

U4 Expert Answer



Tanzania's anti-corruption agency in an international perspective

Query

Please provide an assessment of the legal powers and structure of the anti-corruption agency (ACA) in Tanzania (including cooperation with national law enforcement and prosecution agencies) and contrast them with the models encountered in other countries with a similar legal tradition.

Purpose

There are currently discussions in Tanzania on whether to have the Prevention and Combatting of Corruption Bureau (PCCB) take on the powers to prosecute serious cases of corruption. At the moment, the PCCB only has authority to prosecute small-scale bribery, while the prosecution function sits with the director for public prosecutions. The purpose of this query is to obtain further evidence and inform our position towards these discussions.

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Summary

The decision of whether to equip specialised anti-corruption agencies with prosecutorial powers requires the consideration of an expansive list of potential advantages and disadvantages. The empirical evidence is limited and inconclusive, yet strongly suggests considering the appropriate designs on a case-by-case basis, taking into account the current state of the ACA, its relations with and relative efficacy in relation to other institutions in the broader justice system, as well as the broader political dynamics that shape current performance and prospects for reform or co-optation. Whether to expand the remit of Tanzania's ACA to include stronger prosecutorial powers will thus require a careful and detailed assessment of a wide range of influencing factors that are beyond the scope of this answer. The limited information base available for this secondary desk research exercise suggests a number of pros and cons that merit further on-site unpacking and examination.

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1. The role of anti-corruption agencies in tackling corruption: from high hopes to pragmatism

Establishing specialised governmental bodies or units (anti-corruption agencies – ACAs) to help tackle endemic corruption has been a central tenet of contemporary anti-corruption reforms and advocacy across the world from the very outset of these efforts. Inspired by salient successes from New York and Hong Kong to Singapore and New South Wales (Heilbrunn 2004), more than 150 countries now have some form of ACA (Messick 2015).

Their importance has been enshrined in various international soft and hard law instruments on anti-corruption, from the 2003 United Nations Convention against Corruption – UNCAC – (articles 6 and 36) and the Jakarta Statement on Principles for Anti-Corruption Agencies (2012) to the African Union Convention on Preventing and Combating Corruption (article 20) and the Southern African Development Community (SADC) Protocol against Corruption (article 4) in the African context (Wickberg 2013; OECD 2013).

Exuberant early hopes of ACA-induced transformative change have, however, given way to a more pragmatic view. Experts largely concur that ACAs can be a necessary but by no means sufficient piece of the integrity puzzle. They appreciate the diversity of forms and functions of ACAs that may or may not prioritise a high rate of convictions for corruption offences.

Experts acknowledge the long, uncertain, and protracted road to success that requires donors and practitioners alike to adjust their expectations. And, most importantly, they point to the overarching importance of considering the political and institutional context and the specific ways in which ACAs interact with this environment when devising appropriate designs and selecting feasible strategies to implement them (Doig et al. 2005 and 2007; Kuris 2015; De Sousa 2010; Chêne 2012).

2. Designing ACAs to have an impact

If ACAs are expected and designed to play a strong, deterrence-oriented guard dog function to ensure that corruption is effectively detected and sanctioned – including ensuring that even the most powerful cannot act with impunity – then it might seem obvious to equip such an agency with strong investigative and prosecutorial powers. Doing so would enable it to streamline processes, smoothen information flows, and focus expertise and work effectively towards high-impact convictions. The underlying theory is that an ACA with demonstrable teeth and a drive for justice would in turn shore up public trust in the fight against corruption and dispel a sense of impunity. These are two factors that are considered prerequisites for transformational changes in systems of endemic corruption.

On closer inspection, however, the empirical evidence suggests that maximising the efficacy of an ACA in this respect means carefully weighing the pros and cons of such a design option. These pros and cons are highly contingent on the specific internal dynamics and operational architecture of the ACA in question, as well as the broader institutional and political context in which it operates.

The fundamental debate about merging prosecution and investigation functions

At the most fundamental level, the question of whether to combine investigative and prosecutorial powers is a long-standing and essentially unresolved debate in criminal justice. The main potential disadvantage centres around the issue of “confirmation bias”: investigators that have expended time and effort in unearthing and examining a suspicious incident will – even when acting in good faith – tend to give more weight to evidence that aligns with their prior beliefs and evolving presumptions (Messick 2015). This challenge of keeping an open mind is magnified when individual or organisational performance incentives are too tightly built around metrics, such as prosecutions initiated. In contrast, it is hoped that keeping investigations and prosecutions separate inserts an additional check against such

potential biases and may help to weed out wrongful prosecutions, leading to stronger cases going before the courts and ultimately to a higher conviction to prosecution ratio.

