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**School of Global Affairs and Public Policy**

**CORRUPTION AS A COLLECTIVE ACTION PROBLEM:  
ENABLING THE ADMINISTRATIVE CONTROL AUTHORITY  
IN EGYPT**

A Thesis Submitted to Department of Public Policy and Administration  
in partial fulfillment of the requirements for the degree of  
Master of Public Administration (MPA)

**By  
Lameece Gasser**

**Spring 18**

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## **Abstract**

The fight against corruption has become a global priority in policy making circles, as corruption control grew to become a major industry backed by international alignment to curb corruption, especially in developing countries ridden with systemic corruption. Egypt, among other developing countries, is struggling in the fight against corruption, as a tool to promote investment and aid development progress. The Administrative Control Authority (ACA), the main anti-corruption body in Egypt, is the subject of this research. The research regards corruption as a collective action problem and utilizes the National Integrity System (NIS) – developed by Transparency International – as a conceptual framework to understand the extent to which the ACA is enabled to fulfill its mandate. Methodology includes semi-structured interviews with government officials in ACA and experts in international anti-corruption organizations. Qualitative data is analyzed based on three key dimensions, according to the *Anti-Corruption Agencies* pillar of the NIS; role of ACA in fighting corruption; governance mechanisms within the ACA that ensure its integrity and accountability; and the capacity of ACA to fulfill its role. Findings indicate a shift in how the ACA understands its mandate, with more attention given to prevention measures besides investigation efforts. Main policy recommendations include; integrating corruption control reforms within wider good governance efforts; the need to demonstrate political will in the fight against corruption. Main operational recommendations include; integrate the ACA within a national accountability system, ensure the independence of the ACA through a transparent mechanism for appointing the President of the ACA, in addition to passing the needed legislations mainly the access to information law and protection of witnesses and whistleblowers law.

## Table of Contents

<b>LIST OF FIGURES .....</b>	<b>6</b>
<b>LIST OF ACRONYMS .....</b>	<b>7</b>
<b>CHAPTER 1: INTRODUCTION AND RESEARCH OBJECTIVE.....</b>	<b>8</b>
1.1 BACKGROUND .....	8
1.2 RESEARCH QUESTION .....	11
<b>CHAPTER 2: UNDERSTANDING CORRUPTION .....</b>	<b>13</b>
2.1 DEBATES ON THE DEFINITION OF CORRUPTION .....	13
2.2 TRADITIONAL MODEL FOR ANALYZING CORRUPTION .....	15
2.3 TAXONOMY OF CORRUPTION .....	16
2.4 FORMS OF CORRUPTION .....	17
2.5 ECONOMIC IMPACT OF CORRUPTION .....	19
<b>CHAPTER 3: SCOPE OF CORRUPTION AND ANTI-CORRUPTION REFORM IN EGYPT.....</b>	<b>22</b>
3.1 SCOPE OF CORRUPTION IN EGYPT .....	22
3.2 COMMITMENTS TO THE INTERNATIONAL COMMUNITY .....	24
3.3 NATIONAL ANTI-CORRUPTION STRATEGY 2014-2018.....	26
3.4 EGYPT’S ANTI-CORRUPTION INSTITUTIONAL FRAMEWORK.....	29
3.5 ADMINISTRATIVE CONTROL AUTHORITY (ACA).....	33
<b>CHAPTER 4: CONCEPTUAL FRAMEWORK.....</b>	<b>36</b>
4.1 CORRUPTION AS A COLLECTIVE ACTION PROBLEM.....	36
4.2 NATIONAL INTEGRITY SYSTEM .....	40
4.3 APPLYING THE NIS ON THE ADMINISTRATIVE CONTROL AUTHORITY .....	44
<b>CHAPTER 5: RESEARCH METHODS.....</b>	<b>47</b>

<b>CHAPTER 6: THE EXTENT TO WHICH THE ACA IS ENABLED TO FULFILL ITS MANDATE.....</b>	<b>49</b>
6.1 ROLE OF ACA IN FIGHTING CORRUPTION .....	49
6.1.1 <i>Prevention</i> .....	49
6.1.2 <i>Investigation</i> .....	59
6.2 GOVERNANCE MECHANISMS WITHIN ACA .....	60
6.2.1 <i>Transparency</i> .....	60
6.2.2 <i>Accountability Mechanisms</i> .....	62
6.2.3 <i>Integrity Mechanisms</i> .....	64
6.3 CAPACITY OF ACA TO FULFILL ITS ROLE .....	65
6.3.1 <i>Resources</i> .....	65
6.3.2 <i>Independence</i> .....	69
<b>CHAPTER 7: CONCLUSION AND RECOMMENDATIONS.....</b>	<b>71</b>
7.1 CONCLUSION .....	71
7.2 RECOMMENDATIONS .....	74
7.2.1 <i>Policy Recommendations</i> .....	74
7.2.2 <i>Operational Recommendations</i> .....	75
<b>REFERENCES.....</b>	<b>77</b>

## **List of Figures**

Figure 1: Author's representation of corruption as a collective action problem	38
Figure 2: Pillars of National Integrity System	42
Figure 3: NIS analysis framework adapted to Administrative Control Authority	45

## **List of Acronyms**

<b>ACA</b>	Administrative Control Authority
<b>APA</b>	Administrative Prosecution Authority
<b>CAO</b>	Central Auditing Organization
<b>CPI</b>	Corruption Perception Index
<b>FDI</b>	Foreign Direct Investment
<b>GDP</b>	Gross Domestic Product
<b>IGD</b>	Illicit Gains Department
<b>IT</b>	Information Technology
<b>MENA</b>	Middle East and North Africa
<b>MLCU</b>	Money Laundering and Terrorist Financing Combating Unit
<b>NC</b>	National Chapter
<b>NCCCC</b>	National Coordinating Committee for Combating Corruption
<b>NCPI</b>	National Corruption Perceptions Index
<b>NIS</b>	National Integrity System
<b>OECD</b>	Organisation for Economic Co-Operation and Development
<b>SMEs</b>	Small and Medium Enterprises
<b>TI</b>	Transparency International
<b>TIC</b>	Transparency and Integrity Committee
<b>UN</b>	United Nations
<b>UNCAC</b>	United Nations Convention Against Corruption
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>WGI</b>	Worldwide Governance Indicators



## **Chapter 1: Introduction and Research Objective**

### **1.1 Background**

Over the last two decades, corruption has received considerable attention from a wide range array of groups, including public officials, international organizations and the general public. Due to its inherent complexity, corruption is no longer seen as a subject of inquiry exclusively for politicians, experts in the fields of public administration, political economy, law and sociology have contributed significantly to understanding, analyzing and controlling corruption. The recent increased interest in the study of corruption is partly driven by the need for a better understanding of the cost of corruption and the need for more effective reforms to adequately address this age-old problem (Tanzi & Davoodi, 2002).

Corruption control is no longer a stand alone issue that concerns politicians and academics. Control of corruption is an integral pillar of good governance, as it is among the six dimensions of governance set out by The World Bank through the Worldwide Governance Indicators (WGI). Governance is comprised of the norms and the institutions through which power is exercised within a country. This includes the government selection, monitoring and replacement processes; the government's capacity to efficiently design and execute valid policies; the respect that the citizens and the state have for the institutions that govern the economic and social interaction among them (World Bank, n.d.-a). The WGI covers six broad dimensions of governance: voice and accountability; political stability and absence of violence; government effectiveness; regulatory quality; rule of law; and control of corruption. The control of corruption indicator captures perceptions of the extent to which corruption is rampant, including both petty and grand corruption (World Bank, n.d.-b).

Wide scale demonstration, marches and riots that shock different cities around Egypt starting 25 January 2011 denounced high unemployment rates, systemic corruption, lack of social justice and economic stagnation. These demonstrations resulted with bringing down one of the longest reigning autocrats in the region. Since then Egypt has been on the path to democratization through a series of referendums, elections and reforms (Badran, 2014). Similar to most other developing

countries, Egypt is burdened with a thoroughly corrupt public sector, reaching over to different sectors and impacting people across different levels (Transparency International, 2014). Seen as a deterrent to development and investment over the years, reforms have been put in place with the aim of eradicating corruption, however the effectiveness of these efforts remains to be widely contested. Additionally, there is very little evidence to show that the government has conducted – or allowed any independent institutions – to perform deep assessments of the scope and root causes for the widespread corruption in the country (OECD, 2009).

This research aims to understand *to what extent the Administrative Control Authority (ACA) is enabled to fulfill its mandate*. Three key dimensions are analyzed; its role which is comprised of two components preventing and fighting corruption; its governance system with regards to transparency, accountability and integrity mechanisms; and its capacity to effectively carry out their duties which relates to resources available and independence provided to ACA. Egypt has no one particular anti-corruption agency, rather a groups of different agencies, each mandated with fighting different corners of corruption (OECD, 2009). However, the ACA has the widest jurisdiction over the public sector and is the only organization with a dual mandate of preventing and fighting corruption (Administrative Control Authority, n.d.-a; OECD, 2009). Regarded as the most significant anti-corruption body, the research focuses exclusively on the ACA and draws policy and operational recommendations to better enable the ACA to fulfill its mandate. Building a better understanding of the operations and challenges of the ACA, contributes to a more valid understanding of the nature of the reforms done.

“A world free of corruption” is the vision that drives Transparency International (TI), the leading civil society organization dedicating to fighting corruption, to exist. With more than 100 chapters spread across different corners around the world and an international secretariat in Berlin, TI builds a global coalition comprised of government, private sector, civil society and young activists all committed to realizing the global fight against corruption. TI produces ample research and policy recommendations based on extensive country based and regional reviews of perceptions of corruption, existing anti-corruption provisions and practices. TI greatly contributes to the practical side of anti-corruption through producing noteworthy assessments, reports and toolkits, among its flagship reports is the Corruption Perception Index (CPI), an annual global report ranking countries

based on a score of perceived corruption and ranking. Another equally significant report is the National Integrity System (NIS) study, a country-specific study that assess the effectiveness of the anti-corruption framework of a country by using three-point criteria 1) the mandate of the corruption control body in the fight against corruption, 2) the internal governance mechanisms and procedures that ensure the integrity and accountability of the corruption control body, 3) the body's overall capacity to fulfill its role. Based on these three dimensions an overall score is assigned for each dimension, then a total score which is a sum of the three scores (Transparency International, n.d.-b). The assessment examines both the institutional framework of each pillar, in addition to the general practice highlighting disparity between formal provisions and the reality on the ground. This thorough assessment takes place within an integrated context analysis of overall political, socio-economic and socio-cultural conditions where these examined institutions operate (Transparency International, 2012b).

During a moment of political reform after the 25 January 2011 revolution, calls for corruption control were made by different political groups (Badran, 2014). Even though consensus was not possible on most other political issues, there was a general agreement on the importance of fighting corruption. This agreement was reflected in the 2014 Egyptian Constitution and the National Anti-Corruption Strategy 2014 – 2018. These were the first official steps taken by the government of Egypt to center on corruption. Egypt is home to an elaborate anti-corruption institutional framework, each body is mandated with addressing different aspects of the fight against corruption (OECD, 2009). National Anti-Corruption Strategy 2014 – 2018 brings together all anti-corruption bodies in an organized manner towards a clear goal, the strategy puts down a definition of what is regarded as corruption and sets a time plan on how to achieve its goals (National Anti-Corruption Strategy 2014-2018).

To build a strong understanding of the progress of these reforms to date, Egypt's main anti-corruption body is taken as the subject of this research. The research utilizes the NIS as a conceptual framework to understand the extent to which the ACA is enabled to fulfill its role, by discussing issues related to how it understands and carries out its role, its governance mechanisms, and its capacity to execute. Corruption is a highly political and sensitive issue, academic literature on corruption and corruption control efforts in Egypt is very thin. This study provides internal

perspectives on the challenges and opportunities within the institutional anti-corruption framework, for a better understanding of where policy and practice are at odds and how can these areas be addressed through a critical lens.

The research starts off by presents an overview of the literature on corruption covering; definitions, taxonomy of corruption and the forms that corruption could take, and the economic cost of corruption, in Chapter 2. Chapter 3, provides an overview on the scope of corruption and the anti-corruption institutional framework, commitments to the international community and an overview of the national anti-corruption strategy. Chapter 4 is presents corruption as a collective action problem, and the NIS as a conceptual framework. Chapter 5 introduces the research methods used and their limitations. A discussion on the research findings is presented in chapter 6, which is broken down according to the NIS three-point criterion; role, governance mechanisms, and capacity. The research culminates with a conclusion section that reiterates the main findings of the research and presents key recommendations.

## **1.2 Research Question**

This research aims to understand *to what extent the Administrative Control Authority (ACA) is enabled to fulfill its mandate*. As the main anti-corruption body in Egypt, the ACA has a dual mandate to prevent and fight corruption and holds significant influence on anti-corruption reforms (Administrative Control Authority, n.d.-a; Transparency International, 2009), thus the research focuses exclusively on the ACA. The National Integrity System (NIS) developed by Transparency International is adopted as a conceptual framework, particularly the ‘Anti-corruption Agencies’ pillar, which according to the 2014 NIS assessment it is “one of the weakest pillars” and is in dire need for structural reforms.

This research puts three main dimensions of the ACA under analysis; its role in preventing and fighting corruption; its governance system with regards to transparency, accountability and integrity mechanisms; and its capacity to effectively carry out its duties. In light of the above, the following sub-questions are explored; 1) Role – to what extent does the ACA engage in preventive

activities to fight corruption and investigative activities of alleged corruption? 2) Governance mechanisms: to what extent are the transparency, accountability and integrity mechanisms activated in the activities and decision-making processes of the ACA? 3) Capacity – to what extent does the ACA have adequate resources and independence to effectively carry out its duties?

The following chapter presents an overview of the extensive body of literature on corruption, by discussing different definitions of corruption, taxonomy of corruption and forms of corruption. The chapter concludes with discussing the economic cost of corruption.

## **Chapter 2: Understanding Corruption**

Corruption is an extensive term, used to refer to a diverse collection of illegal and/or dishonest acts. A significant portion of the body of literature on corruption is dedicated to classifying various forms of corruption operationalizing the concept for pragmatic and analytical intentions. This portion of literature presents a wide variety of models of understanding, analyzing and combating corruption (Andvig, Fjeldstad, Amundsen, Sissener, & Soreide, 2000).

This chapter provides an overview of the main discussions and debates within academic literature regarding definitions of corruption, models of understanding it, followed by a taxonomy of corruption; petty corruption vs. grand corruption, and forms of corruption including; bribes, embezzlement, favoritism, etc., this section ends with a discussion on the economic cost of corruption on the national level and on the private sector.

### **2.1 Debates on the Definition of Corruption**

Contemporary academic literature on corruption discusses different lenses for analyzing corruption; a political and economic lens – referring to political and economic corruption denoted as a structural problem; or through a social lens – individual and cultural corruption denoted as a moral problem (Andvig et al., 2000). Viewing corruption as a moral problem is often indicated as “moral decay”, which is seen in a social exchange taking place between individuals. This lens exposes incidents that fall within the umbrella term of corruption that are not defined by the confined dimensions of policies and laws. As a multi-disciplinary field, the moral lens sheds the light on other important dimensions, such as power abuse as a form of corruption and other situations that present moral breaches but fall far beyond the boundaries of the law. Researchers who subscribe to this notion design reforms that match the prescriptions for good governance and reinforcing the democratic rule of law (Andvig et al., 2000).

