CHARLES UNIVERSITY

FACULTY OF SOCIAL SCIENCES

Master's Thesis

2019   **Najmin Kamilsoy**

CHARLES UNIVERSITY

FACULTY OF SOCIAL SCIENCES

INSTITUTE OF PUBLIC AND SOCIAL POLICY

<u>Anti-Corruption Policy Gap:</u>

<u>The Case of Azerbaijan</u>

Master's thesis

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Study programme: PASP

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Year of defence: 2019

Declaration

1. I hereby declares that I compiled this thesis independently, using only the listed resources and literature.
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3. I fully agree to his work being used for study and scientific purposes.

Prague, 2019   Najmin Kamilsoy

References

KAMILSOY, Najmin. *Anti-Corruption Policy Gap: The Case of Azerbaijan.* Prague, 2019. 64 pages. Master's thesis (Mgr.). Charles University, Faculty of Social Sciences, Institute of Public and Social Policy. Supervisor Doc. PhDr. Pavol Frič, Ph. D.

Length of the thesis: 136,348 characters

Abstract

Systemic corruption remains a challenge to good governance and development in many parts of the world, while anti-corruption policies have largely been failing to prove success, despite increased international efforts. The growing scope of research literature suggests that ineffectiveness of the fight against corruption is caused by the inadequate theoretical ground that anti-corruption activities are developed on. Principal-agent model of anti-corruption interventions, which have been dominant, fall short in targeting the roots of systemic corruption and its informal institutions. As a result, a policy gap emerges between the reality of corruption and practice to curb it. By presenting the main indicators of systemic corruption and features of the anti-corruption policy gap, this thesis probes into the nature of corruption in Azerbaijan and analyzes the anti-corruption policies in place. It concludes that systemic corruption continues to prevail as a norm in Azerbaijan, while measures to fight against corrupt practices remain largely unsuccessful, due to lack of political will of principals, in contrary to the assumptions of the principal-agent framework.

Keywords:

Corruption, systemic corruption, principal-agent theory, anti-corruption, Azerbaijan

Abstrakt

Systémová korupce zůstává výzvou pro řízení a administraci státní správy v mnoha částech světa a protikorupční opatření z velké části nedocílily kýženého úspěchu, navzdory zvýšenému mezinárodnímu úsilí. Rostoucí zaměření výzkumné literatury na toto téma naznačuje, že neúčinnost boje proti korupci je způsobena právě nedostačujícím teoretickým základem doposud používaných protikorupčních opatření. Model „pán a správce" (principal-agent), který dlouhodobě dominoval v oblasti protikorupčních opatření, zaostává v zaměření na pochopení samotných kořenů systémové korupce a jejích neformálních institucí. Výsledkem této politiky je prohlubující se propast mezi skutečnou korupcí a dosavadními existujícími kroky, které se ji snaží omezit. Na příkladu hlavních ukazatelů systémové korupce a mezer v protikorupční politice, tato práce zkoumá povahu korupce v Ázerbájdžánu a analyzuje zavedené protikorupční strategie. Dospívá k závěru, že v Ázerbájdžánu nadále převládá systémová korupce, zatímco

opatření k boji proti korupčním praktikám zůstávají z velké části neúspěšnými zejména kvůli nedostatku politické vůle vedoucích činitelů, což je v zásadním rozporu s předpoklady modelu „ pána a správce".

Klíčová slova:

Korupce, systémová korupce, teorie principal-agent, teorie pán a správce, protikorupční politika, Ázerbájdžán

Acknowledgment

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RESEARCH

Introduction

The question of "why do many anti-corruption initiatives fail?" has been bothering scholars around the world in past decades. There has been growing attention on definitional and theoretical foundations as well as typologies of corruption in order to find the reasons for failure. What if corruption has different shape and character in every country? What if corruption is not just a breach of laws and rules, but is a wide practice in some places? Do anti-corruption policy measures have such assumptions? What is evidence from countries? In this thesis, I intend to find answers to these questions by critically analyzing the main theory behind the anti-corruption practice and bringing evidence from the experience of Azerbaijan.

A number of scholars (i.e. Persson, Rothstein and Teorell, 2013; Marquette and Peiffer, 2015, Mungiu-Pippidi, 2006) have worked on the critical question raised above and the main consensus is that the problem is rooted in fallacious theoretical approach in understanding corruption, where it has a systemic character. This thesis aims to fill several gaps, firstly by structurally identifying the shortcomings of the key anti-corruption theory, principal-agent framework in the face of systemic corruption, and supporting it with a case study.