Proponents of fusing these powers point to some possible mitigation strategies for countering confirmation bias. These include establishing proper oversight and monitoring through the legislature and creating an independent review commission, as well as ensuring the public disclosure of granular performance data, which could detect patterns of bias in case selection and processing (Messick 2015). It should also be noted that we could not find any solid evidence on the presence or absence of confirmation bias for the comparator countries included in the response. There is, however, some empirical evidence for confirmation bias from the US, where prosecutors tend to unwittingly prioritise some cases over others, depending on political alignments (Messick 2015).

Practical pros and cons in an imperfect world

Even the best-functioning justice systems and the most independent ACAs can be affected by explicit and implicit confirmation biases. When fusing investigative and prosecutorial functions, a much broader range of pros and cons needs to be considered for ACAs, particularly for those operating in imperfect institutional settings and in what are often highly corrupt environments that can compromise the ACA's own remit and functioning.

On the plus side, arguments for awarding ACAs both investigative and prosecutorial functions suggest that such a design will:

- help pool and effectively use the expertise of skilled investigators, forensic experts, experienced prosecutors, etc. who are in very short supply in the public sector of many developing and transition countries. Those personnel are also essential for effectively tackling corruption cases that are often highly technical and complex. Dispersing this scarce talent pool across several agencies would dilute rather than broaden impact

- reduce the risks of diluted accountabilities where the blame for failing to put the corrupt behind bars and dispelling a corrosive sense of impunity is bounced back and forth between several involved agencies. This pattern does not lend itself to focused performance tracking and reforms
- avoid inconsistencies and coordination costs when several agencies carry out investigations and prosecutions on aspects related to the same cases
- reduce intra-agency competition, avoid poorly designed hand-over processes and eliminate bottlenecks and delays by the prosecution authorities that may be less committed to tackling corruption or that are too thinly stretched for expedited follow up and swift resolution of cases, which are essential to shore up public trust in the functioning of anti-corruption mechanisms
- enable ACAs to route around veto players and politically-motivated stalling tactics by prosecutorial agencies that may have less independence or are part of a captured establishment

Arguments advanced against equipping ACAs in institutionally weak and highly corrupt settings with prosecutorial powers include concerns that:

- such a concentration of law enforcement functions will make ACAs a coveted political weapon that can be turned opportunistically by political leaders against their political opponents
- it will generate rather than eliminate coordination problems and wasteful duplicative efforts or turf wars, since complex corruption cases are often closely tied with other crimes that inevitably fall under the remit of, and thus will require cooperation with, other players in the criminal justice systems;
- it will tie the ACA into a less agile and more heavy-handed mode of operation since it will have to satisfy established standards for prosecutorial integrity that come with particular requirements for safeguards, strict restrictions on disclosure of on-going cases, or higher evidentiary standards (Kuris 2015);
- when the ACA is vested with sole responsibility for a case, this could under certain circumstances forfeit the potential of "healthy"

inter-agency competition. Such healthy competition can occur when several agencies that often compete for donor funds, visibility and public legitimacy have separately launched investigations into a particular case and are in a way competing for demonstrating effectiveness and impact. Such a situation with parallel competing investigations can strengthen overall commitment to succeed and make it overall harder for vested interests to suppress and shut-down investigations (AfriMAP 2015; OECD 2010 and 2013; Kuris 2015).

Comparative country evidence

Mirroring this rather balanced scorecard of potential pros and cons, the broader empirical picture looks equally inconclusive. For example, The ACA in Uganda has prosecutorial powers but is typically not regarded as being particularly effective due to overlapping responsibilities and limited coordination with other related bodies (Engelbert 2014). And its conversion rates when moving complaints up to investigations, prosecutions, and ultimately convictions, is not any better and in some instances is actually worse than its counterpart in Tanzania (calculations based on AfriMAP 2015).

The existence of a number of high profile counterfactual case studies of ACAs also suggests that prosecutorial powers are certainly not a necessity for teeth and impact. Neither the ACA of Singapore (Corrupt Practices Investigation Bureau), nor the one in Hong Kong (Independent Commission Against Corruption) command extensive prosecutorial powers (Messick 2015).

The same goes for the lower profile case of Botswana, the best-performing African country on Transparency International's Corruption Perceptions Index. Here the country's ACA, the Directorate on Corruption and Economic Crime, has been found to achieve significant impact on the awareness and education side through innovative outreach strategies and the integration of preventative units in high corruption risk departments. (Innovations for Successful Societies 2013; OECD 2013).