On the other hand, viewing corruption as a systemic problem brings up a wide array of structural issues that may contribute to or deter corruption within a system. Researchers who view corruption

through this lens – occupying the majority of the contemporary body of literature – apply political and economic theory to analyze corruption (Andvig et al., 2000). In efforts to establish a unified understanding of what is meant by corruption, both academics and practitioners have agreed to a common definition of corruption as “*misuse of public power for private benefit*” (Lambsdorff, 2007; Mungiu-Pippidi, 2006; Rose-Ackerman, 2007; Spector, 2012). Corruption reforms within the structural lens are more successful in cases of confined corruption, within a particular public institute or sector (Andvig et al., 2000; Rose-Ackerman, 2007).

It is not surprising to find different versions of this definition in academic literature. Over the years, prominent academics interested in corruption issues have made valuable additions to defining corruption. Nye’s definition, is regarded as the *classical definition*, where corruption is defined as: “*behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains*” (Nye, 1967, p. 419). Additionally, Samuel Huntington referred to corruption as: “*behavior of public officials which deviates from accepted norms in order to serve private ends*” (Huntington, 1968, p. 59). The similarities between these definitions are hard to miss, corruption is viewed as a “*deviant*” act, that does not comply with the universally agreed norms of behavior, which takes place between particular agents in a particular sector – the state (Andvig et al., 2000).

A review of the different versions of this definition shows that it hinges on three main corners: “private benefit”, “public power” and “misuse”. The term “private benefit” encompasses different forms of gains; cash, valuable goods, power or status. Gains could have an immediate nature or could take the form of promises for future favors or benefits that solely benefit the public official and/or relatives or friends, but not the public. “Public power” refers to the authority entrusted to public officials, politicians and bureaucrats to act on behalf of the public within the scope of their role and sector, such as the judiciary, police, tax authorities, public utilities (water, electricity, roads, etc.) and government services (health care, education). The verb that connects these two terms is “misuse”, which refers to an action that public officials take, by prioritizing individual interests over general public interests, the manner through which public officials may misemploy their entrusted power to serve their personal concerns over common public interest (Lambsdorff, 2007; Spector, 2012).

For practical reasons international organizations have identified working definitions that maintain the main elements of corruption, but wide enough to include various forms of corruption. The World Bank Group, adopted the following definition of corruption – “*the abuse of public office for private gain*” (World Bank, 1997). Transparency International, a global civil society organization leading the fight against corruption, uses a very similar working definition – “*corruption is the abuse of entrusted power for private gain*” (Transparency International, n.d.-a). These definitions emphasize an interaction between different sectors; public and private, and highlight the misbehavior that characterizes this interaction (Andvig et al., 2000). Another key international player is the Organisation for Economic Co-Operation and Development (OECD), mainly concerned with economic cooperation and trade it adopts a slightly different working definition that transforms corruption from solely being a public sector malady, to affect the private sector too. Yet, more emphasis is put on the misbehavior in the interaction, rather than the sectors involved. According to the OECD’s *Glossary of International Criminal Standards*, corruption is the “*abuse of public or private office for personal gain*” (OECD, 2007).

## **2.2 Traditional Model for Analyzing Corruption**

As a complex intertwined phenomenon, simple models were needed to build a better understanding of the dynamics that result in the prevalence of a culture of corruption. Only with a thorough understanding of the problem; causes, symptoms and interlinks; valid solutions can be formed. This section presents the traditional model of analyzing corruption, the principal-agent-client model, developed by Klitgaard in 1988.

As an interaction between two actors, one of them representing the state, corruption can be analyzed through the principal-agent-client model, where the principal entrusts their subordinate, the agent, with a task. The principal sets the rules and expectations regarding how the task is to be completed. The agent is responsible for serving the client while abiding by these rules (Klitgaard, 1988; Lambsdorff, 2007). Klitgaard viewed corruption on a transactional level to equal monopoly plus discretion minus accountability (Klitgaard, 1988, p.75). This formula was used to design anti-



corruption reforms for decades, as it simply identifies how monopoly of resources, information discretion and accountability each independently influence corruption (Brinkerhoff, 2000).

This model is used to explain corruption in different spheres; national sphere, where interaction between state and non-state actors take place; and the national institutional sphere, where corruption takes place within different levels, agencies and branches of government (such as the judiciary, executive and legislative branches), in this case the client becomes another state actor in contact with another state actor, even though the interaction lacks a non-state actor, illicit behavior is still the concern (Andvig et al., 2000). This model assumes that the agent is the actor who is more likely to engage in corrupt behavior (Mungiu-Pippidi, 2015). Reforms prescribed based on this model of understanding corruption suggest policy tools that aim at reducing the opportunities and incentives for corruption such as: more monitoring bodies and higher punishments. These reforms, however, assume the presence of “principled principals” who are eager to take action to detect and penalize corrupt behavior (Klitgaard, 1988; Persson, Rothstein, & Teorell, 2013).

### **2.3 Taxonomy of Corruption**

Depending on the nature and scope of a corrupt activity, corruption can be *political* corruption or *administrative corruption*. Political corruption, occurs within the top-levels of a public authority, typically, the heads of state and top officials abuse and ignore laws and regulations to serve their private interests by appropriating pay-offs, kick-backs or embezzle large sums of money or public good. Administrative, corruption takes place at the implementation side of polices, within the civil service or within state actors. Petty corruption, is a daily act that citizens face in public hospitals, schools and police stations, involving a rather modest amount. Political and administrative corruption tend to mutually assist one another, as extensive administrative corruption is backed by political corruption, common in non-democratic, authoritarian countries (Amundsen, 2000; Andvig et al., 2000; Lambsdorff, 2007).

Another classification of corruption is based on the motivations of the players engaged in corrupt behavior. This is based on the notion that motives for corrupt behavior vary between different

contexts. This requires us to go beyond the predominant view of seeing corruption through its scale (petty or grand), form (bribe, extortion, fraud, etc..) or type of actor (business or political) and examine the motivations behind the action, which can be classified into “*need*” or “*greed*” corruption; “*need*” corruption takes place when “services that citizens are legally entitled to, such as receiving a birth certificate or healthcare and conditioned upon paying a bribe.” (Bauhr, 2012). This type of corruption indicates poor government performance and low trust in its operations, which results in relationships that are built on coercion and extortion between the involved parties. On the other hand, “*greed*” corruption takes place when a corrupt action is done with the intention to attain extra advantages to which that person or institution is not entitled to. This type of corruption is characterized by mutual benefit relationships between the agent and the client (Bauhr, 2012).

Corruption is not a malady exclusive to the public sector only, “*private*” corruption has been an issue that colonized the agendas of several international trade organizations for decades. However, corruption is seen to be a more critical problem in the public sector than the private sector, possibly because public goods tend to attract more criticism than private goods, and public goods have a wider customer base, when compared to private goods (Andvig et al., 2000).

## **2.4 Forms of Corruption**

Corrupt behavior comes in different forms, bribery is among the most commonly known form of corruption. Extortion, embezzlement, fraud, and favoritism are all varied forms of corruption. The section below presents widely used understandings of each of the above forms of corruption using the principal-agent-client model.

*Bribery*, is a payment by the client to the agent in return for access to preferential benefits the agent is not entitled to. The sought after additional benefit may be a service, a license, a permit, or a particular exemption. Payments are made in monetary terms or in kind. So widely used, there are many colloquial terms in different languages that refer to bribes; kickbacks, shay, gratuities, baksheesh, sweeteners, pay-offs and grease money (Amundsen, 2000; Andvig et al., 2000;

Lambsdorff, 2007). Rose-Ackerman (2007) emphasizes the economic effects of bribes on the personal wealth of officials receiving bribes and their tendency to “*take actions against their principals*”. Principals are referred to as “*bureaucratic supervisors, politically appointment ministers, or multiple principals such as the general public*” (Rose-Ackerman, 2007).

*Extortion*, is the case when the agent abuses their power to get financial or other types of personal benefits from the agent, by restricting the client’s access to a benefit they are legally entitled to without a payment. This payment is often done after the use of coercion, violence or threats by the agent on to the client (Lambsdorff, 2007). A commonly known example of this form of corruption is the mafia style coercion to collect “protection or “security” money from citizens and businesses. In situations of systemic wide scale corruption, the state, in particular security services extorts payments from citizens in return of their services (Amundsen, 2000; Andvig et al., 2000).

*Embezzlement*, under definitions of corruption that do not include a non-state actor in an interaction, but empathize the “abuse of public office for private gain”, embezzlement is considered a form of corruption. Referred to as the theft of public resources by the agents who administer them. With the intention to maximize their individual wealth, and their networks, agents may misappropriate funds or steal funds from the public institutions they are employed in. Agents use their official office to secure benefits and branch out their individual or business interests by infringing on public resources (Amundsen, 2000; Andvig et al., 2000). Like bribery and extortion, embezzlement indicates a violation of the rules set by the principal on how the agent is to complete assigned tasks (Lambsdorff, 2007).

*Fraud*, entails manipulation, distortion or deceit of information undertaken by the agent to get personal benefits from the agent or the client. Information-asymmetry between the agent and the principle is evident in this case, the trickery involved is based on an information advantage that the agent posses over the principal, as the agent is naturally more familiar about their daily tasks and flow of work. This imbalance creates an opportunity for the agent to manipulate the information they posses for their personal benefit (Amundsen, 2000; Andvig et al., 2000; Lambsdorff, 2007). Participation in an act of fraud can take an active or passive form, principals and agents can partake

in fraud by looking the other way or take an active role in it and is commonly used to cover up for other forms of corruption (Amundsen, 2000; Andvig et al., 2000).

*Favoritism*, is another form of power abuse for preferential allocation of public resources. Some researchers argue that favoritism is a natural human inclination, to give advantage to family members, friends and others who are within the same social circles. However, favoritism indicates an inequitable apportioning of state resources to give advantage to a particular group over an other, based on racial, ethnic, tribal, religious or political discrimination. Nepotism is a particular form of favoritism, where certain state benefits, such as offices, contracts or licenses are given to members of the same kin regardless of their merit, as loyalty towards the group is seen to have a higher value than merit (Amundsen, 2000; Andvig et al., 2000). This tends to be common in authoritarian and semi-democratic regimes where individuals and groups are in better positions being close to “the source of power” in order to “enjoy a superior status, and therefore more influence” (Mungiu-Pippidi, 2006).

It is important to distinguish between corruption other forms of criminal behavior between only private actors, i.e. not including the state. Illegal trade, contraband, insider dealings on the stock market, and production and circulation of counterfeit money are all illegal acts according to international legal conventions, however, are not regarded as acts of corruption as these are carried out in the absence of misusing public power (Lambsdorff, 2007).

## **2.5 Economic impact of corruption**

A significant portion of the recent empirical literature has identified two widely accepted associations relating to the impact of corruption on economic growth. The first is an inverse relation between corruption perception indexes and levels of economic development – measured by per capita Gross Domestic Product (GDP). This negative causality maintains its validity in different regions, countries, and political regimes. The second association is that there is an inverse relation between corruption perception indexes and lower growth rate (Tanzi & Davoodi, 2002).

It is widely accepted among economists that investment and growth are connected through a positive relationship. Consequently, if corruption affects investment, then it must also affect growth. Corruption may affect investment in a set of ways; size investment, size and composition of Foreign Direct Investment (FDI), size of public investment, and the quality of investment decisions and of investment projects. The extensive literature in this area indicates strong positive links between FDI and growth, and strong inverse relations between flow of FDI and corruption (Tanzi & Davoodi, 2002).

#### *Economic impact of corruption on a national level*

Corruption results in unpredictable government institutions, leading to low certainty in expecting outcomes and fickle law enforcement. All of this feeds into a “downward spiral of ultimately unproductive economic activity, decreasing productivity, shrinking investment and loss of confidence in the effectiveness of government” (Brinkerhoff, 2000). Within the public sector and specifically public works projects, evidence shows that other things being equal, high corruption is strongly associated with low operation and maintenance expenditure, and high corruption is often associated with poor quality of infrastructure. Poor public infrastructure, consequently prompts the private sector to direct its investment to improve public infrastructure – limiting the growth of the economy where private investment could have been allocated in other productive channels, if public infrastructure was done right on the onset. The impact of corruption in poor infrastructure is unmistakable in the quality of paved roads, power outages, railway networks (Tanzi & Davoodi, 2002).

#### *Economic impact of corruption on large enterprises and SMEs*

Link between size of enterprise and vulnerability to corruption – large enterprises mostly engage in a cost-reducing kind of corruption, to benefit from relaxed government regulations and lower tax rates. Moreover, as a benefit of their size, large organizations could employ “facilitators” who are individuals with the right skill set and connections to bypass regulations and get protection from petty bureaucrats. Whereas for small and medium enterprises (SMEs), corruption is often of the cost-increasing kind, as they are forced to make payments that are crucial for their survival, but

do not advance the productivity or profitability of the firm. Due to their size, SMEs are often seen as easy prey for coercion and extortion by public officials. Considering that SMEs employ a significant segment of the labor force and create the bulk of the new jobs, corruption and anti-competitive practices amalgamate into one the most difficult hurdles for SMEs to overcome; increasing the costs of enterprise and reducing the rates of return (Tanzi & Davoodi, 2002).

If corruption has a negative impact on investment and economic productivity, then why does the private sector engage in corruption? Four main cases have been identified by the literature as reasons why private entities to engage in corrupt behavior when engaging with the state. First, bribes clear the market – in the case of allocating a scarce benefit and distribution is at the discretion of a public official, private entities may offer bribes to get access to the benefit if they are not entitled to, or more if there is a quota. Gaining unequitable access to subsidies is among the most common (Klitgaard, 1988; Rose-Ackerman, 1998). Second, bribes act as incentive bonuses – as public officials often have very little incentive to do their jobs or do them at all, so to avoid delays and roadblocks, private entities resort to bribes to get things done (Rose-Ackerman, 1998). Third, bribes lower costs – by paying off public officials private entities may enjoy lower taxes, customs, duties and regulations. In countries where corruption is rampant it may be easier to secure relations through connections and bribes rather than relying on institutional systems (Rose-Ackerman, 1998). Forth, bribes permit criminal activities – private entities may pay off public officials to “look the other way” and allow the existence of illegal businesses. This is often done through intimidation and coercion (Rose-Ackerman, 1998). Drawing on the parallels of ‘*need*’ and ‘*greed*’ corruption, it is fair to conclude that the net impact of corruption reduces investment and consequently growth.

## **Chapter 3: Scope of Corruption and Anti-Corruption Reform in Egypt**

### **3.1 Scope of Corruption in Egypt**

Egypt scored 34 and ranked 108 out of the 176 countries assessed in the 2016 Corruption Perception Index (CPI), an annual report developed by Transparency International that measures the perceptions levels of public sector corruption worldwide through soliciting expert opinion from business people and country experts (Transparency International, 2016a). Egypt has been scoring within the same range for the past few years, between 30 and 40 on a scale of 0 (highly corrupt) and 100 (highly clean). In 2015, Egypt scored 36 and ranked 88 out of the 168 countries assessed (Transparency International, 2015a). These last two years are very close to the 2014 ranking where Egypt scored 37 and ranked 94 out of 175 countries assessed. When compared to other Arab countries, Egypt ranks within the lower quadrant of the region, with UAE, Qatar and Jordan on the top of the Arab countries. Egypt has a closer ranking to Thailand, Algeria and Vietnam, which scored 35, 34 and 33 respectively. South Sudan is the lowest Arab country in the CPI, with a score of 11 and a rank of 175 out of 176 (Transparency International, 2016a).