Most of the academic research on corruption is based on cross-country comparisons, while the nature of corrupt practices in specific countries is not widely analyzed. To address this gap, I will be evaluating the nature of corruption in Azerbaijan based on the indicators of systemic corruption developed in this thesis and then assessing the accordance of anti-corruption initiatives. Yet another issue is limited academic study on corruption in Azerbaijan, which is often named as one of the most corrupt countries by international organizations. Finally, though a lack of political will is seen as a reason for no progress in anti-corruption measures by many researchers, this notion still remains abstract. Referring to the case of Azerbaijan, I present evidence in support of assumptions of the political will framework in the fight against corruption.

The main body of the thesis starts with definitional challenges on corruption. Most of the definitions of corruption are constrained by their scope while considering corrupt practices

mainly as individual illicit behavior. In contrary, in the context of systemic corruption, corrupt practices turn to be a political, economic and social norm, which are facilitated by informal networks replacing formal institutions (Stefes, 2007; Rothstein 2007). Based on the scholarly literature on systemic corruption, I identify its key features, which include shrinking boundaries between public and private, social acceptance of corrupt acts, lack of control mechanisms and state capture.

In the next section, I discuss the strengths and weaknesses of anti-corruption measures where it becomes apparent that environmental factors are the key determinants. It is claimed in this thesis that despite increasing emphasis and investment in anti-corruption globally, most of the initiatives do not achieve success due to failure to frame corruption. Studying relevant literature, I present key deficiencies of principal-agent model anti-corruption policies, which are dominant around the world. While identifying the components of the anti-corruption policy gap, I discuss why this framework remains weak in targeting systemic corruption.

Azerbaijan, as a developing post-Soviet country is very convenient case to study systemic corruption and effectiveness of anti-corruption initiatives. Following the assessment of the scope of corruption as well as the adequacy of anti-corruption measures, I concluded that existing practice is largely unsuccessful due to the lack of political will in the fight against deeply rooted informal institutions of systemic corruption.

Thus, I aim to analyze three main hypotheses in this research:

- There is a gap between principal-agent model anti-corruption policies and nature of corruption where it is systemic;
- Corruption is systemic in Azerbaijan;
- Anti-corruption policies fail in Azerbaijan because of the lack of political will.

Methodology

In this thesis, I intend to conduct exploratory qualitative research based on the analysis of primary and secondary data. The main source of data collection will be already existing literature, policy documents, and reports relevant to the topic. The method of the context analysis will be applied in order to identify the gap between environment and practice and challenge the theoretical framework applied in the below-discussed policy.

The thesis is mainly divided into two parts. The first part is devoted to a theoretical analysis of systemic corruption and principal-agent framework of anti-corruption measures, using secondary sources such as academic books and journal articles by the scholar who deeply studied these subjects. Based on the qualitative data collected from these sources, I develop indicators of systemic corruption as well as the weaknesses of anti-corruption policies in such environments. I build a framework of anti-corruption policy gap, in order to apply in the case study.

The second part of the thesis is the case study, in which the nature of corruption and the effectiveness of anti-corruption policy interventions are elaborated. In order to make an appropriate diagnosis, Mungiu-Pippidi (2006: 91) suggests qualitative strategy to define whether corruption is systemic in a given country. I base my assessment on personal observations, media coverage, reports of international organizations and literature on corruption in Azerbaijan, which helps to make a conclusion.

In order to evaluate the effectiveness of anti-corruption initiatives in the country, since I provide a detailed descriptive analysis of the environment, I employ the method of context analysis. My argument about the lack of success of the fight against corruption is also supported by quantitative data, which is collected from annual corruption indexes of the World Bank and the Transparency International. Examining the primary sources such as relevant laws, policy documents, and media reports, I conclude that effectiveness of anti-corruption policies in Azerbaijan is largely dependent on the commitment of political elites (applying the framework political will).

There are serious methodological challenges faced by this research, especially in terms of data collection. Very limited scholarly research exists about the levels of corruption in Azerbaijan,

though there has been considerable scope of studies conducted on corruption in neighboring countries. Domestically, writing about corruption in Azerbaijan is considered to be risky (as will be elaborated further in the thesis) due to the authoritarian environment in the country. Researchers, analysts, and journalists face immense restrictions in conducting related surveys and accessing relevant information. As another indicator, in the survey reports of Global Corruption Barometer of Transparency International (2015), the results from Azerbaijan are not shown because of the high level of "don't know" responses.

Thus, based on the analysis of available primary and secondary sources, and applied methods, which were discussed above, this thesis proposes answers to the following research questions:

- Why do anti-corruption measures fail in under systemic corruption?
- What are the shortcomings of the principal-agent framework in the fight against corruption?
- Is corruption systemic in Azerbaijan?
- What are the reasons for the lack of success of anti-corruption initiatives in Azerbaijan?

