Integrity Systems

Introduction

An 'integrity system' constitutes an inter-related network of institutions that work together to facilitate institutional integrity and remove temptations and opportunities for corruption. Originally developed in the course of anti-corruption efforts in the face of systemic state and police corruption in Queensland, Australia, the 'integrity systems' approach works by strategically reforming the entire system of relevant institutions, and the inter-relations between them. Despite its initial focus on state corruption, the insights developed from the integrity systems approach help illustrate how other institutions – including the professions – can be reformed to deliver on their publicly stated goals and standards.

In introducing the idea of integrity systems, this title:

- Defines key concepts of corruption, integrity systems, and governance;
- Explains the multi-disciplinary approach necessary to reforming institutions;
- Surveys previous anti-corruption models, including the influential 'Hong Kong model';
- Describes the applicability of the integrity systems approach to the professions.

Key Concepts

Defining Corruption

Transparency International's definition of corruption presents a useful starting point: 'the abuse of entrusted power for private gain' – where, 'private gain' includes 'party-political gain'. Such abuses of power may take many forms, including bribery, extortion, embezzlement, influence-peddling, nepotism, and so on.[1]

The broad notion of corruption can be subdivided in various ways, with a common line of distinction dividing 'grand' corruption (of high-level state actors) from 'petty' corruption by low-level officials. A particularly important type of corruption is networked corruption, where the entire system of government amounts to a vertically integrated criminal organization: petty bribery and extortion by local public officials facilitate the higher-level 'grand' political corruption that protects and profits from such acts – and vice versa.[2]

Integrity vs Corruption

Integrity and corruption are conceptually linked terms – with one the obverse of the other. While corruption constitutes the 'misuse of entrusted power for personal benefit', integrity is 'the use of public power for officially endorsed and publicly justified purposes'. In a sense, the latter definition is primary, because it is impossible to describe an 'abuse of power' without first understanding what a proper 'use' is. The form of official endorsement that defines a 'proper use' will vary from system to system but, in a democracy, the officially endorsed uses of public power are those set by the elected government and legislature.

[1] See Transparency International, *What is Corruption?* <https://www.transparency.org/what-is-corruption/> (accessed 1 August 2017).
[2] Sarah Chayes, *Thieves of State: Why Corruption Threatens Global Security* (W W Norton and Co, 2015).

These definitions of 'integrity' and 'corruption' both centre on power – specifically its uses and abuses. The point here is not to restate Lord Acton's famous dictum (that 'power corrupts, and absolute power corrupts absolutely'). The relationship between power and corruption is contingent rather than necessary. However, the potential for corruption is built into all institutions because of the dynamics of collective action and agency. The reason why people create and support governments, joint stock companies, industry groups and international NGOs is because more can be achieved collectively than individually. These collectives pool people power and material resources to more effectively and efficiently achieve shared goals. However, that very feature of collectives – their pooling of power – opens the possibility that institutional leaders may turn that entrusted power to their own benefit or use it against their citizens, stockholders or bondholders.

Focusing on the prior concept of integrity, rather than the derivative idea of corruption, is also more practical, as it highlights that the purpose of anti-corruption efforts is not simply to remove corruption. After all, a complete eradication of all state corruption could be accomplished simply by shutting down government altogether. Rather than eradicating corruption, the goal is always to ensure that institutions live up to their mandated goals and values. Efforts at instilling integrity will always carry a cost in time, money, expertise and political will. Worthwhile integrity measures – like any form of risk insurance – are ones that make this investment a cost-effective one.

Governance and Governance Values

Governance can be defined as: 'The action or manner of governing a state or organization'.[3] The idea refers to the *structures and processes used to steer and coordinate interactions within an institution or institutional complex*. This includes the processes not only of decision-making, but also regarding how policy is implemented, how authority, information and power flow through the system, and how feedback responses occur in relation to performance. Colloquially, governance refers to 'how things are done' in a given institution or complex. 'Governance processes' thus include accountability, transparency and compliance mechanisms, and the regulatory and statutory bodies performing these roles.