Unpacking the success of Botswana

Botswana's ACA, the Directorate on Corruption and Economic Crime (DCEC), is mandated to combat corruption, economic crime and money laundering. The agency is commonly viewed as a success story primarily with regard to its awareness raising, educational and preventive functions. It pioneered, for example, an innovative youth outreach programme with a popular cartoon character that discussed ethics and integrity with school children, and it carried out rural outreach efforts tied to traditional village meetings. Judged as most innovative and successful, however, was the idea of establishing preventive units inside corruption-prone government ministries and agencies. These units were initially headed by retired investigators and conducted assessments with recommendations for changes in operational practices to reduce corruption risks. In addition, these units were tasked with conducting preliminary investigations and reported possible corruption incidences to institutional leaders, the police or DCEC.

The failure to achieve convictions for high-level corruption cases is viewed as a major shortcoming of the agency, and partly blamed on DCEC. While the agency is described as not very keen on taking on larger cases initially, it gradually stepped up investigations of higher level cases and passed them on to the prosecutor's office (DPP). These cases ultimately failed to reach a significant number of convictions, with several high profile cases ending in acquittals due to technical flaws or missed deadlines. This prompted some observers to describe the DCEC as toothless and the broader justice system as co-opted. The DPP primarily blamed resource constraints and the sophistication of defence tactics as causes for failure. An overall estimated conviction rate of more than 80% for tried corruption cases attests to some success at prosecuting lower level corruption. From 2012 onwards, the establishment of a specialised court for trying corruption cases, as well as a specialised corruption unit within the DPP are expected to provide remedies and help achieve more deterrence for grand corruption cases. There is, however, no data yet to conclude whether this has made a discernible difference. (ISS 2013; UNDP 2009).

Despite this, inter-agency cooperation between the police, the DPP and DCEC is considered to be good, especially in the pursuit and investigation of corruption and money laundering cases: alleged corruption cases received by the police are referred

to DCEC for investigation, and DCEC relies on the police for support in specific situations (Implementation Review Group 2014).

It is worth noting that the latest UNCAC review recommends strengthening the independence of DCEC, including the appointment and dismissal of the director general, a position which is currently under presidential control, as well as establishing a constitutional anchor for the directorate.

Rwanda as a good example?

Rwanda is frequently considered a success story with regard to reducing bribery rates for public services. The question is whether the ACA in this country has contributed to this development.

In a somewhat unusual fashion, Rwanda combines the roles of ombudsperson and anti-corruption agency within the Office of the Ombudsman of Rwanda (OOR). The OOR was created in the context of adopting the 2003 constitution and is tasked with:

- seeking resolution to specific problems citizens experience when interacting with their government
- overseeing the assets, income, interest disclosure system
- recommending structural policy reform measures to individual agencies of the government
- investigating and monitoring corruption in agencies

The latter is the main responsibility of a specialised internal unit, which works closely with the police and civil society to receive and examine leads. The OOR has been vested with power of *police judiciaire*, which is derived from the French justice system and entails the authority to perform preliminary criminal investigations (see Appendix 1 for a more detailed overview of the powers and constraints of Rwanda's ACA). Worthwhile cases are forwarded to the prosecutor general's office for prosecution. According to one assessment, there have been a few high profile convictions, even up to ministerial level.

The ACA is credited with contributing to the overall governmental success in tackling corruption. In 2010, the OOR sought powers to prosecute

because there was an alleged lack of specialised expertise or will on the part of the prosecutor to commit to a stronger follow-through on corruption cases. The prosecutor maintained that it received on average only one case per year from the OOR for prosecution. Some observers also note that the OOR strongly depends on political will and support from the president since it lacks proper enforcement powers for sanctioning rule violations, for example, with regard to mis-reporting of assets, income and interests (Office of the Ombudsman 2010).

The fact that, for many years, the chief ombudsman's position was held by a "top ideologue" and founder of the ruling party (Bozzini 2014) raises doubt about the independence of the institution, despite the man's reputation as a person of high moral standards and integrity. Similar concerns of limited independence apply to the Office of the Auditor General and, more broadly, to the judiciary: while auditors, judges and prosecutors indeed play a growing role in investigating and judging cases of corruption and related crimes, they tend to track relatively minor issues and hardly ever tackle cases of grand corruption involving high-level members of the ruling party, the government or the army (Cooke 2011), and when they do, there are often rumours that the main rationale is to punish those who fell out of line (Bertelsmann Foundation 2016).