Other global corruption measurement scales position Egypt within the same range in comparison to other countries globally and regionally. The 2016 Heritage Foundation's Index for Economic Freedom, ranks Egypt 125 globally and 12 regionally, it also highlights corruption as one of the main concerns that Egypt has to deal with. This position is shared by other institutions such as; the World Economic Forum and The World Bank which have indicated in different reports and press releases that corruption is one of the main hurdles to doing business in Egypt. This notion is also supported by public opinion surveys which have pointed out corruption as a "serious problem in Egypt". Additionally, there seems to be a general consensus that the situation has only gotten worse in recent years, due to the political and economical instability that the country has been going through (Transparency International, 2015a; World Bank, 2016). The latest NIS study for Egypt was conducted in 2014 through a widely inclusive process that engaged; the government, businesses, political parties, civil society organizations, media and higher educational institutions, the study concluded with an extensive list of recommendations to strengthen Egypt's weak anti-corruption institutions (Transparency International, 2014).

Global Corruption Barometer for MENA 2016, provides more insight on the forms of corruption within a country through extensive expert and public surveys. Bribes are reported to be very common in Egypt, with reports indicating around half of the people who accessed public services in the past 12 months prior to the report have paid a bribe. Additionally, a quarter indicated that *most* the public sector is corrupt in Egypt, 48% consider the public sector to be *somewhat corrupt* and only 12% consider the public sector is *not corrupt at all*. Majority of the bribes are paid in courts, followed by public services and utilities. In light of all of that, more than half the people do not regard government efforts are enough to fight corruption (Transparency International, 2016b).

These positions are not only held by the international community, but these concerns were mentioned by country level reports too. In 2012, during a period of high political uncertainty, the Economic and Financial Affairs Committee of the Shura Council (the upper house of the formerly bicameral Parliament of Egypt, Shura Council was abolished in the 2014 constitution) reported that wide spread corruption in the public sector is among the main reasons driving the public debt. The supporting evidence drew up on 65,000 cases of corruption in one year highlighting exaggerated operation costs (Daily News Egypt, 2012; Transparency International, 2014).

Then a few years later in early 2016, the Central Auditing Organization (CAO) announced that the cost of corruption in Egypt between 2012 and 2015 was EGP 600 billion (Marsad, 2017). This figure is based on an extensive report (300+ pages report) that covered ten of the main sectors including; public services, petroleum, health, banking, tourism, and pharmaceuticals. The report goes on to list individual cases of corruption and the associated public cost with each case. Up on release the report was promptly contested by the president, which consequently resulted in a divided public opinion on the validity of the report. It is worth noting that the President of CAO was fired from his job on the premise of releasing this report to the public and faced an extensive period of defamation that affected him personally and his family (Marsad, 2017).



### **3.2 Commitments to the International Community**

As a global phenomenon there are a set of international agreements that the international community has drawn up to limit the spread and the exporting of corruption across borders. These agreements aim to establish a coherent legal framework within different countries to ensure that corruption can be caught and identified by officials no matter where it takes place. This section presents the three main anti-corruption agreements that Egypt is committed to; the United Nations Convention Against Corruption (UNCAC), African Union Convention on Preventing and Combating Corruption, and the Arab Convention to Fight Corruption.

#### *United Nations Convention Against Corruption (UNCAC)*

On an international level, Egypt is a signatory on three international conventions that aim to strengthen anti-corruption efforts and enable experience sharing between involved countries. The most comprehensive agreement is the United Nations Convention Against Corruption (UNCAC), which is the first legally binding international anti-corruption instrument. Egypt signed the UNCAC in 2003 (UNODC, 2017a). UNCAC is a comprehensive agreement that requires States to undergo extensive reforms affecting their laws, institutions and practice. Reform measures promote prevention, criminalization and law enforcement, international cooperation, asset recovery, technical assistance and mechanisms for information sharing and implementation (UNODC, 2003). The UNCAC was adopted by the United Nations (UN) General Assembly in 2003 and signed by 140 countries. To date, the UNCAC has been ratified, accepted, approved or acceded to by 183 countries (UNODC, 2017a). The United Nations Office on Drugs and Crime (UNODC) is the designated body to support state countries with the provisions of the UNCAC (UNODC, 2017a).

Both sectors, public and private are covered by the preventative measures set out by the Convention, the main measures are indicated here; establishment of anti-corruption bodies, which are independent, adequately resources and have adequately trained staff to implement anti-corruption policies and disseminate knowledge; improve transparency of financing for election campaigns and political parties; implement safeguards in public service to promote efficiency and transparency; public officials are bound by codes of conducts and other requirements of financial

disclosure and disciplinary measures; implement measures to prevent money laundering; promote transparency and accountability in matters of public finance; implement special anti-corruption measures in areas that require special attention – judiciary and public procurement; enhanced engagement with civil society through general reporting processes (Puddephatt, 2012).

#### *African Union Convention on Preventing and Combating Corruption*

Led by the African Union, the African Union Convention on Preventing and Combating Corruption was adopted in 2003 signed by 49 countries. To date the Convention has been ratified by 38 countries. Egypt was among the late signatories to this Convention as it signed and ratified the Convention in January 2017 (African Union, 2017). Through this Convention, the African continent comes together to fight against corruption, key provisions of the Convention criminalize domestic and foreign bribery, diversion of property by public officials, illicit enrichment, money laundering, financing political parties through illicit and corrupt activities, and concealment of property. Furthermore, right to free access to information is declared by the Convention, beside the participation of non-state players in the fight against corruption; civil society and media in monitoring the implementation of the convention.

The Convention lists five main objectives: 1) Enhance anti-corruption mechanisms towards eradicating corruption within the public and private sector in each State Party; 2) Facilitate cooperation among state parties to prevent, detect and punish corruption related offences in Africa; 3) Harmonize policies and bylaws between State Parties to ensure smooth coordination across countries; 4) Remove obstacles in the way of socio-economic development for State Parties; 5) Promote values of transparency and accountability within public affairs (African Union, 2003).

#### *Arab Convention to Fight Corruption*

Led by the League of Arab States, the Arab Convention to Fight Corruption is the first pan-Arab anti-corruption mechanism. It is signed by 21 countries to date (except Somalia) – the Ministries of Interior and Ministries of Justice of each signatory. The Arab Convention to Fight Corruption declares that the fight against corruption is not only limited to the state, but a joint effort with the

public and the civil society. The Convention is based on the Charter of the Arab League, the UN charter and regional and international anti-corruption conventions, including the UNCAC. The Convention stresses the importance for Arab countries to come together and fight corruption as a united front to eradicate corruption from the Arab world (Transparency International, 2012a).

Similar to the UNCAC, the Convention criminalizes bribery of national and international public officials, money laundering, illicit enrichment, abuse of functions, embezzlement and obstruction of justice. Key provisions highlight the importance of coordination and collaboration to particularly in areas of asset recovery and enhancing the role of individuals and civil society in the fight against corruption. Moreover, the convention urges State Party to protect witnesses, experts and whistleblowers (Transparency International, 2012a).

### **3.3 National Anti-Corruption Strategy 2014-2018**

Fury against the widespread corruption in Egypt was one of the reasons that pushed the people take to the streets in January 2011. All through the different political changes that took place after Mubarak stepped down, after a reign that lasted 30 years, corruption has been high on the agenda in Egypt. This was further confirmed by the 2014 Constitution, which is regarded is the post-revolution constitution.

Article 128 of the 2014 Egyptian Constitution, attests that “*the state is committed to fighting corruption.*” By declaring that fighting corruption is the responsibility of the state, the constitution mandates the state to put the adequate prevention and combating measures in place. The article continues to count on capable oversight bodies which are required to coordinate with one another to effectively fight corruption; promote values of integrity and transparency; and conserve public funds and national state operations. Corruption – as an issue receives a lot of stress within the constitution and is repeatedly identified as a state responsibility (Transparency International, 2014).

The National Anti-Corruption Strategy 2014-2018 is Egypt’s first strategy specialized in the area of corruption control. The strategy was developed by the National Sub-committee for the

Prevention of and Fight Against Corruption, and it builds on the 2014 Egyptian Constitution, the UNCAC, and the Arab Convention to Fight Corruption and draws a national vision towards improving administrative performance, preserving public funds and spreading values of integrity, accountability and transparency in all fields of work. Additionally, the Strategy cites a thorough analysis conducted to identify areas of weaknesses and strength within the internal environment (National Anti-Corruption Strategy 2014-2018).

The Strategy starts off by defining corruption as “*the abuse of authorized power for private gain*” to cover corruption in the private sector, in addition to the public sector. Then continues to classify corruption as *petty corruption* and *grand corruption*. A significant portion of the Strategy is dedicated to the reasons behind corruption in Egypt, based on an in-depth Strengths, Weakness, Opportunities, and Threats analysis of the corruption phenomenon. Among the reasons listed are the following; administrative reasons, in particular – presence of bureaucratic and complicated government procedures, poor internal control systems within state entities, low capacity of state employees, low and uncompetitive salaries within the state system. Moreover, a set of legal reasons are listed including – poor witness and whistleblower protection, long legal and judicial procedures, presence of overlapping and multiple laws governing state activities, and lack of transparency provisions. Furthermore, the Strategy refers to a set of institutional arrangement challenges that contribute to the prevalence of the corruption phenomenon such as; internal limitations on external control bodies, lack of independence of anti-corruption bodies (as most report to the executive authority), limited coordination between anti-corruption bodies and lack of public awareness on the role of anti-corruption bodies and activities in Egypt (National Anti-Corruption Strategy 2014-2018).

The final section of the Strategy sets out the executive plan of the strategy presents, starting with a vision:

*“Establish a society concerned with combating corruption and restoring the culture of transparency, integrity, justice, and devotion, supported by effective administrative bodies.”*

And mission:

*“Combat corruption, reduce related impacts on all administrative, economic political and social levels, raise awareness of such impacts, promote anti-corruption agencies capacities to cooperate with local, regional and international concerned bodies in combating related crimes while taking in consideration international standards and best practices.”*

(National Anti-Corruption Strategy 2014-2018 - p.32)

Towards achieving this mission, the strategy sets out ten main goals that address the reasons and challenges listed in earlier sections of the Strategy. Each goal is assigned with a responsible execution body, period of execution, follow up responsible body and performance indicators. The Strategy brings together different state and non-state bodies, including; ministries, state organizations, civil society organizations and media. The Ministry of Planning, Follow-up and Administrative Reform, is among the top responsible bodies of implementing most of the goals, under the coordination and oversight of the National Sub-committee for the Prevention of and Fight Against Corruption. In addition to different corruption control bodies taking the lead in and following up on goals that pertain to promoting a culture of integrity and accountability, institutional reform and capacity building within their organization (National Anti-Corruption Strategy 2014-2018).

The National Anti-Corruption Strategy 2014-2018 brings together a group of corruption control bodies and sets out clear roles and mandates for each of them, within a time bound plan and indicators. The section below presents key institutions and units in Egypt’s anti-corruption institutional framework, all of which have a corruption control mandate and coordinate with one another for their daily operations and especially within the National Anti-Corruption Strategy 2014-2018.

### **3.4 Egypt's Anti-Corruption Institutional Framework**

Egypt has a multitude of supervisory authorities connected through a complex structure of dependent and independent relationships that form tangled relationships. Some institutions have more authority than others in the demanding fight against corruption (OECD, 2009; Transparency International, 2014). This section presents a selection of the most influential anti-corruption bodies, by discussing their mandates, main activities and how they fit within the larger anti-corruption framework in Egypt. Main bodies presented below are: National Coordinating Committee for Combating Corruption (NCCCC), National Sub-committee for the Prevention of and Fight Against Corruption, Administrative Control Authority (ACA), Central Auditing Organization (CAO), Administrative Prosecution Authority (APA), Money Laundering and Terrorist Financing Combating Unit (MLCU), and Illicit Gains Department (IGD).

#### *National Coordinating Committee for Combating Corruption (NCCCC)*

An inter-ministerial committee, set up in 2010 to oversee and enforce anti-corruption provisions of the UNCAC and other conventions. The NCCCC is the main coordinating body for anti-corruption efforts, by supervising and synchronizing anti-corruption efforts among other anti-corruption efforts (Transparency International, 2015b). NCCCC is headed by the Prime Minister and brings together a set a diverse representation of ministries and public agencies including; Minister of Administrative Development, Minister of Justice, President of Administrative Control Authority, President of Administrative Prosecution Authority, representative of Ministry of Interior, representative of Ministry of Foreign Affairs, representative of General Intelligence Agency, representative of Central Audit Organization, representative of Money Laundering Combating Unit, representative of Public Prosecution Office (Administrative Control Authority, n.d.-b). The process through which representatives of the state agencies are selected to serve on the NCCCC is unclear (Transparency International, 2014).

NCCCC was established by cabinet decision number 2890 for the year 2010, and is mandated with four main areas of responsibility. First, executing anti-corruption provisions as per the UNCAC and other international agreements. Second, develop a unified vision for Egypt's anti-corruption

efforts which stir the direction of the current anti-corruption institutional reforms. Third, represent Egypt in official inter-state events and report on Egypt's progress towards implementing agreed-upon provisions. Lastly, conduct regular reviews of legislations and bylaws to ensure that all provisions are aligned with conventions where Egypt is a signatory (Administrative Control Authority, n.d.-b). It is critical to note, that the NCCCC does not have any investigative authorities, and it is unclear if this committee is independent or impartial (OECD, 2009; Transparency International, 2015b). NCCCC is funded by a budget allocated through the Ministry of Justice, in addition to financial support from different international entities such as UNDP and Ford Foundation. The NCCCC is currently inactive however, the National Sub-committee for the Prevention of and Fight Against Corruption has taken over the role of the NCCCC. (Transparency International, 2015b).

#### *National Sub-committee for the Prevention of and Fight Against Corruption*

Embedded under the NCCCC, the National Sub-committee for the Prevention of and Fight Against Corruption is the execution arm of the NCCCC. Headed by the President of Administrative Control Authority, the sub-committee brings together; a representative of Ministry of Interior, a representative of Ministry of Administrative Development, a representative of Ministry of Foreign Affairs, a representative of Minister of Justice, a representative of Public Prosecution Office, a representative of General Intelligence Agency, a representative of Administrative Control Authority, a representative of Central Audit Organization, a representative of Administrative Prosecution Authority, and a representative of Money Laundering Combating Unit (Administrative Control Authority, n.d.-c).

As a sub-committee that reports to the NCCCC, its mandate is more specialized and operational, including; conducting studies and reviews in preparation for the National Anti-Corruption Strategy 2014-2018 and beyond, in addition to placing coordination mechanisms that enable effective information sharing between different state agencies. Moreover, the sub-committee is responsible for suggesting anti-corruption reforms to strengthen a culture of transparency and integrity, in addition to addressing high-level corruption complaints and referring to relevant entities (Administrative Control Authority, n.d.-c).