Theoretical background

Most of the anti-corruption efforts in recent decades have largely been shaped by a certain theoretical framework. The anti-corruption literature suggests that the principal-agent theory has been the main foundation for the anti-corruption activities around the world, mainly due to the general understanding of corruption as a principal-agent problem (see Ugur & Dasgupta, 2011; Persson, Rothstein & Teorell, 2013; Marquette & Peiffer, 2015; Groenendijk, 1997). Before discussing critical approaches concerning the application of the principal-agent model, it is necessary at this point to clarify exactly what is meant by this theory.

Historically, principal-agent models have evolved from various areas of study, including law, accounting, and economics. The root of these models, agency theory, is based on "ubiquitous agency relationship", which is shaped by principal assigning the duties to an agent in order to implement it (Eisenhardt, 1989: 58). As the relationship between the principal and agent cultivates throughout time and becomes increasingly dynamic, this theory aims to solve possible problems which emerge during the process of implementation. The literature on principal-agent

theory mainly discusses two key problems that arise in the above-mentioned relationship. Firstly, given the fact that principal is unable to thoroughly observe the activities of agent and meanwhile, the agent is in an advantageous position in boosting own interests, a problem of confrontation of interests develops between these two. Agents have more expertise in comparison to principals in terms of delegated duties and throughout implementation, they receive an abundance of information which they can use for their own benefit. Meanwhile, it is difficult for principals to notice those breaches of commitments. Secondly, in the risk situations, principal and agent take different approaches, because of their differing desires. Once the act differently in such circumstances, the risk-sharing problem emerges between principal and agent (Ibid.). Thus, the main assumption of the principal-agent theory is based on the expression of self-interest in the managerial course.

In the analysis of public policy, the principal-agent theory is relatively new. It became a base for a significantly broad body of studies which relate bureaucracy to elected politicians (Waterman & Meier, 1998) From the public policy perspective, principals can be considered as politicians and the agents as bureaucrats. According to Potůček (2017) clash of interest between the former and latter leads to a principal-agent problem, where the agent does not comply with instructions and interests of principals, and intends to take advantage of resources in hand. Such situation weakens policy implementation, which can eventually cause policy failure. In the other words, as Bergman (1990: 339) put it, "at the heart of the policy process is the attempt by the principal to monitor the efforts of the agent to live up to the terms of policy contract". Scholars agree that principal-agent problems in the public sector are inevitable, as agents have a lot of incentives to manipulate principals in order to make private benefits.

Corruption is broadly deemed a "double principal-agent problem", based on the question of who is the principal and who is the agent (Marquette and Peiffer, 2017). In a more traditional case, the principal-agent relationship refers to the interaction between elected or appointed politicians and bureaucrats. In such a context, the conflict of interest with regards to corruption emerges in the situations where the principal cannot effectively scrutinize what agents do, while agents are utilizing the ways to make private gains. This assumption is largely suitable for the instances of bureaucratic corruption. In the second case, which generally refers to the instances of political corruption, the general public is considered to be the principal and public officials are the agent.

In such view, according to the principal-agent theory, problems emerge because even in the consolidated democracies, where accountability and transparency mechanisms exist, the public is still not able to effectively control the activities of officials (Ibid.). To elaborate further, in the analysis of corruption as a principal-agent problem, it is assumed that, either agent advance their self-interest with corrupt acts as they believe benefits would be higher than consequences, or there is an "information asymmetry" between principal and agent, which means, agents use particular information they receive for their own benefits without communicating it to principal (Persson et al, 2013).

The most significant aspect of the principal-agent theory – especially when it is applied in the analysis of corruption – is the assumption that the problem is solely caused by the acts of the agent. This understanding follows the idea that the principal is always "principled" enough to stand against the misuse of the office and to represent public interest (Rothstein, 2010; Persson et al, 2013). This section has attempted to provide a brief summary of the principal-agent theory and it assumptions related to corruption, however, I will describe in the next chapters why this thesis rejects these assumptions, including the idea of "principled" principal in the context of systemic corruption.

CORRUPTION

Definition

In order to understand anti-corruption, we first need to elaborate on what is corruption about. Although it has been thoroughly focused in academic literature in past decades, there is no single commonly agreed characterization of corruption. There are various definitions, especially based on different contexts and typologies, but the only wide agreement is on the fact that corruption has a deeply harmful effect on politics, economy, and development.

Rose-Ackerman (1996: 83) describes corruption as "misuse of public office for private gain". This general definition of corruption has widely been used in policy circles, including the World

Bank, however, like many other definitions, it only manifests the problem, while there is a lack of consensus on which acts specifically considered to be corrupt (OECD, 2018).