The Office of the Auditor General, for instance, issues an annual report for all the country's districts, which is well researched, detailed and useful. But while it points to significant levels of corruption and mismanagement, it does not mention the most politically sensitive issues (Transparency International Rwanda 2011). In other words, pro-governmental observers often say that there is no impunity in Rwanda, but while it is true that anti-corruption laws and policies are vigorously enforced and punishments are harsh, it remains questionable whether this also applies to top politicians, well-connected entrepreneurs or high-ranking army officers (Bozzini 2014).

The file on Ghana

The agency commonly described as Ghana's ACA is the Commission for Human Rights and Administrative Justice (CHRAJ), which combines

an unusual triple mandate of ombudsman, anti-corruption agency and human rights monitor.

The first period of its existence, between 1993 and 2004, is commonly described as a success story, and even though the agency is not equipped with prosecutorial powers, it managed to establish its reputation early on by carrying out investigations, drawing public attention and pressuring some high-level officials to resign for alleged corruption. This happened against the backdrop of a broader justice system that is believed to be co-opted.

The CHRAJ, however, is currently experiencing a rockier period in its existence. Various observers attest a lack of political will and adequate leadership, a woeful shortage of funds and staff for an agency that reportedly can only spend a mere 5% of its time on corruption issues, and a significant lack of clear protocols and standards for cooperation with the Attorney General's Office. The latter prompted an observer to state: "The total absence of clear legal standards to regulate how the Attorney General generally exercises its prosecutorial discretion, especially in cases involving alleged political corruption or abuse of office, is unhelpful to CHRAJ's work and arguably also violates the spirit of Article 296 (a & b) of the Constitution. At a minimum, where the Attorney General rejects a CHRAJ request for prosecution, the Attorney General must be required to provide written reasons that shall be made public" (ISS 2011; Doig et al. 2005; Appiah et al. 2014; Short 2015).

Learning from other positive cases

The relative success of the Nigerian ACA in asserting its power and achieving some impact by charging a significant number of state governors for corruption has been directly linked to its strong prosecutorial powers and a savvy agency head used the political space for manoeuvre very skilfully (Lawson 2009).

Although embedded in a different legal tradition that makes it difficult to compare to the Tanzania case, the success and popularity of the Indonesian ACA (Corruption Eradication Commission) is also illustrative since it is related to its significant prosecutorial action and resolve, which also

brought it into direct conflict with some political elites (OECD 2013; ISS 2012a and 2012b). Other convincing case studies that find a significant role of prosecutorial powers for determining an ACA's ultimate impact are hard to come by.

It is important to note, however, that: a) the number of clear-cut ACA success stories is limited; b) attributing success to specific design features is extremely difficult; and; c) only a relatively small number of ACAs have been vested with full prosecutorial powers. As a result, a dearth of resounding success stories for ACA with prosecution powers is not necessarily an indication that equipping ACAs with such functions is unlikely to be effective.

The consensual central messages from this limited body of evidence are clear, however: context and country-specifics matter. A large set of internal and external factors shape the workings and efficacy of ACAs and the overall systemic accomplishment of prosecuting corruption for transformational change. The main question is not so much where a particular function is located but how the overall collaboration between different parts of the criminal justice system are legally prescribed and practically organised (De Sousa 2010; Doig et al. 2005; UNDP 2011).

It is equally important to explore how prosecutorial functions can be best integrated so that their independence, efficacy, and impact can be maximised in a context of political realities, institutional legacies, and existing architectures of the justice system where some components might be better resourced and independent or more challenged and compromised than others. Similarly, it might be helpful to not consider the prosecutorial function as a binary feature that is either present or absent within an institution but rather as a disaggregated array of investigative and prosecutorial powers with many different yet interconnected tools that can be mixed, hosted and deployed in different configurations for maximum impact.

General lessons on how to integrate ACAs into the broader justice system

As highlighted in the OECD's report *Specialised Anti-Corruption Institutions: Review of Models*, an anti-corruption body cannot function in a vacuum and none can perform all tasks relevant for the suppression and prevention of corruption. For this reason, strong and well-functioning inter-agency cooperation and exchange of information are essential. Particular attention should be paid to cooperation and exchange of information among anti-corruption agencies, control and law enforcement bodies, including tax and customs administrations, regular police forces, security services, financial intelligence units, etc.

Efforts to achieve an adequate level of coordination, cooperation and exchange of information among public institutions in the anti-corruption field should take into account the level of existing "fragmentation" of the anti-corruption functions and how the tasks are divided among different institutions. However, even multi-purpose anti-corruption agencies with broad law enforcement and preventive powers cannot function without institutionalised (and mandatory) channels of cooperation with other state institutions in the area of enforcement, control and policy making.