### *Administrative Control Authority (ACA)*

Established in 1964 by law 54, the Administrative Control Authority (ACA) is an independent organization presided over by the Prime Minister. The ACA is mandated with combating corruption in state-owned enterprises and private sector firms receiving public funds, by exerting financial, administrative and technical control over these agencies (OECD, 2009). Furthermore, the ACA takes the lead on providing information and uncovering abuses, negligence and violations, in addition to supporting other state organizations with intelligence on high-level public officials and investigate alleged cases of corruption. The ACA is enabled to carry out its investigative role, by leaning on its extra ordinary rights to access to information and its power of judicial arrest anywhere in Egypt, with regards to any crimes that fall within its jurisdiction (Administrative Control Authority, n.d.-a).

As an executive body, the ACA is the only body with a dual mandate of preventing and combating corruption. When cases of corruption are identified, the ACA refers the cases to the relevant authorities depending on the nature of the case; Money Laundering and Terrorist Financing Combating Unit (MLCU), or Illicit Gains Department (IGD) or directly to the Administrative Prosecution Authority (APA) (OECD, 2009).

### *Central Auditing Organization (CAO)*

Egypt's main audit institution, the Central Auditing Organization (CAO) was established in 1988 as an independent organization "subordinated to the President of the Republic" under law No. 144/1988 (OECD, 2009). CAO's main goal is to regulate and monitor the allocation of public funds. It also monitors central and local authorities, political parties civil service agencies, companies and banks which are at least 25% publicly funded. Additionally, it monitors the performance and tracks the progress of plan implementation (Transparency International, 2014). One of the main roles of CAO is conducting studies that support the President and Parliament to make informed decisions about trends and the scope of corruption in different organizations (OECD, 2009). According to law 144/1988, amended by law 157/1998, general audit results and



annual reports produced by CAO are submitted to the President, Parliament, and the Prime Minister only, thus the CAO does not publish reports directly to the public (OECD, 2009).

#### *Administrative Prosecution Authority (APA)*

One of the first anti-corruption agencies in Egypt, the Administrative Prosecution Authority (APA) established by law 117/1958 presided by the Ministry of Justice. The APA has one of the broadest roles in the anti-corruption arena, as it is responsible for monitoring and investigating civil servants across all ministries and agencies. The APA is the main body in bringing forward financial and administrative cases of corruption to the judiciary sphere. The APA received case referrals from the ACA after the cases are investigated and compiled. Lastly, the APA is also responsible for developing and maintaining internal reporting mechanisms within the public system, this gives the APA access and legitimacy to identify cases of corruption and take legal action accordingly (Transparency International, 2014).

#### *Money Laundering and Terrorist Financing Combating Unit (MLCU)*

Established by the anti-money laundering law 80/2002, which declares money laundering activities and financing terrorist activities as criminal activities, the MLCU is an independent financial intelligence unit. The MLCU aims to enhance money laundering and terrorist financing combating systems in order to limit the exploitation of public funds by criminal activity (Money Laundering and Terrorist Financing Combating Unit, n.d.). Financial and non-financial institutions can refer suspicious transactions to the MLCU for investigation. The unit is comprised of experts from the Judicial authority, financial experts and highly qualified employees (Money Laundering and Terrorist Financing Combating Unit, n.d.; OECD, 2009).

#### *Illicit Gains Department*

A department within the Ministry of Justice, the Illicit Gains Department was established by law 11/1968 and is an independent judiciary body that aims at fighting corruption within the public sector, especially by prosecuting cases of illegal profiteering. The IGD is comprised of judges from

the court of first instance and the court of appeal, it is presided by either the President of the Court of Appeals or the President of the Court of Cassation (Ministry of Justice, n.d.). As a judiciary body, IGD does not investigate cases of corruption, but prosecutes them through its highly specialized members. The IGD receives referred cases from the ACA and other investigative bodies (OECD, 2009). The IGD is also known as the Illicit Gains Apparatus, Illicit Gains Authority, and Illegal Profiting Apparatus.

These are the key anti-corruption institutions in Egypt, the section below provides more details on the scope and jurisdiction of the ACA, the only anti-corruption body with a dual mandate of preventing and investigating corruption.

### **3.5 Administrative Control Authority (ACA)**

According to law 54/1964 – the law establishing the mandate and jurisdiction of the ACA – and law 92/1975 which further establishes its mandate. The ACA’s mandate is comprised of two-folds; corruption prevention and investigation of alleged, or suspected, corruption (Administrative Control Authority, n.d.-a). In light of prevention measures, the ACA is mandated with improving administrative, technical and financial systems within the public sector, in addition to ensuring bylaws and regulations are properly implemented within all areas of the public sector. When it comes to investigating corruption, the ACA is mandated with investigating alleged and suspected corruption in all corners of public services by investigating public officials and non-public officials handling public funds, besides investigating official complaints submitted by the public and presented by media outlets. Furthermore, the ACA is mandated with providing high level public officials (Prime Minister, Ministers and Governors) with intelligence as requested (Administrative Control Authority, n.d.-a; OECD, 2009).

The ACA has control over all public institutions, bodies and agencies in Egypt. Including public sector companies, all their subsidiaries and branches. In addition to, public and private associations that provide public goods or services, and all other bodies that the state is part of through a monetary or non-monetary contribution (Administrative Control Authority, 2011). Within these bodies, the

ACA mainly specializes in crimes related to preserving public funds such as; embezzlement, misuse and misappropriation of funds, facilitating the misuse misappropriation of funds, illicit gains and fraud. Additionally, the ACA is also mandated with investigating crimes of tax and custom evasion, money laundering, and crimes related to public health (Administrative Control Authority, 2011).

In order to fulfill its mandate, the ACA enjoys an extraordinary level of jurisdiction, law 54/1964 provides the ACA authority to get view and acquire documents from different public sector bodies, regardless of its confidentiality status, while maintain confidentiality rights of bank accounts. In addition to, summoning witnesses and suspects to give their statements and power of judicial arrest with regards to relevant crimes. Moreover, the ACA has the authority to request disciplinary action against a public official, in addition to suspension and release from service (Administrative Control Authority, n.d.-a).

The ACA carries out its responsibilities through four central control departments and regional departments. The central control departments are located in Cairo and Giza close to the biggest portion of the public sector, which hold the upper management of the ACA and controls the overall operations of the ACA. The regional control departments work on a governorate level through 23 offices across governorates and four geographical offices in North Sinai, South Sinai, New Valley and Beni Suweif (Administrative Control Authority, 2011).

In light of the recently launched *war on corruption*, which stresses on the need for a two-pronged approach – prevention and fighting corruption, the ACA is uniquely positioned because of its dual mandate to prevent and fight corruption, in addition to its wide and overarching jurisdiction over the public sector and public funds, making the ACA the main corruption control body in Egypt. Additionally, the need for a highly functional ACA is integral to effective corruption control, which makes the ACA a highly relevant and insightful case for study. Consequently, the ACA is the sole focus of this research, as the research delves to understand how the ACA understands its role; what are the governance mechanisms in place that allow the ACA to carryout its duties with integrity, transparency while maintaining accountability to the public; and if the ACA has adequate access to resources to fulfill its role.

The following chapter presents the conceptual framework that the research adopts to analyze the extent to which the ACA is enabled to fulfill its mandate. The chapter presents corruption as a collective action problem, then introduces the three-point criteria; role, governance mechanisms, and capacity, followed by a road map of how the research is conducted.

## Chapter 4: Conceptual Framework

Some believe corruption is universal, a phenomenon that has long existed in every society at all times, and will continue to for as long as “*human nature does not change*” (Mungiu-Pippidi, 2006). However, subscribing to this notion obscures the fundamental difference between corruption as a ‘*mode of social organization*’ and corruption as ‘*sporadic isolated corruption*’, that can surely be found almost everywhere (Mungiu-Pippidi, 2006; Rothstein, 2014). These are fundamentally different views of corruption, each has different root causes and requires different reforms. In a society where corruption is *the exception*, inherently contrasts with a society where corruption is *the norm* (Mungiu-Pippidi, 2006; Persson et al., 2013). For purposes of this research, the essential definition of corruption as ‘*abuse of public office for private gain*’ is maintained (Brinkerhoff, 2000). This chapter is dedicated to presenting corruption as a collective action problem, and introduces the NIS as a conceptual framework.

### 4.1 Corruption as a Collective Action Problem

Empirical data measuring corruption by different international organizations show that countries which suffered from rampant corruption decades ago, are still facing the same issues today, with very few exceptions who managed to break out of the spirals of corruption (Persson et al., 2013; Transparency International, 2015a). Despite the extensive reforms that these countries have invested in including monitoring bodies, oversight agencies and accountability mechanisms, most countries are still grappling with seeing significant improvements (Persson et al., 2013). Academics and the international community have explained that the reason behind the wide-scale failure of these reforms is due to the lack of players who are willing to act in a principled manner by executing rules and policies (Brinkerhoff, 2000; Klitgaard, 1988; Kpundeh, 1998; Persson et al., 2013; Rothstein, 2011) which leads to a context with widespread corruption, rendering the principle-agent-client model unsuitable for use (Persson et al., 2013; Rothstein, 2011).

In an exhaustively corrupt system, the decision to engage in corrupt behavior is based on the shared expectation of how others will behave. The cost of withholding from corrupt behavior is relatively

higher (as opposed to not being corrupt), in addition to low short-term benefit. Being disinclined to baring at a cost, one would instead engage in corrupt behavior to secure their benefits at a lower cost and higher short term benefit. Only when the shared expectation that others will not engage in corrupt behavior, does the cost of not engaging in corrupt activities decrease (or the cost of showing integrity decreases). When the actions of one depend on the shared believe of how others will behave corruption can be viewed as a – collective action problem (Persson et al., 2013; Rothstein, 2011). In simpler terms, everyone prefers if no one cheats, as opposed to everyone playing foul. But the outcome that results in being the only “loser” in a corrupt game, is not an outcome that anyone wants. So in a setting of rampant corruption, the cost of not being corrupt becomes higher than the cost of being corrupt. Moreover, in a widely corrupt system, people are less likely to report corrupt behavior on accounts that it wont make a difference and will not change the system (Persson et al., 2013).

In developing countries, corruption is characterized by the unequitable distribution of public goods/services, reflecting the existing distribution of power within a society. A culture of privilege within a society establishes a widely accepted norm of unequal treatment of different individuals, rather than taking action to turn this around and initiate a culture of impartiality, individuals strive to bypass that adverse inequality, either by belonging to the “privileged group” or by paying bribes, to gain equal treatment (Mungiu-Pippidi, 2006).

Figure 1, illustrates the decision making process within a context of widespread corruption, then continues to present the consequences (short-term results) and impact (long-term results) of each decision. This is model is based on the work of Rothstein (2011 & 2014) and Persson et al., (2013).

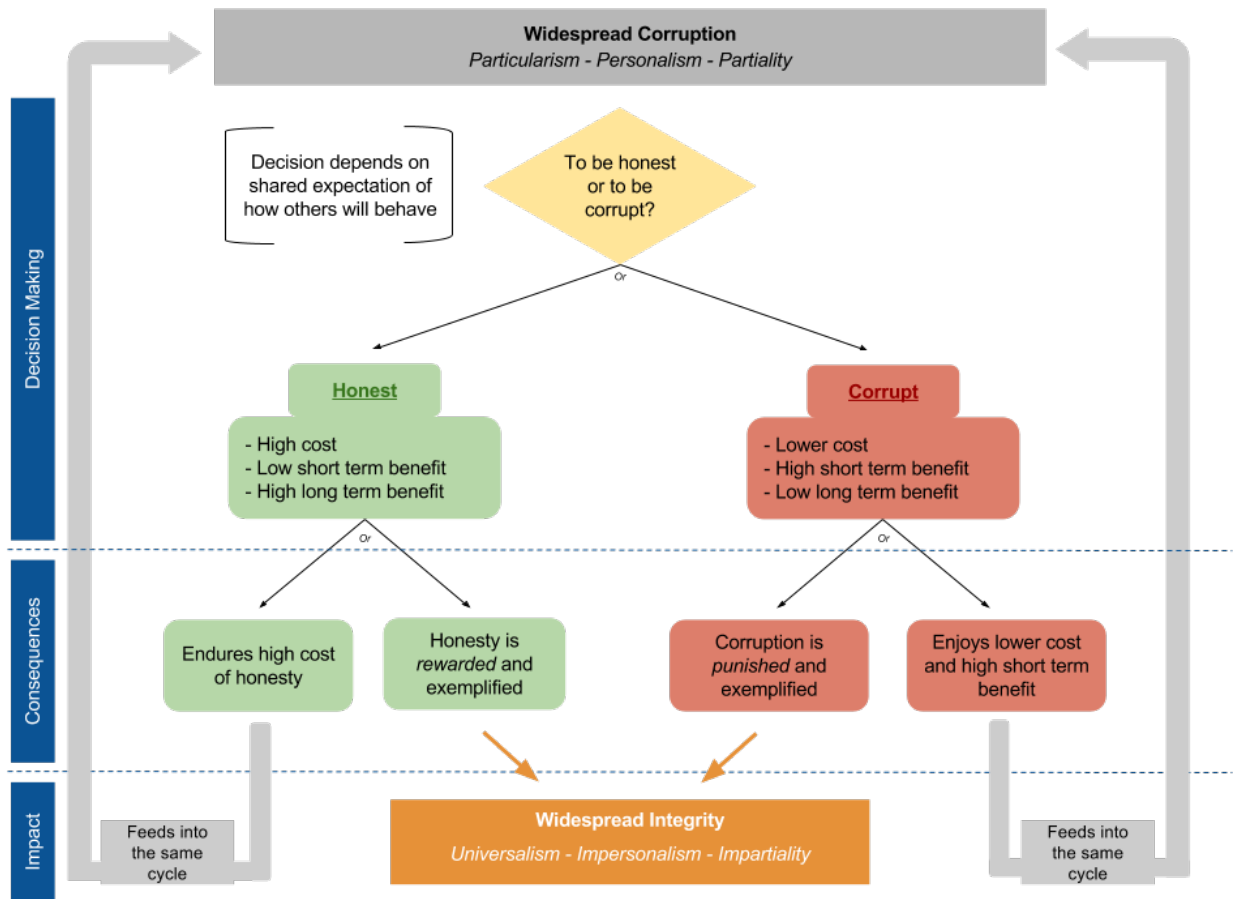


Figure 1: Author's representation of corruption as a collective action problem

This paradigm shift does not only impact how we view corruption, but also how we design reforms to remedy it. Within a collective action paradigm, reform efforts that prescribe monitoring bodies are widely unsuccessful, as there are no actors who are willing to bear that cost of not being corrupt. No matter how many auditors or watchdogs assigned, the cost of not engaging in corruption behavior still continues to be high (Persson et al., 2013). In the absence of principled principles and as corrupt behavior goes unpunished, a setting of wide-scale corruption spreads. Political elites are often in positions that allow them to benefit from the ongoing corruption, which gives them no incentive to change the current system (Rothstein, 2011). Within this view reforms need to address

issues of “justice” and “equity” in distribution of public resources and the rules and policies implemented rather than investing in audit and oversight bodies (Rothstein, 2014).