In the definition of corruption in the Oxford English Dictionary, certain corrupt acts, namely bribery and favor are suggested as "perversion or destruction of integrity in the discharge of public duties". Although many observers would agree on which acts constitute a corrupt practice, it is still difficult to witness the process directly as it does not happen publicly and visibly to everyone (Tanzi, 1998). Experiences of ordinary citizens would be key in identifying many forms and characteristics of corruption, as they are usually the ones, who encounter or be part of such practices on a regular basis, where corruption exists. Therefore, alternatively, Kurer (2005: 227) – relying on the public opinion – suggested that "corrupt acts are by a holder of public office violating non-discrimination norms in order to gain a private advantage".

However, above-discussed definitions and classifications of corruption have largely deemed to be misleading. Firstly, the definitions of corruption are based on a presumption that it is misuse or violation of certain norms of public integrity under which the state operates, but what if corruption itself is the norm? Some critiques have risen against the general definition of corruption as it has a universalistic character, therefore its characterization is not applicable in the societies with a collectivistic and/or hierarchical nature, which is associated with "particularism" (Mungiu-Pippidi, 2006). Particularism goes in contrary to universalism in terms of moral values and individual practices and once it prevails in the society, corruption turns to be the rule of the game instead of breach of the rule.

Secondly, in some instances of corruption, illegal use of public power is not aimed at personal gain, but for "the benefit of one's party, class, tribe, friends, family and so on" (Tanzi, 1998: 8). Corruption can be explained in several terms, including economic and social, involving an abundance of types and it would, therefore, be difficult to follow a certain definition of it. Thus, this thesis emphasizes that the majority of explanations of corruption based on a principal-agent understanding are inaccurate and not suitable in the systemic context. The next section will elaborate more on the typologies of corruption which challenge the unique definition of it.

Types of corruption

As it was rightly asked by Groenendijk (1997: 217), "if for example, a bureaucrat accepts a bribe from a company, and in return grants a license to that company, we unmistakably have a case of corruption. Now, what if the company does not offer a bribe but offers a job to the bureaucrat's brother? And what if the bureaucrat turns down a bribe, but instead wants the company to donate to the campaign of his favorite politician, or to Greenpeace?". Corruption is definitely not limited simply to cash transfers or to unauthorized personal gains of public servants. It can take a myriad of shapes and forms. Andvig and Fjeldstad (2001: 6) differentiate corruption in economic and social contexts. In the first context, which he terms as "market-like situation", corruption usually occurs in material form, especially with cash transactions. In the latter context, which refers to "social corruption", the extent of corruption does not only include material transfers, but also exchange of social privileges.

Based on the question of which resources are transferred and in which institution such transfer is made, Transparency International's Anti-Corruption Glossary categorized corruption into three types: "petty corruption", "political corruption" and "grand corruption". The main distinction between these types of corruption is determined by the scope and area, i.e. everyday small (petty) payments in hospitals for the provision of a service or selling (political) influence to private businesses in decision-making level. If it is more than an influence-peddling, but a high-level politician serving to interests of a small group of people in breach of public interest, it is deemed grand corruption. In its widely-used classification, World Bank (2006), suggests other types, namely corporate and administrative corruption. Corporate corruption exists in private companies. If one succeeds to pay bribes to avoid taxes and bureaucracy or to secure small-scale tenders, it is a signal of the prevalence of administrative corruption.

In the typology of post-Soviet corruption, Karklins (2002: 24) distinguishes "self-serving asset stripping by officials" and "state capture by corrupt networks", apart from small-scale administrative corruption. Identifying the existing types of corruption is key in developing anti-corruption policy in a given country. What if corrupt practices do not only exist but is a widely-spread practice in all levels of society? What if all above-mentioned types of corruption are prevalent? What if the acts that constitute administrative corruption are not exceptional, but a regular form of operation of the administrative system? Analysis of systemic corruption, which

still remains an under-researched problem in the scholarly world, can shed light for finding answers to these questions.

Systemic corruption

The previous section discussed types and forms of corruption, including those which are occurring in the administrative system. Administrative corruption formed the central focus of a study by Caiden (1977), in which the author also suggested the functioning role of corruption, especially under the condition of shortcomings of the administration system. In other words, if the state is unable to fulfill its functions properly, corrupt acts may well be utilized by the citizens as a means to solve problems. Though this approach links corruption to development, it also alarms that corruption is entrenched and no longer an individual breach of universal norms. The adherence of such practices by all levels of society and the ruling elite is what characterizes systemic corruption (Stefes, 2007).

It would be misleading to consider systemic corruption as a separate type. Systemic corruption, according to Johnston (1998: 89) is rather an environment in which "major institutions and processes of the state are routinely dominated and used by corrupt individuals and groups". Stefes (2008: 75) suggests that corruption turns to be systemic when it is "endemic and institutionalized". Systemic corruption is shaped by an abundance of informal networks, which involve public officials, agents of bureaucracy, private businesses, political parties and more.