Cooperation is naturally of crucial importance in systems with a multi-agency approach where preventive institutions are not institutionally linked with law enforcement bodies. In practice, inter-institutional cooperation and coordination is often a challenge. Problems in this area range from overlapping jurisdictions and conflicts of competencies to the lack of competencies (where institutions refuse jurisdiction in sensitive cases and shift responsibilities to other institutions). If this area is overlooked in the process of designing the legal basis of the new institution, it will likely seriously hinder the performance of the institution and taint its relations with other state institutions in the future.

A 2009 study noted that "[w]hile in theory, the success of anti-corruption institutions greatly depends on effectiveness and cooperation of a wider range of complementary institutions, in

practice these are often not well connected and integrated, due to their wide diversity, overlapping mandates, competing agendas, various levels of independence from political interference and a general institutional lack of clarity. Against such background, the establishment of an anti-corruption commission has been seen in many cases as adding another layer of (ineffective) bureaucracy to the law enforcement sector" (Chene 2009).

Often, law enforcement officials, especially in countries with a centralised prosecution service, believe that the code of criminal procedure provides a sufficient framework for the coordination of the investigation and the prosecution of criminal offences. Experience indicates that such general rules alone are not adequate for securing a proper level of cooperation in dealing with complex corruption cases. General rules cannot address issues that which may arise outside the investigation of specific cases, such as analysis of trends and risk areas, co-ordinating policy approaches and proactive detection measures. Furthermore, such rules do not address cooperation between law enforcement and preventive institutions, which is also important.

In different countries, these issues are addressed either through creation of special multi-disciplinary co-ordinating commissions, through special legal provisions on cooperation and exchange of information or by signing special agreements and memorandums among relevant institutions on cooperation and exchange of information.

Even comprehensive institutional efforts against corruption are prone to fail without active support from the society and the private sector (OECD 2013). One of the important elements of anti-corruption efforts increasingly promoted by different international instruments is cooperation with civil society and the private sector. Also, a feature of the Hong Kong anti-corruption commission was, from the beginning, its close involvement with the community in its work. This should be taken into account, not only by preventive and education bodies but also by law enforcement bodies (OECD 2013).

Task forces et al. – emerging insights from alternative models

Task forces are believed to help pool resources, enhance coordination and concentrate specialised learning across agencies to tackle corruption. On the negative side task forces potentially dilute the responsibilities of other agencies and can lead to a more heavy-handed organisational response rather than a net set of nimbler, individual agencies. For a discussion of specific arrangements and organisational designs in the US setting see: Center for the Advancement of Public Integrity, 2016, *Strategies for Increasing and Improving Public Corruption Prosecutions. The Task Force Model. No. 6, August 2016.*

Prosecutors in Latin America are also considering the task force model for stepping up international cooperation and trans-border enforcement. Brazil, Argentina, Chile, Colombia, Ecuador, Mexico, Panama, Peru, the Dominican Republic and Venezuela recently signed an agreement to establish a joint task force with bilateral and multilateral investigators for the unfolding Odebrecht case.

In the case of Afghanistan, it is still too early to judge the working of the new Anti-Corruption Criminal Justice Centre (ACJC), which was established in mid-2016. It seems noteworthy though that the court heard its first two cases in November 2016. While these cases have not (yet) reach government officials at the highest level, they indicted a prosecutor at the supreme court and a private bank official. As of February 2017, it is reported that more than 60 cases, including high-level government officials, are being processed by the ACJC, while it had to turn down another 72 cases because of lack of jurisdiction and proper records.¹

¹ *Afghan's new anti-graft court hears first cases in Kabul.* Reuters. 12 November. 2016. *Senior Mol official gets 12 years in jail for corruption Afghanistan.* News. 19 February 2017.

3. The role and impact of the anti-corruption agency in Tanzania²

Tackling corruption in Tanzania – an uphill struggle, yet not without hope

Corruption in Tanzania is considered to be a significant problem at all levels, from provision of public services and public procurement to the workings of the political system (Lindner 2014). The country ranks in the lower bands of countries for related metrics that gauge the perception and experience of experts and the broader public with regard to the corruption in institutions and services. A quarter of public service users reported to have paid bribes in 2014, and people in Tanzania are deeply sceptical about the aptitude of their government in tackling corruption and the progress that has been made. Of the citizens surveyed, 58% feel that the government is doing a bad anti-corruption job, only 55% think that people can make a difference, and more than two-thirds feel that corruption has increased in 2013/14 (Transparency International 2015). This sense of backsliding is also confirmed by expert assessments that document a deterioration in the rule of law over the last decade (World Bank 2016) and in overall perceived levels of public sector corruption (Transparency International 2017).