This paradigm implies that effective corruption control in countries where corruption is the “norm” a top-down approach is needed, where high-level public officials assume their role in the fight against corruption by serving as “role models” (Persson et al., 2013). This is one of the clear learnings from the very few countries that have made notable progress, such as; Hong Kong and Singapore, where the ruling elite took it upon themselves to match their behavior to their public rhetoric (Root, 1996) This is often referred to as the *formal* and *informal* mechanisms of corruption control, where formal monitoring systems and legislations are put in place, in parallel to informal efforts that enhance a culture of trust and reciprocity (Persson et al., 2013). Consequently, changing institutions that operate under principals of “*particularism – personalism – partiality*” to institutions that function under values of “*universalism – impersonalism – impartiality*”, where there is an equilibrium between the distribution of power and allocation of resources (Persson et al., 2013; Rose-Ackerman, 2007). The shift ripples across to change the entire political culture from “particularism” and “impartiality” to “*universalism*” and “*partiality*” (Rothstein, 2011).

With the above as a foundation, corruption can be better understood in contrast with its opposite – which was coined by Rothstein and Teorell as “*impartiality in exercising public power*” (Rothstein, 2014, p. 738), providing a more specific view of the type of “misuse” that public officials engage implies the current mode of operation within public institutions has to have “*impartiality*” as opposed to “*partiality*” at its center (Rothstein, 2014). Impartiality is understood as “non-discrimination in the exercise of public authority” (Rothstein, 2011, p. 230). As a mode of operation, impartiality is exercised in different dimensions, for example in implementing laws and policies, officials do not take into account anything about the citizen/case, unless previously required by law. Impartiality is being un-influenced by any considerations that could affect the output of the process, it is to regard people alike regardless of special relationships or personal preferences (Rothstein, 2011).

Policy makers and practitioners generally agree that fighting corruption is a long term endeavor that requires thorough consideration of elaborate interconnections with other political and



economic factors. A solid *continued* commitment at a top level is required to ensure that the battle against corruption is sustained over time and that results are achieved. The singling out of random corrupt practices without following a systemic approach to eradicate corruption often signals to weak political will (Brinkerhoff, 2000). Within the domain of fighting corruption, political will is regarded as the uninterrupted intention of political actors (elected or appointed leaders, civil society, watchdogs, other stakeholder groups, etc.) to effectively address the root causes of corruption and sustain the costs of undertaking the anti-corruption battle over time (Brinkerhoff, 2000; Kpundeh, 1998).

The presence of political will to fight corruption, ensures that anti-corruption reforms are systemic and not cosmetic, and not political – where political figures use anti-corruption reforms to discriminate or to undercut opposition or certain unfavorable groups. Additionally, it ensures that different stakeholders are brought together for a holistic approach. However, political will does not exist in vacuum, it is constrained by the power dynamics that enable (or hinder) political leaders to sustain the long continues fight against corruption. As political leaders are at at risk of losing political backing (nationally and international) during their journey of reform. Various models of what successful anti-corruption reform exist, based on the nature of each group, a thorough analysis of the consequences and effects of planned reforms is critical before the onset of implementation to ensure long term sustainability of the reform efforts (Brinkerhoff, 2000).

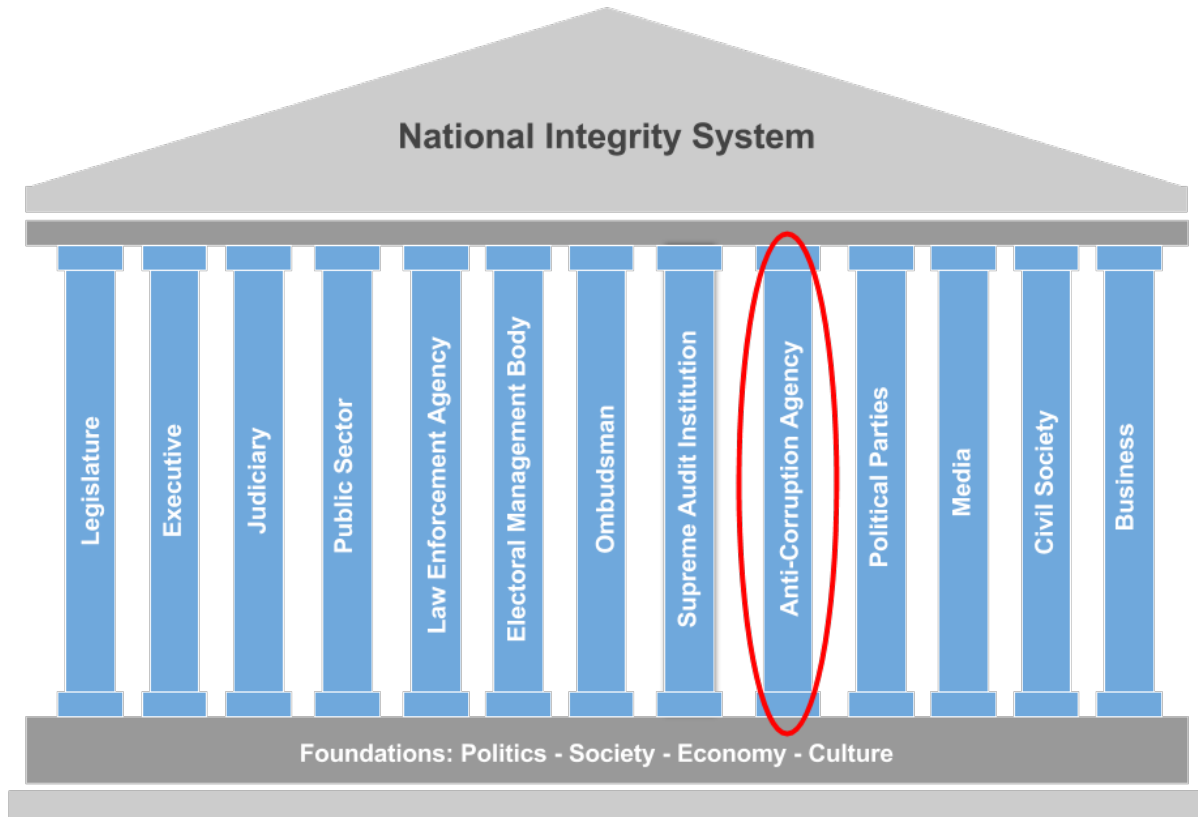
## **4.2 National Integrity System**

The National Integrity System (NIS) is a comprehensive assessment tool developed by TI as part of its comprehensive approach to combating corruption. In the recent years, a growing consensus has been forming on the importance of rallying up different sectors and stakeholders in the fight against corruption bringing together; state actors, non-state actors, media and civil society (Pope & Vogl, 2000). The NIS assess a country's anti-corruption efficacy, sector by sector. This is based on the premise that when governance institutions function properly, they contribute towards a healthy and robust NIS, one that is effective in fighting corruption across all sectors. However, if some or all of the pillars are unstable, that compromises the effectiveness of the entire system,

rippling negative effects across the society. Therefore, a healthier NIS promotes for better governance within a country and consequently, contributes to a generally more equitable and just society (Transparency International, 2011).

Corruption can take a wide variety of forms and across different sectors, thus there is no specific blueprint for an effective anti-corruption system. Moreover, countries experience different levels of political, economic, social and cultural constraints, which results in the need for a country-specific approach, rather than a “one-size fits all” approach. The NIS provides a comprehensive framework that dissects each pillar and can be tailored to the reality of each country. More than 70 NIS assessments have been conducted by TI, since its inception in the late 1990s, many of which have contributed to civic advocacy campaigns, policy reforms and general awareness on the country’s anti-corruption reform challenges (Transparency International, 2012b).

The NIS is an in-depth assessment of a country’s overall governance structure, covering 13 essential pillars of national institutions that have a role in promoting integrity and consequently controlling corruption. The NIS examines the internal corruption risks of each pillar individually, then analyzes how each pillar relates to other pillars under the umbrella of the national fight against corruption. Thus, it typically looks at a large array of relevant institutions and the relationships between them, these pillars are: Legislative branch of government, Executive branch of government, Judiciary, Public sector, Law enforcement, Electoral management body, Ombudsman, Audit institution, Anti-corruption agencies, Political parties, Media, Civil society, and Business. Figure 2, presents the pillars of the NIS, reproduced from the TI NIS Toolkit (Transparency International, 2012b).



*Figure 2: Pillars of National Integrity System*

When examining the effectiveness of an overall system, a holistic ‘system analysis’ is crucial to adequately understand and identify causes and types of the prevalent corruption. With that in mind, TI conducts these NIS assessments in the most participatory approach possible, in each country, by involving key anti-corruption agents in government, civil society, the private sector and other relevant stakeholders that have an influence on mustering up the political will and momentum that demand reforms (Transparency International, 2012b).

A typical NIS assessment usually takes around 12 months to complete and is led by the TI national chapter (NC), which is responsible for setting up the project structures and team, including the researcher and advisory group. Data collection is systematically conducted according to the legal framework and the actual practice of the NIS pillars in the country in question, through a desk-

review, in-depth interviews, focus groups and participatory mapping exercises and field visits (if possible). The collected data is synthesized into a draft NIS report, where the NIS indicators are scored then reviewed by the advisory group in consultation with the TI NC and TI Secretariat. To validate the data collected and the analysis conducted, a consultative workshop with key experts is held to discuss findings and identify recommendations to strengthening the country's national integrity. Consequently, the NIS report is updated based on the outcomes and discussion of the consultative workshop. The final report is reviewed, published and disseminated at national and international levels. The final step is transforming the NIS recommendations into a strategic plan, which requires the TI NC to convene an internal workshop to conduct a thorough process of political will analysis and strategic action planning to develop a concrete advocacy action plan that engages multiple stakeholders (Transparency International, 2012b).

#### *NIS assessments conducted in Egypt*

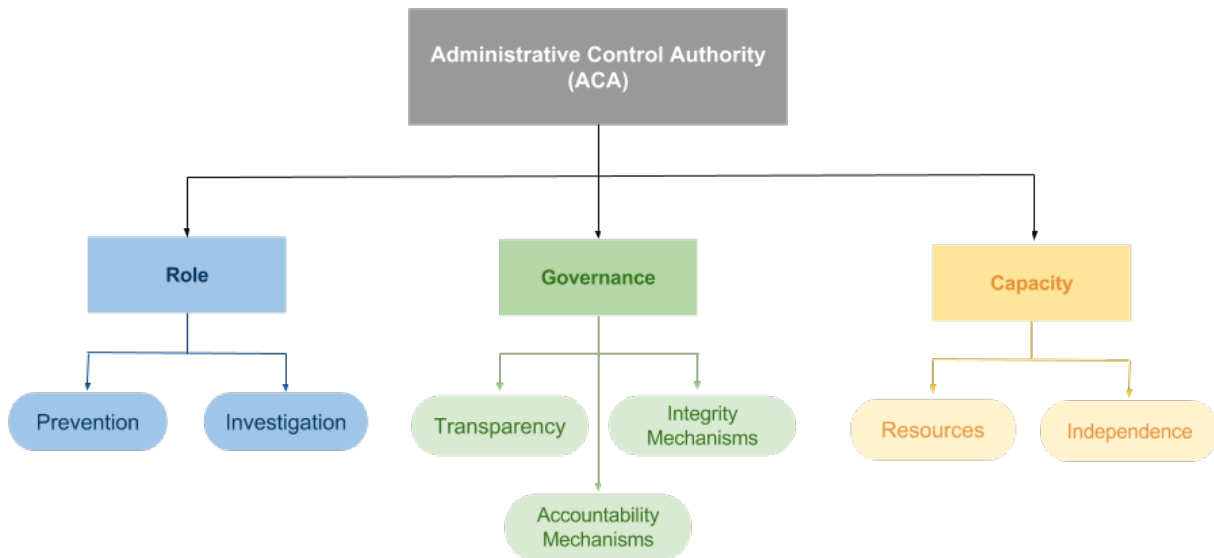
To date, two NIS assessments were conducted in Egypt, first NIS assessment was conducted in 2009, during the final years of Mubarak's reign; the second NIS assessment was conducted in 2014, after President Morsi was removed from office and before President El-Sisi took office. Both NIS studies examined the NCCCC within the *Anti-Corruption Agency* pillar, as it was regarded as the coordinating committee of anti-corruption reforms in Egypt. The 2009 NIS study brought a diverse research team together, comprised of university professors and graduate students in the fields of Public Administration, Economics and Political Science in Cairo University. The report underwent a process of peer review and an external review, coordinated by the TI Secretariat, due to the absence of a TI NC in Egypt (Transparency International, 2009). The 2009 NIS assessment, does not assign a score for each pillar or for the entire NIS, but main findings of the study point to major loopholes within the national governance system, including a far reaching phenomenon of conflict of interest, political interference in different pillars of the NIS, mainly in the *Legislature* pillar, *Anti-Corruption Agency* pillar, *Civil Society* pillar and *Media* pillar. Additionally, the lack of a functional whistle-blowing mechanisms, weak rule of law and lack of access to information law were noted as the main areas of concerns, which was also reflected within the recommendations (Transparency International, 2009).

The most recent NIS study was conducted in 2014, commissioned by a research firm that specializes in sustainable management and governance, working in parallel with an international TI project team. The stakeholder consultations brought in views from a wide array of sectors including; government bodies, universities, businesses, civil society, and political parties. A detailed list of stakeholders is attached to the report as an annex. The 2014 NIS assessment included an individual score for each pillar, in addition to a total score for the entire NIS, which reflects the efficacy of each pillar and the system as a whole, the higher the score the healthier the governance system within the country is (Transparency International, 2014). The findings and recommendations of the 2014 NIS assessment echoed the findings of the previous assessment, including lack of access of information, integrity and accountability mechanisms. In addition to an overarching area of concern for the weak integrity mechanisms and efficacy of the overall governance system. More, the dominance of the *Executive* pillar over other pillars of the NIS is strongly noted as “not necessarily a positive sign”, as it stands to prevent other pillars from efficiently fulfilling their role within the system (Transparency International, 2014, p. 5). The strongest pillars in relation to adherence to the NIS and other pillars are; *Supreme Audit Institution* pillar, which examined the Central Auditing Organisation (CAO) and *Executive* pillar, followed by the *Judiciary* pillar. The weakest pillars were identified as the *Law Enforcement Agencies* pillar, the *Anti-Corruption Agency* pillar, and *Civil Society* pillar. It is worth noting that the Legislature pillar was unscored, due to its absence during the time the assessment was conducted (Transparency International, 2014).

### **4.3 Applying the NIS on the Administrative Control Authority**

This research centers on Egypt’s main anti-corruption agency, the ACA, while adopting the “Anti-Corruption Agency” pillar of the NIS for analysis, marked with a red ring in Figure 2. Furthermore, this research regards corruption as a collective action problem, and analyzes the extent to which Egypt’s main anti-corruption body, the ACA, is enabled to fulfill its mandate, in order to break away from the downwards spiral of corruption, on an institutional and national level. The ACA has a dual mandate in fighting corruption, encompassing prevention and fighting corruption. The ACA is analyzed through three dimensions; the role of the ACA in the fight against corruption by

examining to what extent it is enabled to fulfill its role of preventing and fighting corruption; the governance mechanisms that ensure the integrity of the ACA analyzed through examining the transparency, accountability and integrity mechanism in place; and capacity of the ACA to fulfill its role by examining the resources and the independence of the ACA. Collectively, these three dimensions constitute the institutional reforms needed to better enable the ACA to carry out its duties and to yield positive results on the overall governance system. The presence (or lack of) political will is discussed within the relevant sections, as imposed by the data.