In the context of the dominance of corrupt networks, it would be difficult, if not impossible to find alternative ways of dealing with corrupted state institutions and officials. What makes it hard to bring an end to systemic corruption is the fact that it is not individual pathological behavior, which can be punished and eliminated, but a system with its unofficial norms and rules. Such informal norms and rules are enforced by corrupters: those who abide by it receive dividends, while noncompliant behavior is penalized (Frič, 2012). Networks of systemic corruption establish structures to protect corrupter, corrupted and the exchange between them. Hence, systemic corruption is creating not only enabling but also motivating conditions for people to be engaged in corrupt activities.

Apart from the existence of informal networks, as discussed above, one important aspect of systemic corruption is that it generates collective incentives. Unlike the universalistic context, which ensures equal treatment of individuals, systemic corruption is characterized by the existence of privilege groups. That means easiness of accessing to public goods is depending on the status of individuals. Thus, systemic corruption is also characterized by "culture of privilege", in which corrupt acts such as bribery appear as a way to receive equal treatment or to belong to advantageous status groups (Mungiu-Pippidi, 2006: 88). Existence of systemic corruption also tells about the incapability of the legislative structure of the state in terms of determining and taking action against the corruption problem (Andvig and Fjeldstad, 2001). Thus, systemic corruption undermines democratic institutions, causes large inequality, while it is becoming increasingly difficult to fight against as it benefits a variety of groups, including decision-makers and implementers.

There has been increased attention on the causes and effects of corruption in order to develop effective measures to deal with it. Many non-governmental transparency organizations and intergovernmental economic organizations have set mechanisms to measure the levels of corruption worldwide. Anti-corruption strategies and measures are initisted according to the assessments, however, still have not succeeded. This is believed to be due to a lack of thorough understanding and characterization of systemic corruption. Hence, based on the studies of Stefes (2007, 2008) and Mungiu-Pippidi (2006, 2011), I suggest below the indicators of systemic corruption, which will further be used to determine the nature of corruption in Azerbaijan:

Blurry distinction between public and private, involving an abundance of informal networks. Systemic corruption is a context that is deeply associated with the existence of informal networks and patrimonial structures that create informal institutions (rules and norms) which enable public officials to exploit their authorities for private purposes. Public officials take economic and personal advantages using their access to public resources, they often also simultaneously turn into private actors - or otherwise. Monopolization and oligarchy is typical for above-described settings.

Lack of effective checks and balances in distribution of public positions and benefits. Systemic corruption is also characterized by strict centralization of power, historically undemocratic elections, absence of mechanisms of horizontal accountability, including parliamentary and

civil society oversight. Under such conditions, rule of law and judicial independence remain weak, therefore, it is unlikely that any high-profile official or influential individual is penalized for engaging in corrupt practice.

Moderate social acceptance for corruption among population. If the nature of corruption is systemic, corrupt acts inevitably become a part of the daily life of ordinary people. There are multiplied incentives for citizens to engage in corrupt transactions. Firstly, it seems unrealistic to change corruption as an institution or "the rules of the game" (Teorell, 2007: 8). The administrative system is weak, access to public goods would be challenging without corrupt acts, such as bribery. Most importantly, a system of impunity is created by informal networks, so consequences of corruption are undermined. These factors are increasing social acceptability of corruption.

High-capture. State capture refers to "efforts of firms to influence the contents of legislation, rules, laws, decrees or regulations (i.e. the basic rules of the game) through unofficial payments by private actors to public officials" (Helman et al, 2000). In order to track the signs of systemic corruption, it would be necessary to determine whether state autonomy is limited by economic interests of power networks (Mungiu-Pippidi, 2006). Thus, apart from big firms which intend to influence political decisions to maximize benefits, there are also officials who pursue their economic interests in the decision-making process.

Systemic corruption has deeply detrimental effects. Though there has been a large academic focus on the economic consequences of corruption, first of all, it is important to recognize systemic corruption as a political reality (Alam, 1989). Existence of excessive systemic corruption cannot be imagined without the involvement of political parties and leaders: either as ones who manage informal networks or as ones who are captured by corrupt interests (Frič, 2012). When those represented in ruling elites intend to use their powers to expand private benefits through economic and regulatory functions, it also hinders political competition (Alam, 1989). Systemic corruption broadens class and social separation and restrains cohesion in society, which often leads to violation (Caiden, 1977). It also solidifies path dependency against policy change due to private concerns, while retarding administrative reform in order to further benefit from bureaucratic corruption (Ibid.).

The environment of systemic corruption still prevails in many parts of the world, from Africa to the post-Soviet area and Latin America. Anti-corruption programs have been effective in eliminating various types of corruption, such as side payments in bureaucracy, however, there is still limited comprehension and lack of effective means to target the roots of systemic corruption in order to eliminate it. Curbing systemic corruption needs more than an anti-corruption policy. According to Rothstein (2007), anti-corruption efforts that aim to defeat systemic corruption gradually with small measures will not be successful and what is needed is rather a revolutionary approach.