Recent political developments do not bode very well for stronger performance in tackling corruption in the near future. The elections of 2015 have gone hand in hand with an increasingly polarised and restricted media landscape set the background for the 2015 elections (Freedom House 2016). Nevertheless, Tanzania is widely regarded as one of the most stable and open democracies in Africa. It scores better on corruption perception and experience than most of its regional peers, most notably when it comes to the public perception of the presidency, which is viewed by only 15% of Tanzanians as corrupt. (Transparency International 2015). In addition, Tanzania has put in place a rather robust legal framework for tackling

² This brief is focused on the ACA for Tanzania and does not cover the related entity for semi-autonomous Zanzibar, although it should be noted that the existence of two separate ACAs and their insufficient coordination is viewed as a major obstacle to anti-corruption reforms in the country.

corruption through a series of related laws with the 2007 Prevention and Combating of Corruption Act as a centrepiece.

This mix of challenges and opportunities suggests that an effective ACA could play an important role in the country's fight against corruption.

The Prevention and Combating of Corruption Bureau

A central building bloc of Tanzania's 2007 hallmark anti-corruption legislation was the establishment of a specialised ACA, called the Prevention and Combating of Corruption Bureau (PCCB). The PCCB, a reconstituted version of what was previously called the Prevention of Corruption Bureau, is set up as an independent public body, yet three principal draw-backs compromise its independence:

- it is not mandated by or anchored in the constitution, and is thus it is more vulnerable to legislative interventions
- the President appoints, and has the power to remove, its director general, who enjoys limited security of tenure
- it reports directly to the Office of the President (AfriMAP 2015).

In contrast, the ACAs in Uganda and Kenya are anchored in the constitution as well as acts of parliament, and they both report to their parliaments. In Botswana, the president appoints the head of the agency for a five-year, renewable term.

Overall remit

Following the OECDs typology of ACAs (OECD 2013) the PCCB can be classified as a multi-purpose agency tasked with helping to both sanction and prevent corruption, as well as promote good governance more broadly. The agency thus has a broad remit that includes community education, research, awareness raising, corruption detection and investigation authority. While its overall mandate and powers have remained largely unaltered since its inception, its thematic focus has expanded alongside the evolution of corruption risks and now also includes

a strong transnational component, with focus on corruption syndicates and cybercrime (AfriMAP 2015).

Organisation and operation

The PCCB is organised into five directorates (investigations, research, education, planning, human resources, and administration). According to self-reported information that has partly been corroborated by expert assessments, the PCCB's human resource practices provide for a solid foundation of professionalism. Capability levels are comparable to its peers in Uganda and Kenya, relative to population size.

As of 2014, the PCCB was reported to have more than 2,000 permanent staff, including more than 1,000 investigators (Anti-Corruption Authorities Portal 2014). Remuneration is considered reasonable and above average for public sector pay, yet lagging behind private sector income opportunities for specialised experts. The heads of departments are recruited openly through a transparent process and staff undergo a meritocratic recruitment process, vetting and several tiers of training. Critics point out that the process is somewhat insular and could be made more robust by including other bodies in the vetting of senior staff (AfriMAP 2015).

The PCCBs budget is proposed by the minister responsible for good governance, approved by Parliament and managed autonomously by the bureau. It is estimated to total around US\$27 million, which is considered insufficient by some observers. The PCCB has been reported to encounter cash-flow challenges at times due to delays in disbursement from the Treasury, as well as to sustainability issues due to fluctuations in public revenues and donor dependence (AfriMAP 2015).

Investigative and prosecutorial powers and relations with the broader criminal justice apparatus

The PCCB's mandate includes investigative and, to a limited extent, prosecutorial powers, the latter of which are to be exercised on advice from the Director of Public Prosecutions (DPP). This mandated coordination and division of labour with the DPP is a pivotal arrangement and its efficacy shapes the chances for achieving high rates of successful corruption convictions, including for

grand corruption cases that involve senior political and business figures.

External observers and internal testimony seem to concur that this arrangement is not working as effectively as it could be. The requirement for clearance by the DPP is described as a limitation on the PCCBs potential impact. It leads to coordination issues with an agency (the DPP) that may not have sufficient specialised expertise at its disposal to fully see through a protracted corruption case. (AfriMAP 2015). Moreover, the approval process is described as introducing considerable delays that dilute the deterrence and public legitimacy that would come with the swift resolution of cases. Even worse, of more concern is the fact that a high number of cases are being rejected and only a limited number of investigated files compiled by the PCCB graduate to prosecution. This has been described as compromising the overall efficacy of the main governmental anti-corruption programmes (UNDP 2012).