*Figure 3: NIS analysis framework adapted to Administrative Control Authority*

The three main dimensions of the NIS are maintained throughout the research, with the exception of the third dimension of the NIS - role of the anti-corruption agency in the fight against corruption – has been adapted. The dimension pertaining to *role* is originally comprised of three elements; prevention, education and investigation. To reflect the mandate of the ACA, two elements of the three are merged together – prevention and education, reflecting the dual mandate of the ACA. Moreover, the order of the three dimensions has been adapted to follow the logical sequence of the research, starting with role, followed by governance mechanism the capacity. Starting by establishing the role of the ACA then discussing other dimensions seems to be more suited to address the research question, rather than concluding with the role dimension – as in the original

NIS model. Figure 3, presents an adapted illustration of the three dimensions used and the topics discussed within each dimension, based on the TI NIS Toolkit (Transparency International, 2012b).

## Chapter 5: Research Methods

The nature of the research question requires a thorough understanding of the institutional and operational context that the ACA operates in by understanding its structural and executional challenges, governance mechanisms, internal capacities and independence. The research highlights areas where policy and practice are clashing and sheds light on informal and unstructured linkages between events, this makes qualitative methods a suitable method for the nature of this research (Marshall & Rossman, 2011). The research delves into the complexities of institutional policies and operations by analyzing the views of corruption control experts in different organizations, the sample was comprised of; public officials including members of the ACA, and corruption control experts working with international organizations including UNODC. Sampling mainly adopted a purposive sampling technique to select participants from UNODC and corruption control experts.

Data collection was conducted through semi-structured in-depth interviews. A total of eleven semi-structured interviews were conducted, five semi-structured interviews with local experts including members of the ACA, in addition to semi-structured interviews with international experts including UNODC and independent corruption control experts, who requested that the researcher maintains their anonymity and ensure their identities are not easily identifiable by their role, function, title or organization. Due to the sensitive nature of this research, participants gave verbal consent before the interview.

During the interviews, which lasted around two hours each, the participant's views were revealed by following a semi-structured interview guide designed to cover key points of discussion, in an open-ended format to allow the participant to fully describe their views. Through an inductive analysis, collected data was coded using the three key dimensions identified under the '*Anti-Corruption Agencies*' pillar of the NIS, namely; role of the ACA, governance mechanisms of ACA, and the capacity of the ACA to fulfill its role. Sub-themes were identified within each dimension as indicated by the data, which required the researcher to expand beyond the NIS dimensions.

A set of validation procedures were conducted at different stages of the research process to ensure the validity – trustworthiness – of the data. In the research design stage, triangulation is put in



center stage especially in participant selection and methods. During data collection and analysis stage, the researcher engaged in continued reflexivity to expose research flaws and eliminate inaccuracies (Creswell & Miller, 2000; Marshall & Rossman, 2011).

### *Limitations*

Corruption, a crime that favors being concealed and a highly sensitive issue in Egypt, creates an environment of secrecy, even within anti-corruption circles. Limited availability of academic literature on corruption control efforts in Egypt, in addition to the culture of secrecy that often surround corruption has resulted in limited access to official information, leaving the researcher to rely mainly on international reports for validation. Moreover, due to the sensitive nature of the topic, potential informants were highly reluctant to participate in the research, citing concerns related to their careers, political activities and other issues. Regarding the sample design, the researcher did not have the liberty of selecting who to interview at the ACA, but was presented with a group of five ACA officials of different ranks to participate in the research, all five were part of the sample.

## **Chapter 6: The extent to which the ACA is enabled to fulfill its mandate**

This chapter presents the findings of the research and discusses to what extent is the ACA, the main anti-corruption executive body in Egypt, is enabled to fulfill its mandate. This is done by analyzing three key dimensions; its role which is comprised of two components preventing and fighting corruption; its governance system with regards to transparency, accountability and integrity mechanisms; and its capacity to effectively carry out their duties which relates to resources available and independence provided to ACA.

### **6.1 Role of ACA in fighting corruption**

As the only body that is mandated with preventing and fighting corruption, the ACA categorizes its operations into prevention measures and investigation measures. Operations cover all corners of the public sector, in addition to all organizations providing public goods or services and which receive monetary and non-monetary contribution from the state. The section below presents the research findings on how the ACA understands its role and explores how the two-fold role is regarded and prioritized.

#### *6.1.1 Prevention*

Similar to any other malady, corruption can be prevented. By putting in the proper safeguarding mechanisms in place, there is less opportunity for corruption to take root. International conventions, such as UNCAC, stress the importance of corruption prevention in parallel to corruption investigation, as a two-pronged approach to combat corruption. Often regarded as the more precautionary form of controlling an infection, preventative controls are placed in different junctures, especially the ones most vulnerable to corruption. Corruption prevention has always been part of the ACA's demanding mandate, yet it has been implemented at varying degrees. On examining the work of the ACA closely, a shift can be identified, until recently the ACA mainly

engaged in investigative activities identifying cases of corruption and bringing suspects to justice, however, in recent years a shift has been taking place.

*“Up until 2 years ago, investigating cases of corruption was our primary focus, but now the focus is on corruption prevention too. The objective is to activate a comprehensive strategy to combat corruption.”*

*ACA high level official*

That shift indicates to a new found awareness and understanding of what it takes to fight corruption, devoting resources entirely to investigating corruption is not an adequate solution on its own. As important as it is to enforce the rule of law, on its own it is not the most effective measure when fighting corruption. Adopting a strategy that invests in limiting the chances of the onset of corruption, while arresting the ones that commit corrupt acts has higher chances to result in a far reaching impact, instead on working on one dimension only.

This broadened role is acknowledged by other stakeholders as well, which indicates that the shift is not only abstract, but has caused a ripple effect across its operations, partners and stakeholders engagement, and overall role in the fight against corruption. Attributed to external factors, such as the UNCAC which is believed to have significant sway over how the ACA understands its role and how it goes about to carry it out. Signaling to a shift in how the ACA understands its role and carries it out since the Convention.

*“UNCAC influenced how the ACA understands its role in the fight against corruption, a new direction can be seen within the ACA, starting around 2015.”*

*International expert*

As a signatory to the UNCAC, Egypt submits to the UNCAC review mechanism which is a series of peer-reviews conducted by other countries. Each review focuses on different chapters of the convention, evaluating the progress of the state party and provides recommendations. The full reports are not publicly available, only the executive summary is released. The upcoming UNCAC review will cover chapter II and chapter V of the convention, which pertain to corruption

preventative measures and asset recovery, respectively. Prompted by the UNCAC, the ACA has noticeably taken an active role in expanding its role and take on preventative measures, in line with the UNCAC and other international commitments.

### *Legislative reforms*

Similar to any other crime, corruption is regulated by the laws and provisions that aim to limit the chances of its occurrence and to punish the ones who engage in corrupt behavior. In light of that, the National Anti-Corruption Strategy 2014-2108 dedicated an entire section (section 3) to updating existing legislations to support anti-corruption efforts in accordance with Egypt's 2014 Constitution:

*“Update and develop anti-corruption legislations to ensure sufficiency and consistency with 2014 Constitution and international conventions and agreements.”*

*Excerpt from document: National Anti-Corruption Strategy 2014-2018 - p.38*

In accordance with that, a set of provisions have been discussed in different policy circles, including; protection of witnesses and whistleblowers, and conflict of interest law. Protection of witnesses and whistleblowers is regarded as one of the main essentials provisions in preventing corruption. As it provides holders of valuable information on corruption the protection to come forward to report the crimes to the authorities without risking their own safety in the process. By decreasing discretion around corruption, the risk of getting caught increases, thus decreasing the chances in engaging in corrupt behavior. The higher the chances there is that one would get caught, the less likely they are to engage in that behavior in the first place.

*“The draft law is ready but it is unclear when the law will be passed, and if passed implementation mechanisms will be challenging.”*

*ACA official*

Regarded as a sensitive law, the protection of witnesses and whistleblowers law has been through several rounds of discussion, yet to no consensus has been built around it yet. Implementing such

a law requires the dedication of the adequate financial resources to cover the protection measures taken by the authorities to conceal the identities of witness and whistleblowers, provide them with new identities and in some cases physically relocate informants. Without securing the required funding, the law is fruitless. In effort to find out the status of the law and when can it be expected to be passed, the below was indicated:

*“Funding has not been secured yet, and there is no clear mechanism in place that allows the status of the law draft to be tracked.”*

*International expert*

Since there is no official position, or acknowledgement, regarding the reasons behind the delay in passing the protection of witnesses and whistleblowers law, it is believed that the law is left to lie underneath layers of bureaucratic policy making. Some believe this is a technique to refrain the law from being passed anytime in the near future, unless the secondary standing that legislation efforts are currently regarded as is changed. Then the will to secure funding and dig out the law from the depths of the policy making pile will be achieved.

Another law that has received a lot of attention in recent years, is the conflict of interest law. Listed among the most pressing recommendations in the 2009 NIS study. In 2013, during the term of the interim Adly Mansour, law number 105 was passed, regulating areas of conflict of interest faced by public officials. The law puts in post-employment restrictions on public officials for six months after leaving posits for several posts: ministers, deputy ministers, local government heads, heads of public companies and heads of supervisory bodies (Transparency International, 2014). Additionally, the law sets a value of acceptable gift value EGP 300 and requires the disclosure of gifts within organization’s prohibits and limits profiteering opportunities for relatives up till the fourth grade of public officials (AlMasry AlYoum, 2013). Executing this law requires the establishment of a new committee which oversees the implementation of the law and reviews the financial declarations submitted by public officials (Transparency International, 2014). The APA regards this law as an initial step that paves the way for further corruption-preventative legislation, as indicated below:

*“The conflict of interest law defined what the state considers to be a conflict of interest, even though all parts of the law aren’t complete yet, this is a very good step towards gradually closing loopholes within the public sector.”*

*ACA official*

Step one of criminalizing any action, is defining what the action in question is. By establishing a common understanding of what constitutes a conflict of interest, measures can be put in place to eliminate it or reduce its impact. Egypt is home to an extensive public sector, where people often wear different hats throughout their professional careers, in most cases at the same time, it becomes very important to define the boundaries between personal interests and professional interests. When one exceeds over the other and how to avoid these situations, this is one through implementing provisions that declare that protect public interests from being abused or being put in conflict with personal interests, these provisions aim to eliminate these situations by restricting the behavior of public officials either by investing their time, money or other resources in areas that could receive an advantage from the official’s public role.

In order to instill strong anti-corruption safeguards on a wide sectorial level, the ACA developed code of ethics for officials within the public sector, in accordance with the new civil service law. Different versions were developed the different nature of public work in different sectors, such as; Ministry of Justice and diplomatic officials. Trainings and workshops were held to launch the codes of ethics and to educate public officers of the expected mode of behavior and overall institutional climate targeted. Furthermore, ACA reached across the boundaries of public service and developed code of ethics for different sectors including; media, universities (for faculty and students), and a guide on how to develop a code of ethics for the public sector. This is intended to be used by different private sector entities to be tailored according to the needs and nature of their sector. By not being limited by the boundaries of what falls within the public sphere and what falls beyond, the ACA is taking a wider role in preventing and combating corruption regardless of where corruption takes place.

### *Automation of public services*

The ACA's main strategy to prevent corruption is the automation of public services, by limiting the points of contact between the public and the officials and consequently limit the opportunities where corrupt behavior can take place. By creating a distance between the service requester and the service provider, there are less chances for offering a bribe or to misuse public office. This is a very common strategy for public service provision, and often effective when public services are overwhelmed and could benefit from the automation advantages that generally increase efficiency and effectiveness of public service provision.

*“Our main prevention strategy is separating the service provider from service requester, by adopting e-governance tools.”*

*ACA high level official*

IT systems are gradually put in place to automate standard business procedures and limit areas of human intervention to the minimum, hence, greatly decreasing the chances of malicious activity. Areas most prone to corruption, get priority, such as procurement within the public sector, which is often regarded as an area of high corruption. The continued use of outdated systems and policies enables and in some cases facilitates corrupt behavior. The objective is to replace legacy paper based systems with objective IT systems that can made impartial decisions. Through this portal all government bodies are able to advertise tenders, request quotations, register suppliers and evaluate and validate offers. Saving government bodies time and resources consumed in running and managing tenders. The utilization of e-governance tools as a tool to prevent corruption has become an international trend, acknowledged by ACA as it is, several ministries are currently rolling out projects to automate service delivery, including Ministry of Investment and Ministry of Interior.

### *Media campaigns*

Embedded within the ACA's mandate, is promoting a better understanding of corruption, its impacts and how to fight it, not only within the sphere of state institutions only, but broadly within the public. In accordance with the above, the ACA engages in a set of activities that support in

positioning corruption as an issue in the center of public debate, through; media campaigns, youth awareness sessions, and capacity building of public staff.

Public media campaigns included TV advertisements and billboards, broadcasting out the campaign to a wide audience all over the country. To date, ACA conducted two media campaigns, supported by UNODC financially and technically (UNODC, 2017b). First campaign ran in 2016 under a strong motto which literally translates to “Egypt is stronger than corruption” but actually mean *Egypt can beat corruption*. The campaign focused mainly on showing different forms of corruption within the public sector through four different versions of the TV ad; each version showcasing a common form of corruption such as; nepotism in appointments in the public sector, red tape within public institutions, corruption within customs agencies, and reluctance of public administrators to take decisions within public institutions (Administrative Control Authority, 2016). All versions ended with the same conclusion, that corruption has an adverse effect on everyone, regardless of the intentions behind of the act of corruption (AlYoum7, 2016).

When corruption is pulled outside the secrecy shield and put under the spot light, the narrative takes a completely different turn. Layers of discretion that propagate its continuation dissolve gradually resulting in a more objective and solution oriented approach to identify and fight corruption. Generally, public officials tend to deny the prevalence of corruption in the public sector, by either downplaying its occurrence or refute any claims that state other side. The impact on this strategy is often ignored as it erodes the social trust between the state the the people and the economy. However, by taking the lead in transferring corruption to the domain of public discussion, the ACA is seen to be taking an active role in educating the public on the prevalence of corruption, by first admitting its existence and subsequently, taking up its role in raising public awareness on the corruption epidemic that has long gone unaddressed.

The second campaign ran in 2017 under a more personal motto “You are a reflection of your own self”. The campaign comes in four different versions; a corrupt public administrator in a government agency, a corrupt nurse, a corrupt teacher, and a corrupt public official responsible for allocation and distribution of government food subsidies. It is important to mention that all of the four cases presented are among the most common forms of corruption. All versions conclude with



the same shot – a reflection of the corrupt person in a mirror after they do a corrupt act, expressing shame or disapproval.

Each ad brings forward the same question: *“What would you call that?”*

All ads close with the same punchline: *“To begin we must look at ourselves in the mirror”* (Administrative Control Authority, 2017b)

It is unclear what *that* refers to exactly, if it refers to the person or the behavior done by the person. As persuasive campaign it adopts ethos as a mode of persuasion, by making an appeal to morality the campaign is invoking the moral compass within viewers. The closing leading question triggers the viewers’ moral compass in identifying corruption is an immoral act and as a viewer being put in a position to judge that act.

This campaign takes a different approach in presenting corruption by adopting an ethical lens to corruption. As a more widespread behavior across different sectors, levels of authority, ages and genders – a universal case of moral decay. This approach shifts the role of the fighting corruption from the systemic level to the individual level, and consequently prescribes different corrective action.