Thus far, this thesis has discussed the characteristics of systemic corruption and next chapters will focus on anti-corruption policies around the world and amplify more on why those policies have fallen short in dealing with the systemic nature of corruption.

ANTI-CORRUPTION

Anti-corruption policy: Emergence

The practice of corruption and measures to fight against it have existed since government institutions have been established (Sampson, 2010). However, there has been much more emphasis on the development of anti-corruption policies in the 1990s, mainly due to the emergence of global anti-corruption organizations and increased efforts by the World Bank to reduce corruption by promoting good governance. Another influential factor was "neoliberal changes in public management" followed by the advancement of the code of ethics and instruments of transparency to make the governments more effective (Ibid: 276). McCoy and Heckel (2001) defined three stages of the emergence of worldwide anti-corruption norm starting from the 1990s. Those are increasing awareness, then establishing legislative and policy mechanism, and lastly global acceptance, internalization, and cohesion. Authors suggest that the last stage face serious challenges, which is because, internalization demands adherence of the norm in theory and experience in advance (McCoy and Heckel, 2001).

Increased global recognition of corruption as evil for good governance and economic development pushed the governments around the world to design and implement anti-corruption policies in order to prevent and/or combat corrupt practices. International economic institutions and civil society organizations have been instrumental in the advancement of anti-corruption campaigns in national agendas. In 1995, Transparency International issued its first Corruption Perception Index, a cross-country indicator of corruption levels. The index was followed by reports on successful practices around the world in addressing the problem of corruption. In 1996, Wolfensohn, who was the president of the World Bank at the time stated that corruption is a "cancer" that needs to be dealt with (Bhargava, 2006). The World Bank has been assessing corruption and building capacities to deal with it all around the world. Similarly, the Organization for Economic Cooperation and Development (OECD) has been systematically preparing guidelines and recommendations to countries for developing anti-corruption mechanisms. The United Nations Convention Against Corruption, as an inaugural international document against corruption, entered into force in 2005. Though there had been a few countries that were successful in eliminating corruption even before, many anti-corruption practices around the rest the developing world have been influenced by the aforementioned events and trends.

Fighting corruption is not an easy duty. United Nations (2004) describes anti-corruption efforts as "a long-term process whereby corrupt values and practices are gradually identified and eliminated". Depending on the types, level and the scale of the corrupt practices, structures of anti-corruption policies vary around the world. More commonly, those policies involve implementing relevant legislation, establishing anti-corruption agencies, adopting a code of conduct for public officers, increasing whistleblower protection and more. However, there is always a question of whether the introduced policy measures will effectively curb corruption. Mungiu-Pippidi (2006) argues that despite of tremendous international support to reduce corruption in many developing countries, these policies are subject to failure due to improper diagnosis of roots of corruption.

Types of anti-corruption strategies

As mentioned earlier, the structure of anti-corruption policies is determined by the extent of corruption and countries' relevant international obligations. Though any kind of act that constitutes corruption is forbidden by laws and regulations around the world, it has not significantly led to elimination of levels of corruption. Rose-Ackerman (1997) suggests that the existence of corruption is also an indicator of the governance problems. The study by Huther and Shah (2000) also confirms that effective anti-corruption efforts are ones that target significant governance shortcomings. Therefore, quality of governance is one of the main reference points that international economic and transparency institutions use while assessing corruption levels and developing anti-corruption recommendations to states. The World Bank and International Monetary Fund, for example, evaluate compliance with such recommendations before considering loans to developing countries.

In the past decades, an abundance of toolkits and handbooks have been produced for the counties in order to assist to encountering corruption. How to do needs assessments? How to develop functioning anti-corruption policies, strategies and action plans? How to effectively implement such policies? How to involve civil society organizations in the process? These are the main questions which have been addressed. In the framework of evaluation of anti-corruption policies and programs, it is suggested that, in the countries with high level of practices of corruption and low quality of governance, best anti-corruption efforts would be enacting rule of law, advancing accountability and increasing participation, while limiting "interventions to focus on core mandate" (Huther and Shah, 2000: 12). In contrary, counties with minor corruption level and powerful governance need more clear-cut anti-corruption agencies, unambiguous programs, strict management of finances, increased attempts to detect high-level corrupt individuals and so on (Ibid).

Based on a principal-agent relationship, well-known anti-corruption scholar Robert Klitgaard (1998) developed a strategy for preventing corruption. His framework of anti-corruption measures includes: merit-based selection of agents (public officials, bureaucrats); increasing salaries and rewards to create more incentives to be honest; strengthening mechanisms of detecting and punishing corrupt officials by investing more in law agencies; boosting competition to prevent monopoly; setting clear benchmarks to restrict discretion of agents;

establishing ethical standards for conduct. Most importantly, in the stage of implementation, he emphasizes the role of bodies that coordinate anti-corruption efforts. There are some countries that have proven success in the fight against corruption in accordance with these frameworks. Here, I present a few of them.