As noted earlier, however, the investigation to prosecution linkage is only one important piece of the criminal justice chain. When, and when seeking to improve the overall outputs and outcomes of the system, it is also important to consider broader cooperation structures between different entities in this system.

The modalities for and quality of this cooperation across the broader justice system can vary widely as the cases of comparator countries suggest. In the case of Kenya, for example, it has been noted that there is less of a turf war between agencies than used to be the case, and that relations between the Kenyan ACA and the prosecutor's office have markedly improved.

At the same time, the judicial process and adjudication are still described as too slow and rather un-cooperative thus hampering the efficacy of the Kenyan ACA. The Ugandan ACA, to give another example, is described as having mechanisms in place to engage with the judiciary, parliament and the executive. With regard to the judiciary, several matters prosecuted by the ACA's office are heard before a specialised anti-corruption division of the high court (AfriMAP 2015, p. 99).

The scorecard for the PCCB in this regard is mixed. Relationships with law enforcement agencies are described as good, and the PCCB collaborates with integrity committees inside the police force

and further relies on the police to detain suspects accused of corruption. However, it is also noted that this relationship is significantly compromised by the fact that the police is regularly rated as the most corrupt institution in the country and that other institutions in the broader justice sector, such as the courts, are also significantly affected by corruption (Transparency International 2015).

The PCCB also maintains formal relations with judicial institutions specialised in political corruption cases and it cooperates in a formalised arrangement with the controller and auditor general (CAG). The CAG can be requested by the PCCB to audit suspected cases and is obligated to transfer or hand over all suspected cases of corruption that it discovers in its regular work to the PCCB for further investigation. (AfriMAP 2015).

Performance and comparative assessment

The previously mentioned issues of under-funding and ineffective coordination between PCCB and the prosecutorial authorities drive the general perception that overall the sanctioning of corruption is inadequate and that particularly the well-connected and powerful can escape punishment.

Internal testimony and anecdotal evidence corroborate this picture. The former PCCB's director general has complained that political interference and the lack of political will hampers the PCCB. In 2012, the chief justice threatened to send election-related corruption cases back to Parliament due to a lack of funds for proper prosecution. Overall, only 8.6% of prosecutions between 2005 and 2014 have led to successful convictions, a conviction rate so low that it is described as a daunting challenge for building an effective anti-corruption architecture (AfriMAP 2015).

It should also be noted, however, that the number of new cases that have been passed to the courts annually has risen steadily over the last years. Yet this number is still outpaced by the annual increase in files that the PCCB delivers annually to the DPP, providing further evidence that the hand-over between the two agencies constitutes a persistent bottleneck.

Adopting a comparative perspective across Kenya, Tanzania, and Uganda, and looking at the overall corruption prosecution chain, from complaints and

investigations to prosecutions and convictions, it becomes evident that the arrangements in these three countries vary widely in terms of how they process and filter cases.

Although these and other performance indicators need to be interpreted carefully and do not lend themselves to exact comparisons (Johnsøn et al. 2011), the PCCB in Tanzania receives and investigates a much larger number of allegations relative to population size than its counterparts in Kenya and Uganda. This suggests that a robust local infrastructure and a comparably high level of trust are in place for collecting and investigating complaints.

These higher volumes of corruption incidences that are fed into the criminal justice system also translate into a much higher number of prosecutions in Tanzania, both compared to Kenya, where the ACA is equally deprived of prosecutorial powers, and compared to Uganda where the ACA does enjoy prosecutorial powers (own calculations based on AfriMAP 2015 data).

4. Concluding notes

Stronger enforcement of anti-corruption legislation, including more convictions, more higher-level and faster convictions than is currently the case, could play an important role in contributing to corruption reforms in Tanzania. The empirical evidence about the effects of equipping anti-corruption agencies with stronger prosecutorial mandates to help achieve such results is limited and mixed. There is a long list of pros and cons to be considered in this respect, in addition to understanding the importance of institutional and political context within the specific ACA agency, across the broader justice system, and at country level.

Applying these insights to the PCCB in Tanzania suggests a number of pros and cons. On the negative side, there is a perceived and assessed lack of efficacy in the overall anti-corruption struggle, particularly in the area of sanctioning high-level corruption cases. This, in addition to the ineffective cooperation between the anti-corruption agency and the prosecutorial authorities, presents a major stumbling block and hold-up point for more effective prosecutions.

Endowing the PCCB with more prosecutorial powers could help to alleviate these problems. The relatively well-remunerated, meritocratic and

trained workforce of the PCCB should also be conducive to this expansion of remit.