*“Phase two of the campaign included a public call for action which directed to the ACA complaints hotline - corruption is everyone’s problem.”*

*International expert*

Each ad closes with two hotlines; one for ACA complaints and the other for Cabinet. An individual call for action reaffirms that fighting corruption is not only the state’s responsibility and shows how the ACA is owning up its role in raising awareness on corruption and measures of fighting it. By engaging with people on an individual level there is an opportunity to unlock the recurrent loop that exists within corruption as a collective-action problem. If people believe that others will behave in an ethical manner, the benefit of behaving ethically is increased, thus breaking the cycle of corruption.

On the other side, journalists regarded this campaign as a positive step in the right direction. The government had no official position on corruption, in most cases officials tend to minimize the occurrence of corruption as one-off cases and not representative of the entire majority of the public sector. Thus, very few journalists dared to investigate or write on any corruption related issue, even if they had the supporting evidence to back their claims. The media campaigns changed that entirely, as the ads are seen as an acknowledgment of the phenomenon of corruption, which is unprecedented on such scale.

*“Corruption was a taboo, journalists or editors refrain from writing and publishing on corruption in fear for their careers and in some cases lives. This campaign puts corruption under the spotlight. This gives us space to talk about corruption too, as now it is a matter of national concern.”*

*Local expert*

In addition to creating the space for investigative media to venture into the corruption domain to expose corruption and inform policy makers and the public, these campaigns have changed how corruption is regarded by the public. No longer seen as a restricted issue, but as a topic of national debate different stakeholders can come together to identify and prevent corruption. A remarkable shift in the fight against corruption which indicates to a through understanding of the state’s role and the public’s role in fighting and preventing corruption, signaling to political will to prevent corruption through different approaches through increasing public awareness, in addition to applying preventative institutional measures.

### *Capacity building*

In line with section 2 of the National Anti-Corruption Strategy 2014-2018, the ACA developed trainings curriculums that promote values of transparency and integrity for public officials within the state administrative body. Trainings aim to build a unified understanding of what corruption is, its adverse impact on the government institution, and how to fight it and report it. Moreover, trainings implicitly imply that corruption is a collective issue that necessitates that different stakeholders come together and fight corruption within their own sphere of influence. Curriculums

are adapted based on the profile and the nature of work of the trainees, to ensure its relevance and applicability within their daily operations.

Under the paramount effort of building the capacity of public officials by promoting values of transparency and integrity, more than 25 government bodies have received trainings to date including; ministries, governorates and university staff, General Intelligence Agency, and APA itself. The trainings are seen as a prerequisite to any anti-corruption reforms within the state administrative body. Trainings cover the code of conduct for each institution, common areas of concern that are relevant to the participants' area of work, ex: conflict of interest, procurement regulations, official hiring channels; and how to report cases of alleged corruption.

*“We have to get everybody on the same page, so we have to cover all corners of government.”*

*ACA official*

One of the main hurdles in the fight against widespread corruption is that the fight is not only about curbing some deviant behavior, but about altering an entire culture. Shifting from a culture that accepts and normalizes corrupt behavior, to a culture that demands and enables integrity and abhors corruption. While, armed with education and trainings only no state will ever prevail in the fight against corruption, but trainings build a unified understanding of what corruption is within state institutions and draw up a shared idea of a culture based on fairness and equity would look like. Education becomes a tool to nurture that cultural shift, as empowered public officials take it up on themselves to uphold values of fairness become role models for their colleagues and exemplary civil servants acknowledged by their superiors. Consequently, advancing a culture of virtue and contributes to a conducive environment where systemic institutional reforms can firmly take hold.

Another dimension of the capacity building effort shouldered by the ACA, is to build technical capacities of other key players in the anti-corruption field, this includes other control bodies and the judiciary. To support the promote delivery of justice, ACA provides Ministry of Justice technical trainings in financial fraud and other investigative tools to effort to increase the capacity of partner organizations against corruption, to identify and investigate bigger cases that demand higher technical knowledge and expertise.

### 6.1.2 Investigation

As the only body mandated with investigating corruption across different corner of the public sector, the ACA has always taken pride in arresting high profile public officials charged with acts of corruption, regardless of the type of corruption crime committed. Law 54/1964 empowers the ACA to go after a wide range of corrupt activities, such as; public funds crimes, misuse of public office, illicit gains, and counterfeit of official documents. In order to do properly expose these crimes, the same law provides the ACA with legal jurisdiction to examine documents and records from different agencies, regardless of the classification of its confidentiality; make copies of these documents; and conduct investigations by searching for and arresting suspects for interrogation (through the power of judicial arrest that the ACA enjoys). These jurisdictions also apply for public top level officials before appointment to public office and in response from the top level officials.

In some cases, laws do not guarantee rights on their own, this is not one of these cases. The ACA establishing law is fully implemented, giving the ACA supremacy over the public sector, with the exception of very few higher-ranking bodies that fall beyond its area of control, such as; army and Ministry of Interior. With the exception of these, the generally ACA enjoys dominance over the public sector.

*“Investigating cases of corruption is the main priority of the ACA and they are good it. Maybe because the ACA has this unspoken of power over other agencies, they are feared and respected by other public officials.”*

*International expert*

In a setting where the ACA has unrestricted access to information, and information is regarded as *power*, then the ACA is endowed with unparalleled power. This power serves the ACA well when conducting investigations, as opposing the ACA would not be considered to be rational behavior by any agency or individual, thus they are feared by public officials who adopt a high sense of caution when dealing with ACA staff. This gives leverage to the ACA when conducting investigations and generally when engaging with other agencies, which gives it power to identify high profile cases, of arresting heads of sectors, deputy directors, and ministers.

## **6.2 Governance Mechanisms within ACA**

Internal governance mechanisms are policies and procedures that ensure that the organization in question is able to carry out its mandate in a manner that ensures transparency in decision making, accountability to actions and omissions towards other institutions and to the public, and integrity mechanisms that act as a safety valve against illegal action. The section below is dedicated to examining key policies and procedures currently in place to ensure transparency, accountability and integrity of the ACA.

### *6.2.1 Transparency*

The ACA is not mandated with any provisions for public disclosure of information. However, the ACA regularly releases press releases and liaises with selected media outlets to broadcast news of latest arrests, and breakthroughs in the ACA's crackdown on corruption. Other than that, there is no information sharing mechanism that enables ACA to publicly disclose its plans, activities or achievements.

A case that exemplifies that is the public disclosure of the National Corruption Perceptions Index (NCPI), an annual national indicator developed by ACA in 2016 to measure perceptions of corruption within governorates, ministries and public service providers. Conducted through a surveying a large sample of different stakeholders; families of different socio-economic backgrounds, university faculty and students, and a group of technical experts (15 per group) covering a wide array of sectors. The NCPI is first presented to the President of Egypt then to the Parliament, ministers and governors. When asked if the NCPI is released to the public, an ACA informant expressed that:

*“The [NCPI] isn't released publicly, this is an internal matter for decision makers.”*

Then the informant reluctantly added:

*“We survey around 5,000 families each year, we do not want to influence future samples by publicly releasing the NCPI, also this is not relevant to the public.”*

This strongly suggests the prevalence of a culture of information hoarding, not only that the necessary mechanisms are not put in place, but also the intention of information sharing is not there. Further indicated by the President of ACA during the National Youth Forum held in Alexandria in July 2017, when presenting a project plan for an inter-government information sharing project. The planned exchange of information takes place between different state agencies, with no mention of an information sharing mechanism with the public.

*“Information is power, information helps the state understand the nature and fabric of its society.”*

*President of ACA*

This completely omits the public as a stakeholder in the fight against corruption, by withholding information the public is unable to monitor or track the performance of a state agency. Additionally, this indicates that the ACA has taken on the role of the primary anti-corruption body on behalf of the public, based on the unfounded assumption of the lack of public interest.

In a culture where information is fiercely sought but not shared, the question of accountability strongly presents itself. With very limited information on the activities and work of ACA the question of accountability to the public and to other state agencies becomes an impossible endeavor. This is further validated by the 2014 NIS study and the 2009 NIS study, both conducted by Transparency International, where the lack of a functional access to information law undermines the effectiveness of the entire anti-corruption framework.

*“The government and legislature, when constituted, should urgently pass and effectively implement an access to information law that complies with international standards.”*

*Excerpt from document: 2014 NIS – p. 11*

The sensitive nature of issues and information handled by the ACA imposes a culture of secrecy, yet that does not eliminate for a functional access to information law, as required by the UNCAC. As a signatory Egypt still did not pass a law.

*“UNCAC clearly states the importance of an access to information law, the status of the law will be indicated in the upcoming UNCAC review for Egypt, but we can see that legislations come second priority next to investigation efforts.”*

*International expert*

The access to information law was discussed in different policy circles, currently a draft, will most likely take its time within the process. While legislative reforms are part of the UNCAC and the National Anti-Corruption Strategy 2014 -2018, it is evident that legislative reforms do not receive the same importance as other more applied reforms. However, without putting in the needed legislations in place, the fight against corruption will continue to yield in limited results. Furthermore, the access to information law requires a mind shift in how information is regarded and how state officials understand their duty in the fight against corruption. By regarding information as an asset that advances the fight against corruption, by government and the public, the entire shape and form of the battle changes, simultaneously improving the creditability and dedication of the government to make real reforms.

### *6.2.2 Accountability Mechanisms*

Accountability and independence go hand in hand, as illustrated in the section above, independence is crucial for the ACA to adequately fulfill its role. However, independence should not amount to a lack of accountability. Accountability and independence strengthen each other as each imposes a set of stipulations that pull the anti-corruption body in question in a more neutral and effective position to effectively fulfill its mandate. Functional accountability mechanisms contribute to higher public trust in the anti-corruption body in addition to improving its credibility and legitimacy. Accountability is often understood through measures such as; submission of reports to

higher executive and legislative bodies, public oversight (citizen, media or civil society), and external oversight committees (Nwokorie & Viinamäki, 2017).

Regarded as the most powerful anti-corruption body within Egypt's anti-corruption institutional framework, effective accountability measures are needed to ensure that the ACA is not abusing its extraordinary powers. The CAO is mandated with providing financial oversight the ACA, which gives it access to the books and financials of the ACA, yet this financial oversight does not include technical inspection of operations and omissions (Transparency International, 2009). The lack of institutional accountability mechanisms is noted in different sources of literature, and is highlighted in several interviews, indicating very loose structures.

*“Other than the Prime Minister, the ACA is not held technically accountable to any other public body or organization.”*

*International expert*

The ACA submits regular reports to the Prime Minister, yet there is no institutional oversight of the ACA (Transparency International, 2014). Reports to the Prime Minister are not made public, and requests to do so are futile considering the lack of an effective access to information law. Thus, the ACA is under no requirement to publicly share information about its operations, resource utilization or achievements. There is a strong need for inter-institutional mechanisms that hold the ACA accountable for its activities and omissions through integration in the national system of *checks and balances*. This form of accountability is often done through a higher body or committee that is mandated with oversight of the antic-corruption body in question (OECD, 2008). When inquiring different stakeholders on accountability measures in place, internal control mechanisms are cited repeatedly, with no mention to other bodies, which greatly undermines the entire governance system.



### 6.2.3 Integrity Mechanisms

Internal monitoring systems – a fundamental piece of the state integrity mechanism, is comprised of internal departments dedicated to monitoring the integrity of operations of state agencies. Internal monitors are empowered to identify and report on cases of breach to top official and provide solutions on how to strengthen existing integrity systems. Egypt is home to an extensive body of state agencies, internal monitors act as the first line of defense against any form of corruption. In an ideal situation, internal monitors are empowered to pursue their role and liaise with the anti-corruption body to investigate and implement measures that can help prevent corruption. However, the situation is far from ideal, as internal monitors are cited among the main challenges faced by ACA to effectively implement its mandate.

*“One of the main challenges we face is the activation of the role of internal monitoring systems within ACA and other anti-corruption bodies.”*

*ACA official*

Not that internal monitors are not in place, it is that they aren't fully functional, they end up being assigned different tasks that essentially void their role, which is attributed to capacity constraints. Such as limited technical capacity, restricted funds, and lack of clarity on mandate. Additionally, in a culture where information is regarded as “*power*”, factual evidence that points to shortcomings or areas of weaknesses within the public sector is not actively sought after, for the fear of being reprimanded by higher officials, or by others affected by the newly uncovered evidence. This is also exacerbated by the lack of a witness protection and whistleblower law, which results in lax internal monitors and high reluctance by others to bring up areas of suspected corruption. Applying this pattern on a large scale, results in a culture where areas of weakness get cosmetic reforms and the ACA carries the entire burden of uncovering areas of corruption, both internally and across multiples public sector institutions and agencies.

### **6.3 Capacity of ACA to fulfill its role**

Understanding the capacity of a ACA gives a better indication on its overall ability to implement its role. After establishing the role of the ACA above, this section examines the capacity of the ACA to fulfill that role. Capacity is understood as the internal resources to implement its activities, covering financial resources, in the form of funding from the national budget or support from international organizations; technical capacity to work on a specialized type of crime like corruption; and human resources to carry out activities as planned. Another dimension of capacity to implement the assigned role is the space to do so, this dimension examines the independence that the ACA is provided within within an institutional sphere, mapping the the ACA's position among political forces within the country.

#### *6.3.1 Resources*

##### *Access to funding*

Generally, access to needed resources is a prerequisite for satisfactory performance. As a national agency, the ACA submits a proposed budget to Ministry of Finance – the designated body to compile budgets of national agencies – consolidated budgets are approved by Parliament through the regular budget approval procedures. There is no evidence to indicate if the budget assigned to the ACA is sufficient or not, as the ACA budget is classified as confidential.

UNODC is one of the key international agencies working closely with the ACA to enhance its resource utilization and capacity building. Over the last three years, the ACA received a grant of more than USD 2 million through a program that aims to support ACA in implementing the UNCAC provisions by working on three main components; provide ACA with technical support to apply the UNCAC measures; build capacities of ACA staff; and raise public awareness on corruptions and its far reaching impact.

*“Although the ACA budget is confidential so we don’t know the breakdown, but we can tell by closely examining their expenditure, most of the ACA budget is directed towards core investigation activities, with very little, if any, for other activities.”*

*International expert*

This indicates that the ACA has access to just enough resources to maintain its operations within its core area of operation. When resources are restricted, strategic decisions are taken to ensure maximization of the available resources, but often comes at the expense of foregoing of other activities that come in as secondary, yet critical to win the fight against corruption. This impression is shared by ACA officials, who cited the lack of adequate funding of the ACA is the main impediment towards a fully functional anti-corruption agency.

*“There is so much to be done, we have achieved a lot, but we don’t have the financial resources to fulfill all our plans.”*

*ACA official*

Singled out by internal and external sources, there is compelling evidence to consider that the ACA lacks sufficient funding to adequately fulfill its mandate. In a development country with a very constrained national budget, financial resources are expected to be somewhat scarce. Thus, increasing the need for effective participatory budgeting mechanisms that take into account the mandates, plans and capacity of the ACA, to ensure that it is in a good position to effectively carry out its duties. With a continued trend of underfunding the ACA, its ability to deliver on its mandate is fundamentally compromised. Furthermore, these restrictions bring into question ACA’s ability to prioritize activities and strategically allocate its limited resources in an independent, transparent manner.