'Governance values' can be envisaged in thinner and thicker ways.[4] At the 'thin' end of the spectrum, governance values are narrowly confined to concerns with accountability, compliance and transparency. 'Thicker' governance values bring in further notions, including efficacy, democracy, inclusiveness and other qualities that contribute to the overall legitimacy of a system's governance processes.[5]

[3] See Oxford Dictionaries, *Governance* <https://en.oxforddictionaries.com/definition/governance> (accessed 1 August 2017).
[4] Hugh Breakey, Tim Cadman and Charles Sampford, 'Governance Values and Institutional Integrity' in Tim Cadman and Rowena Maguire (eds), *Governing the Climate Change Regime: Institutional Integrity and Integrity Systems* (Routledge, 2017).
[5] See, e.g., Economic and Social Council (ECOSOC), 'Definition of basic concepts and terminologies in governance and public administration' (United Nations, 2006) <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan022332.pdf> (accessed 1 August 2017).

Governance values are important to developing integrity systems and anti-corruption efforts, as weaknesses (such as lack of accountability or transparency) in governance mechanisms allow resources to be diverted from their proper task, and corruption to flourish. For this reason, attempts to improve integrity within an institution – or organization, such as a professional organization – will often focus on improvement gaps in its governance.

Key Approaches

Governance Disciplines and Inter-disciplinarily

'Governance disciplines' refer to the several academic disciplines that investigate corruption and governance problems within institutions. These institutions often have their own way of approaching governance and integrity mechanisms. When lawyers look at institutions they see sets of formal norms. *Ethicists* see informal norms, and the values the institution claims to further. *Economists* see incentives and disincentives. *Political scientists* and *social scientists* see power relations and complex webs of interpersonal and group relationships. Because each discipline employs its own perspective, institutional problems are seen in the deficiency of (respectively) laws, ethical standards, incentives and power-relations. As a result, the solutions are seen by each discipline as lying in remedying these specific deficiencies.

Seen from a broader perspective, all these partial insights into institutions and their problems are important. Solutions to governance problems must therefore recognise and integrate the diverse insights of law, ethics, politics and economics.

Different anti-corruption models

1. Criminal Law and Prosecution

The abuse of power is as ancient as political power itself. One of the earliest mechanisms to address corruption was through the application of criminal punishment – at first at the discretion of political leaders, and then later through police procedures and justice systems based upon the rule of law.

This approach can seem sensible. After all, acts of corruption are almost always violations of established law. However, experience has shown that criminal justice can only ever be part of the solution. Prosecutions take a long time and are frequently inconclusive. Even if successful, they rarely return a significant proportion of the destroyed shareholder wealth, stolen money, or uncollected revenue. Worse, they do not address the key institutional questions of why the corrupt 'bad apples' got to such positions of power and were tempted to abuse that power for their own ends.

2. The 'Hong Kong Model'

By the late 1980s, a common response was the creation of a single, very powerful, anti-corruption agency along the lines of the Hong Kong *Independent Commission Against Corruption* (ICAC), whose role was to investigate and enforce very strong anti-corruption law. While powerful independent commissions now

constitute a staple feature of most anti-corruption reforms, they too have their limitations. As just a single institution, they can struggle to solve endemic problems lying elsewhere in the system – and they themselves need to be subject to regular review.

3. Integrity Systems

The 'integrity systems' approach grew out of the anti-corruption reforms developed by Tony Fitzgerald in his inquiry into the endemic corruption in Queensland in the 1980s.[6] The Fitzgerald Report did recommend the development of an ICAC type body. However, it also aimed to understand the whole system of governance in Queensland and the way existing institutions operated – and how new ones might fit within this system. The result was an integrated set of norms, laws and institutions that improved governance, promoted integrity, and reduced corruption. Instead of a single agency, a strategic *combination* of state institutions and agencies (courts, parliament, police, prosecutors, DPP), state watchdog agencies (ombudsman, auditor general, parliamentary committees), non-governmental organisations (NGOs) and norms (including values and laws) and incentive mechanisms was recommended and implemented.

By taking a systematic, holistic perspective, the integrity systems approach aimed to restructure institutions, norms and incentives to remove temptations to act corruptly, to make it more difficult to act corruptly (employing measures from the separation of powers to administrative law), and to make it easier to detect corruption (from regular audits and assets checks, to financial tracking).

