.207	0.131	0.116	0.445	0.154	0.004	0.102	0.147	0.486
age	−0.001	0.005	0.873	0.012	0.006	0.048	−0.002	0.006	0.778
R ² (adjusted)	0.076			0.186			0.027		

of proof undermines the individual security inherent in democratic and rule of law societies guided by the principle that “you are innocent until guilt is proven”.

The survey does not directly explain why civil servants access the suggested means to combat corruption differently. The survey does, however, permit us to investigate if it matters where the civil servants find corruption most common.

Does it matter where civil servants find corruption most common?

The Baltic countries are in general not among the most corruption inflicted countries. In 2014 Estonia scored 69, Latvia 58 and Lithuania 55 on a scale from 1 to 100 where 100 is considered corruption free (transparencyinternational.org). For comparative reasons Denmark scored 92, Greece 43 and Russia 27. However, knowing from other studies (Hunt 2006; Miller et al. 2000) that corruption is not equally frequent in all sectors, respondents were asked to indicate if they perceive corruption to take place in their own organization, at top or local political level, administrative top or local level or in the courts, health sector and the police. Asking citizens in general and civil servants in particular about corruption always raise a question if respondents are honest. In our case honest responses are indicated by the low average for corruption in own organization crosschecked with the distribution where a noticeable majority do not exclude corruption within their own organization. Multiple answers were allowed and web chart in figure 1 shows the overall results — the closer line is to the center indicates that civil servants find corruption least common within this sector.

Three observations from figure 1 should be highlighted. First, with small differences between the three countries the distributions is strikingly similar. Second, the civil servants tend to find corruption more prevailing at political level — whether that be political or local — than administrative level — again whether that be state or sub-national level. Finally, the health sector is an issue of grave concern. It should be of no surprise, as doctors have control over decisions and by-and-large unparalleled discretion in a sector where the compression of the welfare state has limited access to services.

Recoding these perceptions of corruption into political, administrative and judicial we are now in a position to address if it matters for the recommended policies. In table 3 three relatively explorative models are reported. In each case we are interested in if it the perception of corruption matter for the recommendation of policy. As controls for the regression on discouragement, detection, and awareness and ethics we employ the extent of interpersonal trust, country (Estonia is reference category), the level of administration and the age of the respondent.

In the first instance it appears that country differences matter the most. Both Latvians and Lithuanians want to bestow their agencies with more extraordinary rights, punish more and also commence on weave of reforms to a larger extent than their Estonian colleagues. This appears to be a national difference as the level of corruption, which normally is considered higher in the two southern countries, is controlled for. However, a closer look and by relaxing strict observations of levels of significance in order not to avoid a type 2 error reveal some interesting observations.

First, civil servants who find corruption in the judiciary want to punish harder. Second, those who have a tendency to trust others appear more willing to bestow investigating agencies with more power. It is a similar case with men. In conclusion, civil servants by large recommend that considerable reforms and ethical training are made to underpin an open and transparent civil administration. The civil servants are well aware that such reform may not necessarily be effective (at least in the short run) but the alternatives are not particularly attractive. Discouragement in the form of increased punishment may both be effective and recommended but the civil servants do not support infringement on civil rights coming with changing the burden of proof. To the civil servant it matters less where corruption is found but yet it appears that they instinctively understand that the judicial system — the upholder of rule of law — is special.

A fish rots from its head down (ancient proverb).

Why are some countries infected with corruption while others for years have lived in prosperity with high trust and low corruption? Denmark is the prime case of these fortunate countries. But how did Denmark make it? To answer this question we have to take a look back in history (Frisk, 2013). The Danish King Fredrik IV (1699—1730) became known as the monarch who removed the privileges of the aristocracy to certain offices. With a strong requirement that office should be held by those capable, King Fredrik cut the link between office holding and political likings. Following up a university examination in law was established in 1736, and it was decided that no official was to achieve the office of judge without a formal law degree. The legal graduates, mainly of bourgeois origin, gradually came to occupy the

offices in the administration, thereby contributing to the professionalization of the civil service. It is argued that this essentially Weberian idea of merit based appointments to public bureaucracies combined with legal reforms carrying with it career security, pensions and a decent salary carried the norms and practices of a fairly non-corrupt Danish administration as early as around the middle of the 1800s.

It is this understanding we find among the Baltic civil servant when they recommend reforms and ethical training to underpin professionalism and meritocracy. While penalties are recognized as important tools, the Baltic civil servants rejection of the strong armed state version supports the democratic verdicts emphasizing that tradeoffs with respect to civil rights are unacceptable. Implicitly, they recognize that there is no shortcut. Curbing corruption has many ways.

As we mentioned in the introduction the international community has stressed the role of independent anti-corruption agencies (GRECO resolution (97) 24). Setting up anti-corruption agencies is a step which demonstrates that the battle against corruption is taken seriously. And once an anti-corruption agency is in place it can change the environment in which a civil servant takes the decision to be honest, serving the public and contributing to the well-being of society or to continue the vicious spiral of corruption. The efficiency of these agencies depends, however, on the competences and resources politically allocated to them (see, e.g., Batory 2010; Johannsen and Pedersen 2011a). As the ancient proverb and the Danish history suggest we find the most important anti-corruption tool at the head — if fighting corruption is not a politically desired goal the fight is lost even before it begins.