### *Technical capacity*

Resources are not only financial means but also technical capacity, which is often understood as the technical systems in place and the staff within the organization. To combat an illusive crime such as corruption, state of the art technical systems are required, in addition to highly qualified

staff who can detect areas of corruption within a climate of high secrecy. Technical systems describe information systems that assist in tracking funds, connecting different stakeholders together by building a sweeping network of information that is valid and accessible. Over the last decade, efforts to digitize and revamp governance systems have been initiated, but progress to date is only evident in select corners of governments. The lack of Information Technology (IT) infrastructure that enables integrating information from different agencies to support decision making are repeatedly mentioned as a limiting factor. This is stated by the President of ACA, during the National Youth Forum held in Alexandria in July 2017:

*“Egypt has long been suffering from an acute deficiency in information, this has resulted in; ineffective targeting of social support, delayed social justice and the road towards a good honorable life is still long.”*

*President of ACA, National Youth Forum - Alexandria July 2017*

Also noted by ACA officials, who handle the challenges resulting from the lack of credible meaningful information. References are made to long delays in collecting information using traditional sources such as; formal paper-based requests that physically circulate within state bodies, taking days or in some cases months to be delivered to the requesting body. Delayed access in information results in delayed decision making, which consequently undermines the validity of the decisions being made.

*“We don’t have accurate comprehensive information that enables us to make quick informed decisions.”*

*ACA high level official*

Delayed or ill-informed decisions do not only impact decision making on a policy level, but also impacts the validity and the pace through which case investigations are conducted. Investigating cases of corruption for money laundry, tax evasion, or bribes often relies on connecting information from different government agencies together, without an effective information sharing mechanism the integrity and the legitimacy of the conclusions could be disputed. The continued use of outdated paper-based systems, in addition to the prevalence of a reluctant culture of information sharing,

and low IT utilization generally within the government are among the main reasons behind this shortcoming.

By acknowledging this as an area of improvement, the ACA is currently implementing a national project to replace the prevalent culture of information hoarding with a new culture of information sharing, by replacing legacy paper-based systems with information systems that aid decision making through a comprehensive database for all citizens, that acts as a social registry, that can track income, expenditure, social status, health status. Such comprehensive database, stands to improve public service provision, economic activity by automating a lot of administrative procedures, and enhancing public administration efforts. This project was announced during the National Youth Conference in Alexandria in July 2017, by Deputy President of ACA with the presence of the President of Egypt (Administrative Control Authority, 2017a).

#### *Human resources*

As a public sector organization, the ACA is staffed by public officials from different points of the public sector, who are moved by top level officials to the ACA after demonstrating their competence and allegiance. The ACA invests in capacity building of its staff and is supported by international organizations such as UNDP and UNODC in this effort, by providing specialized technical trainings to fight corruption. Through its partnership with UNODC, the ACA received multiple trainings in detecting cyber crimes, working with digital evidence, and protection of public funds. Commonly, staff employed at the ACA is regarded highly by most stakeholders (when compared to staff capacity in other public agencies).

*“Top level management at the ACA strongly believes in staff capacity building, and allocates significant resources to training and development, to maintain a high level of professionalism and integrity in operations.”*

*International expert*

Unlike other public agencies, conducts rigorous selection procedures for new staff (comprised of entrance exams, good reputation, and high level interviews) which results in a well-educated and

capable staff membership. Moreover, the ACA is not overstaffed and without the burden of unnecessary staff, internal resources such as training budgets are better utilized to build the technical capacity of each staff member, limiting an overcrowding effect on already restricted internal resources. This does not imply that the ACA has highly capable human resources in absolute, but indicates that there is a high sense of awareness on the needs and requirements of its technical staff to adequately conduct its operations.

*“Technical staff goes through an extensive training program, within the ACA and with other national and international partners. It is crucial to increase the capacity of technical staff to effectively combat corruption, otherwise we can’t do our jobs.”*

*ACA official*

This indicates that the ACA regards its human resources with care and is aware with what it takes to combat a technical crime such as corruption. Conviction in the importance of capacity building and acknowledging the investments done by the ACA in its staff is a positive indicator to a real commitment in the fight against corruption.

### *6.3.2 Independence*

For effective anti-corruption efforts, anti-corruption agencies need sufficient room to be able to effectively carry out its duties. This space is commonly understood as the ability of an organization to self-rule by setting its own priorities, plans and activities, free from political and institutional constraints that could limit the agency’s ability to fully perform. Independence is especially crucial for anti-corruption agencies, as they are expected to be immune such pressures to maintain an impartial stance while setting priorities and achieving mission.

Mandated with uncovering and fighting corruption in the public sector, the ACA is an independent body, which provides it with the political and institutional capacity to fight corruption. In fear of being used as a political tool by whoever is in power, provisions are put in place to ensure the independence of the ACA from other state bodies, in terms of daily operations and reporting.

However, the ACA requires approval from the President of Egypt to make arrests of any public officials suspected in cases of corruption (Transparency International, 2015b). This provision has received ample criticism from experts and international organizations, as the entire legitimacy of the organization is an independent body is disputed if it reports to executive body, rather than a legislative body – Parliament. This gives rise to concerns over the effective separation between political interests and anti-corruption efforts. In recent years, there seems to be a positive conducive environment for anti-corruption reform

*“The ACA is currently enjoying a lot of independence and political backing. The current president of ACA is close to President El-Sisi, which indicates to close coordination between them.”*

*International expert*

Pointing out to close relations between the President of ACA and the President of Egypt on its own is not an alarming sign, it could indicate close relations between both parties, which is generally considered a prerequisite for effective anti-corruption reforms. However, the effect of that close coordination on the independence of the ACA is unclear. It is important to note that the President of the ACA is appointed by the President, with limited transparency on the requirements and the procedures entailed. At this point, two main conclusions can be considered, first; close relations provide the ACA with the political support to fully implement its mandate, reflecting real political will to eradicate corruption. Second; close relations give the President opportunity to influence and direct the work of the ACA, thus using it as a political tool, reflecting weak political will in effectively fighting corruption. Probing further, if, the President can control who is allowed to continue to be corrupt without punishment and who will be punished, what is there to ensure that the ACA is not used a political tool to discredit and eliminate opposition? Additionally, if the ACA has independence under one president, how can it be ensured that this independence is continued and is not dependent on the political climate.

## **Chapter 7: Conclusion and Recommendations**

### **7.1 Conclusion**

Corruption is a malady that has long existed and will continue to exist for the foreseeable future. What can governments, businesses, civil sector and the general public do is to control corruption as much as possible, in effort to limit its unintended costs and negative consequences on the political climate, the economy, and the daily operations of the state. Egypt is a country that has long been struggling with fighting corruption, with varying intensity and achievements. A home to a variety of anti-corruption bodies, each mandated with a different dimension in the fight against corruption. The ACA is regarded as the main anti-corruption body, due to its dual mandate in preventing and fighting corruption, in addition to its exceptional jurisdiction within the national public administration system and the anti-corruption institutional framework.

This research analyses the extent to which the ACA is enabled to fulfill its mandate, by examining the ACA's role in preventing and fighting corruption, the governance mechanisms in place to ensure its integrity and accountability of operations, and the capacity of the ACA to fulfill its mandate. The findings of this research signal to a set of positive indicators in the fight against corruption and highlight key significant issues that call for immediate reform.

Firstly, the role of the ACA in the battle against corruption. The ACA's mandate can be understood in two-folds; prevention measures to reduce the onset of corrupt activity, and investigative activities to bring the perpetrators to justice. There are significant signs that the ACA has formed a new understanding of its role. Prevention measures now comprise a significant portion of ACA's activities, when compared to a couple years ago. This shift is attributed to Egypt's commitment to the UNCAC – which dedicates an entire chapter to prevention measures. In light of that, some progress has been made in updating and enhancing the legal framework, yet delays in passing laws indicates that legislations are not seen as a priority, signaling to weak political will to effectively fight corruption. One of the main prevention strategies adopted by the ACA is the utilization of e-governance tools to eliminate the occurrence of corruption in provision of public services. This is done through gradual rollout of IT systems that facilitate the delivery of quality service while



eliminating (or greatly reducing) the chances of corrupt activity to take place. The new direction that the ACA is taking on implementing its role is part of a more comprehensive approach towards corruption, which signals to strong political determination to effectively fight corruption in this regard.

Investigating alleged corruption, is the second component of the ACA's dual mandate. The ACA enjoys extraordinary jurisdiction over over public sector organizations, as declared by its establishment law and the current practice. This enables the ACA to uncover corruption in any public body, by accessing files and summoning suspects to give their statements, in some cases leaning on its power of judicial arrest. The ACA is seen to be trying to balance between both dimensions of its dual mandate, while strong signs indicate that, equilibrium has not been achieved yet as delays in passing needed legislations greatly compromise the overall prevention efforts of the ACA.

The second dimension, is examining the governance mechanisms within the ACA, which included three key components; transparency, accountability and integrity mechanisms. In a culture where information is regarded as power, the ACA generally refrains from sharing information publicly, none of its progress reports or budgets are available to the public, or other "lower ranking" government bodies. This is further exacerbated with the lack of an access to information law which sets no clear information sharing mechanisms between stakeholders. However, the ACA has a long tradition of issuing press releases on its achievements on corruption investigations and arrests. Regarded as a body of high power and authority over other agencies, there are no clear accountability mechanisms that holds the ACA accountable to its activities and omissions. The ACA is not clearly integrated within a national system of checks and balances. To ensure the integrity of the ACA, in recent years, the ACA has undertaken a few efforts to develop a series of code of conducts and provided a series of extensive trainings to public officials on roles and responsibly and how to initially identify areas of potential corruption.

The ACA's capacity to effectively to carry out its duties, was the last dimension of analysis. Capacity is understood through two main aspects; resources that the ACA has access to covering funding, technical capacity and human resources. The second aspect is the independence (or lack

of) granted to the ACA which is understood as the structural and operational autonomy that allows the ACA to be able to implement its activities without restriction. There is no clear evidence to show if the funding allocated to the ACA is sufficient or not – as the ACA budgets are confidential. However, indications show that the ACA dedicates most of its funding towards core activities, and very limited resources to non-core activities, yet still crucial activities. Which indicates that available funding is probably enough to achieve main objectives, but not enough to go beyond its vital activities. In recent years, the ACA took it upon its self to enhance its technical capacity, in effort towards improved decision making (faster and more informed). The sever lack of valid useable information has placed considerable constraints on the ACA's operations and is identified as one of the main challenges currently facing the ACA. Human resources within the ACA, are generally regarded as high when compared to other public sector employees. This is attributed to the rigorous screening process for new staff and the capacity building plans within the ACA. According to the establishing law of the ACA, it is an independence anti-corruption body, however, there is very little transparency regarding the appointment procedure and criteria for selecting the ACA President, who is designated by the President of Egypt. Moreover, the ACA requires an approval from the President before arresting public officials, which greatly compromises its independence and legitimacy. Additionally, the ACA's subordination to the executive branch of government, is a point of weakness in its independence, as it restricts its effectiveness in fighting corruption by subjecting it to political constraints.

Corruption control cannot be discussed in isolation from political will to combat corruption. Within the corruption control sphere, political will is the consistent and systemic approach to sustain the costs of corruption by committing to a set of reforms and actively seeing them through (Brinkerhoff, 2000). The data signals to varying political will across different domains of corruption control, it is evident that in areas where reform is less-politicized the progress is faster, such as in areas of increasing technical capacity or enhancing the proficiency of the human resources. As opposed to other areas where progress is very much dependent on the political process, such as updating the legislative framework. Moreover, the weak governance mechanisms currently in place at the ACA, indicate to the lack of a systemic approach to corruption control, which consequently compromises the legitimacy of the ACA as an anti-corruption body.

In light of the above, the section below provides a set of policy and operational recommendations to enhance the ACA's ability to fulfill its mandate internally, and within the surrounding anti-corruption institutional framework.

## **7.2 Recommendations**

Based on the findings of the research a set of policy and operational recommendations are proposed by the research to better enable the ACA to adequately fulfill its mandate. Policy recommendations pertain to the needed legislative framework that enables a culture of integrity and transparency, which will consequently control corruption, such legislations include; access to information law and protection of witnesses and whistleblowers law. Operational recommendations directly address the operations of the ACA, covering areas of independence, accountability and technical capacity.

### *7.2.1 Policy Recommendations*

- *Adopt wide good governance reforms:* Similar to the pillars and foundations of the NIS, corruption control reforms need to be integrated within a wider effort that targets all good governance indicators, as all dimensions are closely interrelated and progress towards any one dimension cascades down over other dimensions resulting in progress on a wider scale.
- *Address issues of justice and equity as a mode of exercising public power:* As a collective action problem, the underlying issues of lack of justice and equity need to be addressed first to ensure that the processes through which authority is exercised within the state reflects the foundations of the NIS, in addition to the WGI dimensions.
- *Demonstrate political will in the fight against corruption:* Political will is prerequisite not only to win the fight against corruption, but also to make notable progress in the matter. Without political will, corruption control efforts are seen as ad hoc, inconsistent and not targeted towards the root causes of corruption, rather the symptoms. Even though there is significant progress in some dimensions, there are clear delays and lack of strong intention in other dimensions the fight against corruption. Resulting in limited wide-scale impact and reluctant progress in

building trust in public authorities, enforcing a culture of privilege instead of a culture of integrity. Political leadership is expected to set an example of integrity and carry out its duties based on the values of integrity and impartiality to guarantee state-wide adoption of reforms.

- *Update existing legislative framework:* There is a pressing need for an updated legislative framework that reflects the declarations made by the 2014 Egyptian Constitution and the international conventions that the Egypt has committed to, such as the UNCAC. Two of the main pieces of legislation are; a functional access to information law that enables effective information sharing between different government bodies and with the public; an operational protection of witnesses and whistleblowers law, which provides holders of valuable information with the protection and security needed to come forward to official authorities. These two laws are critical in reinforcing the fight against corruption, not only with the ACA, but all across the entire anti-corruption institutional framework. The current climate of secrecy compromises the accountability and the legitimacy of the ACA, and ripples across to compromise the entire corruption control reforms.

### *7.2.2 Operational Recommendations*

- *Building the technical capacity of ACA:* Lack of internal technical capacity is among the main challenges faced by the ACA and is a reflection of the entire anti-corruption framework. Relying on paper-based legacy systems is a hindrance to the pace through which the ACA can operate. Immediate building of the needed databases and the information systems is critical to the success of any corruption control reform. This is further complicated with the lack of an access to information law, which is needed to regulate the passing on of information from different government bodies.
- *Integrating the ACA within a national accountability system:* For an effective anti-corruption institutional framework, the ACA must be held accountable to its actions and omissions, there is an urgent need to develop clear accountability mechanisms towards other institutions, such as the Parliament by submitting regular reports and conducting regular hearings, in addition to

accountability to the public – which can be secured through an effective access to information law.

- *Ensure the independence of ACA:* A clear and public appointment process for the President of ACA is needed, to ensure an objective selection process that is based on merit and not subject to political influences or other forces.
- *Actively promote the work and the achievements of the ACA:* Other than announcing investigations and arrests, it is very important for the ACA to promote other achievements in the field of corruption prevention; capacity building, enhancement of technical capacity and adoption of IT solution. Regular public reporting mechanisms on plans and achievements would help improve Egypt's rank in international rankings, regionally and globally. In addition to, giving validation to the work that has been done and boosting the entire corruption control effort with more legitimacy. The benefits of improving rankings go far beyond institutional validation to increased public and international perception of the government's efficiency in fighting corruption.

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