Inter-relations Among Elements

The integrity systems approach focuses not only on an enlarged list of elements and institutions, but also on the *inter-relations* between these institutions. Often, it is not merely the presence or work of a discrete institution that impacts decisively on overall integrity. Instead, an institution's crucial contribution often lies in the relations that it holds to other institutions within the system. These relations may be competitive, symbiotic, overlapping, independent, antagonistic, supportive, balancing or otherwise.

For this reason, a useful figure to capture a working integrity system is that of a 'bird's nest'.[7] Like an integrity system, a bird's nest is built up over time from the material that is available, in which the components are individually weak but, in combination, are effective in holding up something rather fragile. So too, nests are rarely fixed for all time but need constant tinkering and repair. This leads to change over time. As a result, considerable variation can be found within diverse (but equally effective) integrity systems at different times and in different cultural and economic contexts. Reforming an integrity system thus does not involve 'importing' institutions (or institutional structures) from one environment to another. Instead, it requires

[6] Charles Sampford, 'From Deep North to International Governance Exemplar' (2009) 18 *Griffith Law Review* 559.
[7] Charles Sampford, Rodney Smith and A. J. Brown, 'From Greek Temple to Bird's Nest: Towards A Theory of Coherence and Mutual Accountability for National Integrity Systems' (2005) 64 *Australian Journal of Public Administration* 96.

understanding what institutions and mechanisms are currently working, and how they can be supported or extended.

In a sense, this attention to institutional inter-relations reflects a much older tradition in political theory – one attending to issues such as the separation of powers and 'checks and balances'. The idea of the separation of powers is often associated with a tripartite system of government (sometimes misleading attributed to Montesquieu's 1748 *The Spirit of the Laws*[8]), with legislative, executive and judicial functions all strictly constrained to perform only their distinct functions. However, as Montesquieu was aware, to keep institutions properly performing their roles, it is often necessary to allow them various powers to 'check' or otherwise influence each other. In fact, the separation of powers is best understood as a tool-box of strategies used to structure relations between the separated institutions in order to support and constrain them into fulfilling their allotted functions.[9] The process of separation allows the strategic creation of novel inter-relations among the newly crafted institutions – relations of balancing, checking, dividing, competing and so on. These relationships exploit longstanding insights into human and social behaviour to improve overall institutional integrity. In short, when it comes to pursuing institutional integrity, we divide to conquer, and we separate only to reconnect.