At the same time, there are concerns that such an expansion of powers might amplify cooperation problems, dampen healthy inter-agency competition and make the ACA more of a target for political instrumentalisation. The latter is of particular concern in Tanzania given that the PCCB is still not anchored in the constitution and that its head serves at the discretion of the president. Moreover, under-funding is already considered a major challenge to the agency's functioning, and an expansion of mandate without any adequate expansion of funding might negatively affect such a re-arrangement.

No matter how these pros and cons are weighed, the synthesis of available evidence also suggests that developing strategies for more and higher profile corruption convictions would benefit from a broader perspective on how the overall criminal justice system is organised and what entry points and priorities for improvements offer themselves for making progress on this front.

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Appendix 1. Powers and Characteristics of selected ACAs.

Country	Agency name	Budgetary Autonomy	Term limit for head of the ACA	Investigative powers	Prosecutorial powers	Other powers/functions	Who appoints the head of the ACA?	Who can remove the head of the ACA?
Barbados	Department of Public Prosecutions	✗	✗	✗	✓		Judicial and Legal Services commission	High Court
Bangladesh	Ministry of Public Administration	✓	✓	✓	✓	Prevention, Policy	President	Judiciary Commission
Botswana	Directorate on Corruption and Economic Crime	✓	✓	✓	✗	Prevention, Forensic, Policy	President	President
Cameroon	National Anti-Corruption Commission	✓	✓	✓	✗	Research, Prevention, Forensic, Accounting	President	President
Ghana	Commission on Human Rights and Administrative Justice	✗	✗	✓	✗	Research, Prevention	President	President
India	Karnataka Lokayukta	✗	✓	✓	✓	Prevention	The Government	Parliament
Jamaica	Office of the Director of Public Prosecution	✗	✗	✗	✓		Public Service Commission	Public Service Commission
Kenya	Ethics and Anti-Corruption Commission	✗	✓	✓	✗	Research, Prevention, Forensic, Policy	President with approval of Parliament.	President upon recommendation of a Tribunal
Sri Lanka	Commission to Investigate Allegations of Bribery or Corruption	✗	✓	✓	✓	Prevention	President upon the recommendation of the Constitutional Council.	Parliament
Lesotho	Directorate on Corruption and Economic Offence	✗	✓	✓	✓	Research, Prevention, Policy	Prime Minister	Prime Minister
Mauritius	Independent Commission Against Corruption	✓	✓	✓	✓	Research, Prevention, Forensic, Policy	Prime Minister after consultation with the Leader of the Opposition.	Parliamentary Committee
Maldives	Anti-Corruption Commission	✗	✓	✓	✗	Prevention	President with approval of Parliament.	Parliament
Mozambique	Central Office for the Fight against Corruption	✓	✗	✓	✓	Prevention, Forensic	Attorney General	Attorney General
Namibia	Anti-Corruption Commission (ACC)	✓	✓	✓	✗	Prevention, Forensic, Accounting, Policy	Parliament	Parliament
Nigeria	Economic and Financial Crimes Commission	✓	✓	✓	✓	Research, Prevention	President with approval of the Senate	President
Pakistan	National Accountability Bureau	✗	✓	✓	✓	Prevention, Policy	President	Can only be removed on the ground of misconduct
Rwanda	Office of the Ombudsman of Rwanda	✓	✓	✓	✓	Research, Prevention, Forensic, Accounting, Policy	The Cabinet with approval of the Senate	The Cabinet with approval of the Senate
Singapore	Corrupt Practices Investigation Bureau	✓	✓	✓	✗	Research, Prevention, Forensic, Policy	President	President
Sierra Leone	Anti-Corruption Commission	✓	✓	✓	✓	Research, Prevention, Policy	President with approval of Parliament.	Parliament
Swaziland	Swaziland Anti-Corruption Commission	✗	✓	✓	✗	Research, Prevention, Forensic	The Head of State after recommendations from the Judicial Service Commission.	The Head of State after recommendations from the Judicial Service Commission.
Tanzania	Prevention and Combating of Corruption Bureau	✗	✗	✓	✓	Research, Prevention, Forensic	President	President
Uganda	The Inspectorate of Government	✓	✓	✓	✓	Research, Prevention	President with approval of Parliament.	President upon recommendation of Parliament
South Africa	South Africa	✗	✗	✓	✗	Investigation, Forensic	President	President
Zambia	Anti-Corruption Commission	✗	✓	✓	✓	Research, Prevention	President with approval of Parliament.	Parliament

Source: World Bank data extracted from <https://www.acauthorities.org/>