Singapore. Corruption was widespread in Singapore until 1959, when revelations about the corrupt transfers to the incumbent Minister of Education led to a change of the government (Quah, 1994). Though efforts against corruption existed before 1959, those efforts were of an incremental character, which had not been fruitful (Ibid). In 1960, "Comprehensive anti-corruption strategy" was introduced based on "the logic of controlling corruption" with an aim to eliminate incentives and chances to engage in corrupt acts (Ibid: 394). Initiated anti-corruption reform was consolidated by establishing and providing large powers to first-ever centralized anti-corruption agency, the Corrupt Practices Investigation Bureau (CPIB) (Meagher, 2005). CPIB turned to be a powerful model of a single agency which helped to establish the ethical standards of the government, also detecting and penalizing those who are deviant, especially among high-level officials in Singapore (Ibid). As CPIB is a functionally independent government agency, which is only accountable to the Prime Minister, its success in controlling corruption has been an indicator of a political will of the leadership.

Singapore's experience influenced to many countries to take similar anti-corruption measures, but the most symbolic case was another city-state – *Hong Kong*, which managed become a corruption-free zone since when Independent Commission Against Corruption (ICAC) was set up in 1974 (Meagher, 2005). ICAC helped to target corruption in many spheres of life in Hong Kong, including rampant corrupt practices in the police system (Doig, 1998).

Georgia – despite considered to be home for systemic corruption for years after independence from Soviet Union (Stefes, 2008) – has made a significant transition in controlling corruption, which according to Mungiu-Pippidi (2017) "still holds the record for the greatest positive change in the shortest period of time by any country, anywhere". Despite its weak economy, civil war and national security threats, Georgia successfully managed to eradicate informal networks of corruption, ensured transparency and grounds for collective action, after the revolution that took place in 2003 (Ibid). It was made possible by the strong political commitment of the leader of post-revolution Georgia, who managed to attract popular support

by targeting actors of systemic corruption, including oligarchs and corrupted officials (Stefes, 2008).

However, in fact, the framework of anti-corruption strategies that were discussed earlier has not demonstrated significant success in combating systemic corruption in majority of cases. Many exemplary countries to this argument are located in Africa, among other continents, where systemic corruption is still prevalent. Nigeria, for instance, is home for a whole range of corrupt practices, including bribery, embezzlement, administrative, political and electoral corruption, nepotism and more (Martini, 2010). Though under strong international pressure, Nigerian authorities developed comprehensive anti-corruption measures, including multiple state agencies to fight against corruption, however, the country has not advanced according to corruption indexes till today.

It was also later confirmed by Klitgaard that measures to curb ordinary corruption are failing under systemic corruption. "When systems are so thoroughly corrupted, there may be little, if any, political will to reform them. Calling for better agents, improved incentives, better information, more competition, less official discretion, and higher economic and social costs is well and good. But who is going to listen? Who is going to act? The usual anti-corruption remedies may not work. Now what?" (Klitgaard, 2006: 302).

This section has attempted to provide a brief summary of the emergence of anti-corruption norm and strategies to combat corruption. The section to follow, which is the core of the thesis, moves on to consider the deficiencies of anti-corruption policies in the face of systemic corruption. That is what I title as anti-corruption policy gap.

Anti-corruption policy gap

A growing body of literature have raised one simple question: why do anti-corruption policies fail?

As discussed in previous sections, since the issue of fight against corruption became a priority in the global agenda, most of the countries around the world introduced institutional reforms as anti-corruption measures. Those reforms have dominantly been designed to limit agent's

incentives and opportunities for corrupt practices based on the framework of principal-agent relationship (Andvig and Fjeldstad, 2001; Hanna, 2011; Persson et al., 2013). That means, strengthening monitoring mechanisms to detect deviant behaviors of agents have been a prevailing anti-corruption strategy (Hanna, 2011). This approach has drawn large criticism by scholars, who argue that principal-agent understanding of systemic corruption is flawed. Below, I will critically analyze the application of the principal-agent framework in anti-corruption policies in the settings of systemic corruption and identify the main factors that create the policy gap.