Integrity Systems for Professions

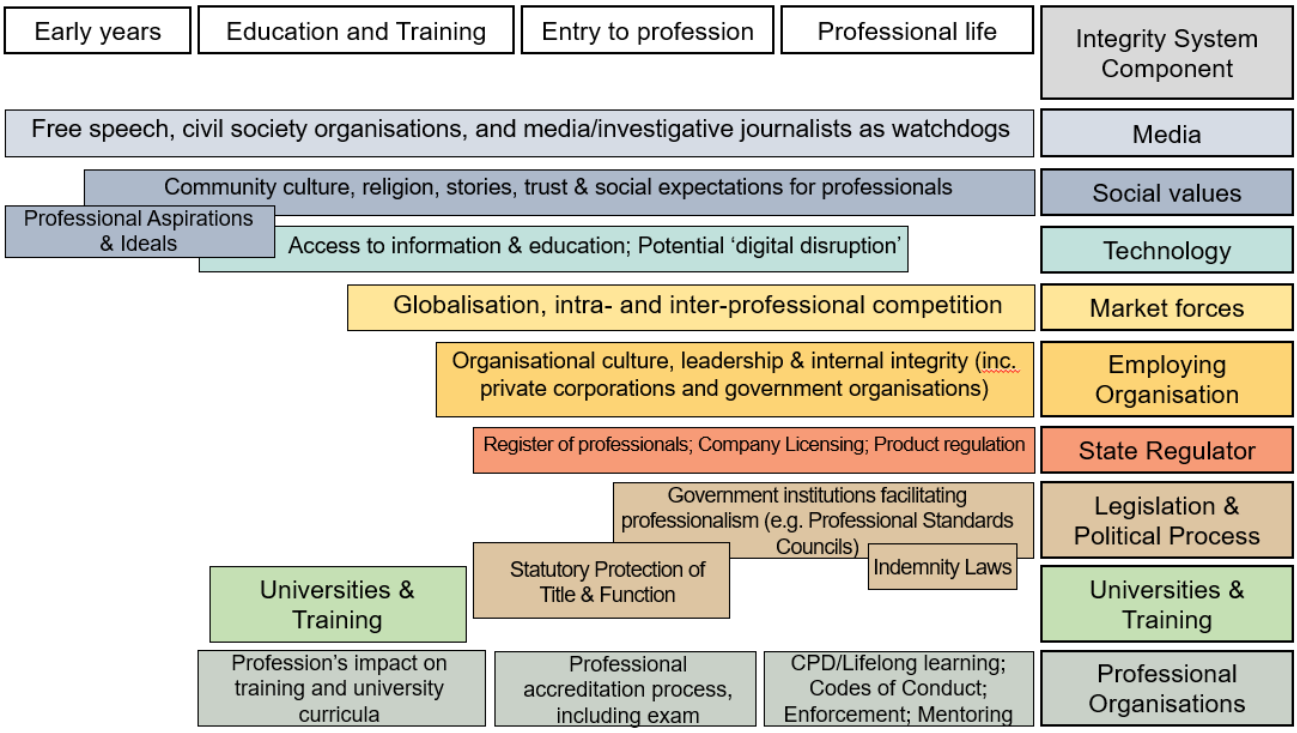
The foregoing lessons apply not only to political and legal regimes, but also to other institutions, such as the professions. As with larger political systems, the first lesson from the integrity systems perspective is not to put all one's faith in a single watchdog institution. Instead, consideration must be given to the many institutions that impact upon professional standards. Of course, the professional organization – including its regulatory and statutory context – will usually lie at the centre of the profession's integrity system, as it is the one institution whose very *raison d'etre* is to uphold professional standards of ethics and expertise. But as well as these familiar institutions, the professional integrity system will also include educational organizations (universities and other registered training organizations), media (including investigative journalists and the 'fourth estate'), cultural norms (both general social norms – such as regarding honesty – and specific professional principles – such as the doctor's obligation to, 'First, do no harm'), market forces (which may drive increasing standards of service, or a race-to-the-bottom), large employing organizations (from multi-professional organizations such as hospitals, to international law and accounting firms), and more. . (See Figure 1, below, for an illustrative case of an integrity system for professions.) The integrity system can also include purpose-built government bodies, who work to encourage professionalism through various means. An example is the Professional Standards Councils itself.[10] As this long list of integrity system members suggests, as well as having their own integrity system, professionals themselves form crucial parts of other

[8] Montesquieu, *The Spirit of the Laws* (Cambridge University Press, 1748/1989).
[9] Hugh Breakey, 'Dividing to conquer: Employing the separation of powers to structure institutional inter-relations' (2014) 12 *Research in Ethical Issues in Organizations* 29.
[10] Professional Standards Council, *Welcome to the Professional Standards Councils* <http://www.psc.gov.au/> (accessed 1 August 2017).

integrity systems. Journalists hold public figures to account. Teachers influence the next generation of government and corporate leaders. And lawyers, auditors and accountants hold crucial 'gatekeeper' roles, in their role of regulating the functioning of corporate actors.[11]

The second lesson following from the integrity systems approach, is that is not merely the system's specific elements that matter, but also the inter-relations between them. An integrity systems assessment would consider whether, for example, regulatory bodies are subject to capture by other organizations, or whether large employing organizations are usurping (and therefore side-lining) the tasks of professional associations.[12]

Figure 1: Example Integrity System for Professions



[11] John Coffee, 'Understanding Enron: 'It's About the Gatekeepers, Stupid' (2002) 57 The Business Lawyer 1403.
[12] See, e.g., John Flood, 'The re-landscaping of the legal profession: Large law firms and professional re-regulation' (2011) 59 *Current Sociology* 507.

Summary

Reforming institutions to act with integrity is no simple task. Strategic reform involves more than effective criminal sanctions, dedicated watchdog bodies, and even a 'checklist' of required institutions. Instead, it requires paying careful attention to the overall network of existing institutions, and their specific inter-relations – the integrity system. Reform initiatives can aim to introduce new institutions, improve the internal governance of existing organizations, and reshape the inter-relations between different institutions. In the context of professions, while the professional organization will hold a key role in most integrity systems, its inter-relation with other elements – including universities, regulators, government institutions and large organizational employers – will determine its capacity to uphold professional standards across the industry.

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