REFERENCES

- Anechiarico, Frank, and James B. Jacobs. 1994. Visions of Corruption and the Evolution of American Public Administration. *Public Administration Review*, 54 (5): 465—473.
- Arvey, R. D. and J. M. Ivancevich. 1980. Punishment in Organizations: A Review, Propositions, and Research Suggestions. *The Academy of Management Review*, 5 (1): 123—132.
- Batory, Agnes. 2010. Post-accession malaise? EU conditionality, domestic politics and anti-corruption policy in Hungary. *Global Crime*, 11 (2): 164—177.
- Dahlström, Carl, Victor Lapuente, and Jan Teorell. 2012. The Merit of Meritocratization: Politics, Bureaucracy, and the Institutional terments of Corruption. *Political Research Quarterly*, 65 (3): 656—668
- Evans, Peter, and James E. Rauch. 1999. Bureaucracy and Growth: A Cross-National Analysis of the Effects of "Weberian" State Structures on Economic Growth. *American Sociological Review*, 64 (5): 748—765.
- Frisk, Mette (2013). The question of how Denmark got to be Denmark — a historical of fighting corruption, The Anticorruption research network — Transparency International: <http://corruptionresearchnetwork.org/featured-articles/acrn-news/blog/the-question-of-how-denmark-got-to-be-denmark-2013-a-historical-pathway-of-fighting-corruption>
- Fisman, R. & Svensson, J. 2007. Are corruption and taxation really harmful to growth? Firm level evidence. *Journal of Development Economics*, vol. 83, no. 1.
- Holmes, L. 2006. *Rotten States? Corruption, Post-Communism & Neo-Liberalism*. Durham: Duke University Press.
- Johannsen, L. and K. H. Pedersen. 2011a. For the common good: Combatting corruption in new EU Member States. *Journal of Comparative Politics*, 4 (1): 91—110.
- Johannsen, L. and K. H. Pedersen. 2011b. The Institutional Roots of Anti-Corruptions Policies: Comparing the Three Baltic States. *Journal of Baltic Studies*, 42 (3): 329—346.
- Johannsen, Lars and Karin Hilmer Pedersen (2012). How to Combat Corruption: Assessing Anti-corruption Measures from a Civil Servants' Perspective, *Halduskultuur — Administrative Culture*, vol 13, no. 2, pp. 130—146.
- Karklins, Rasma (2002). Typology of Post-Communist Corruption, *Problems of Post-Communism*, July/August, pp. 22—32.

- Klitgaard, Robert 1988. *Controlling Corruption*. Berkeley, CA: University of California Press.
- Lambsdorff, J. G. (2007) *The Institutional Economic of Corruption and Reform: Theory, Evidence and Policy*. Cambridge: Cambridge University Press.
- Liu, C. & Mikesell, J. L. 2014. The Impact of Public Officials? Corruption on the Size and Allocation of U. S. State Spending. *Public administration review*, vol. 74, no. 3, pp. 346—359.
- McCoy, J. L. and H. Heckel. 2001. The Emergence of a Global Anti-corruption Norm. *International Politics*, 38 (1): 65—90.
- Nakrošis, Vitalis and Mantas Budraitis. 2012. Longitudinal change in Lithuanian agencies: 1990-2010. *International Journal of Public Administration*, 35 (12): 820—831.
- O'Dwyer, Conor. 2006. *Runaway State-Building. Patronage, Politics and Democratic Development*. Baltimore: Johns Hopkins.
- Ostrom, Elinor. 2000. Crowding out Citizenship. *Scandinavian Political Studies*, 23 (1): 3—16.
- Rothstein, Bo and Jan Teorell. 2008. What is quality of government? A theory of impartial government institutions. *Governance* 21(2): 165—190.
- Pedersen, K. H., Johannsen, L. 2007. The Talk of the Town: Comparing Corruption in the Baltic States and Poland¹⁶, in Schartau, M.-B., Berglund, S., Henningsen, B. (eds.), *Political Culture: Values and Identities in the Baltic Sea Region*, Berliner Wissenschafts-Verlag, Berlin, pp. 117—134.
- Pedersen, K. H., Johannsen, L. 2006. Corruption: Commonality, Causes and Consequences in Fifteen Post-communist Countries¹⁸, in Rosenbaum, A., Nemecek, J. (eds.), *Democratic Governance in Central and Eastern European Countries*, NISPAcee, Bratislava, pp. 311—336.
- Rubin, Ellen V., and Andrew Whitford. 2008. Effects of the institutional design of the Civil Service: Evidence from Corruption. *International Public management Journal*, 11 (4): 404—425.
- Sarapuu, Külli 2012. Administrative structures in times of changes: The development of Estonian ministries and government agencies 1990—2010. *International Journal of Public Administration*, 35 (12): 808—819.
- Serritzlew, Søren, Kim Mannemar Sønderskov and Gert Tinggaard Svendsen (2012): Do Corruption and Social Trust Affect Economic Growth? A Review. *Journal of Comparative Policy Analysis: Research and Practice*, 16 (2): 121—139.
- Treisman, Daniel 2000. The Causes of Corruption: a Cross-national Study. *Journal of Public Economics*, 76 (3): 399—457.
- Treisman, Daniel 2007. What have we learned about the causes of corruption from ten years of cross-national empirical research? *Annual Review of Political Science*, 10(1): 211—244.
- Weber, Max (1925 [1978]) *Economy and Society*, ed. by Guenther Roth and Claus Wittich, University of California Press, Berkeley and Los Angeles.