The principal-agent framework undermines the difference between individual and systemic corruption. Corruption does not have the same nature in every country and society. Therefore, strategies and policies to fight against it cannot be based on a single approach globally. Anti-corruption policy in developed countries with consolidated democracy cannot be a guide for developing part of the world. Mungiu-Pippidi (2006) distinguished universalistic and particularistic societies, in which two different norms are prevalent. In contrary to particularism, corruption in universalistic societies is an individual breach of norms, rather than a system which is based on an unequal distribution of power, public goods, and benefits through informal networks. However, a majority of cross-country studies do not differentiate various types of corruption, which further reduces the relevance of recommended measures (Rose-Ackerman and Truex, 2019). Though there have been discussions over adjusting anti-corruption measures to distinct environments of individual countries, still, "one-size-fits-all" concept is shaping the approach of the international community in providing guidance (Persson et al. 2013).

Many authors agree that the principal-agent approach can be applicable to the microeconomic level, but not in the analysis of a systemic problem (Mungiu-Pippidi, 2011). In fact, the principal-agent theory remains indifferent to existence informal networks. Systemic corruption is an indicator of "poorly functioning state, and a failure of ethical leadership, democracy, and good governance" (Andvig and Fjeldstad, 2001: 38). Under such an environment, any anti-corruption policy that treats corrupt practices as an exceptional case of individual deviance from universal norms and standards will face the resiliency of systemic corruption (Stefes, 2007). That is because systemic corruption invades all economic, political and social institutions and

changes the norms – the ways the institutions operate. Therefore, anti-corruption policies in many places undermine the nature of corruption and consequently fail.

Principal-agent framework places emphasis exclusively on corrupt agents. The major shortcoming of the principal-agent framework is its assumption that corruption is a problem created only by behaviors of agents. It assumes that corruption can effectively be eliminated by correcting the incentives of agents (Teorell, 2007). That is the reason why the most prominent anti-corruption measures are those which reduce agent's opportunities to engage in corruption, including meritocratic selection, code of conduct, less discretion, increased monitoring and more (as discussed earlier). What is missing here is one of the key characters of systemic corruption: principals, namely political leaders and citizens would be benefiting from maintaining the system.

"Principled" principals? When the system is corrupted, those who are in charge of curbing corruption would also be interested in taking advantage of it. This argument is also supported by Persson et al. (2013), who suggested that the application of the principal-agent theory has inevitably caused failure of anti-corruption programs in context of systemic corruption, as this theory presumes that principals will usually have a principled attitude against corrupt acts, however, it may well be the otherwise.

In practice, there are more opportunities for corruption for high-level state representatives, including ministers, parliamentarians, or even anti-corruption body heads, as they have larger discretionary powers (Mungiu-Pippidi, 2011). A widespread example to this from post-Soviet space would be bureaucrats while collecting bribes, also sharing it with their superiors who further protect them. (Stefes, 2007). Principal-agent model anti-corruption policies break down when principals are also engaged in corrupt acts that are against the public interest, which is a characteristic of systemic corruption (Rothstein, 2010).

Collective action as an alternative. In the recent anti-corruption research, systemic corruption is considered to be a collective action problem rather than a principal-agent one (Marquette and Peiffer, 2017; Rothstein, 2011). Collective action model of corruption gained prominence in literature because an increased number of surveys – even from countries with widespread corruption – indicate that majority of citizens have a negative opinion about corrupt practices, though they also confirm that they engage in such practices. This is, according to collective

action view of corruption, because individuals have no incentives to avoid corruption, as they think they cannot change the rules of the game (Rothstein, 2011). In other words, though all of the actors recognize the fact that it is more beneficial to stand away from the corrupt practices, however, as they do not believe others will do so, they have no incentives to challenge corruption (Ibid). This framework assumes that there is minimum one group of actors in every society to take a principled stance against corruption and it is argued that no problem of systemic corruption can be solved without collective action (Persson et al., 2013; Mungiu-Pippidi, 2011).

Functions of corruption ignored. One misleading approach that principal-agent and collective action frameworks have in common is viewing corruption only as a problem, as argued by Marquette and Peiffer (2017). Authors state that such an approach "has failed to recognize that corruption and patron-client networks persist because they function in providing solutions to problems" (Ibid: 7). As discussed earlier, systemic corruption exists in an environment with an abundance of informal networks. Those networks sometimes fill the gaps of administrative system failures, as well as maintains citizen access to public goods and social benefits. Huntington (1968) suggested that corruption is as functional, as reforms, in ensuring political stability.

Lack of political will. As far as the shortcomings are concerned, the major mistake in the application of the principal-agent framework in anti-corruption policies and measures in countries with systemic corruption is rooted in the expectation that principals have enough political will to fight against corruption (Marquette and Peiffer, 2017). Those who are responsible for the design and implementation of anti-corruption programs, namely, elected or appointed officials, actors of the public agency and other stakeholders may lack political motivations to work on strategies and measures to deal with widespread corrupt behaviors. This may happen due to several environmental factors – as suggested by Brinkerhoff (2000) in his conceptual framework for political will –including, regime type, socio-economic stability, and vested interests. Several questions arise: Are there real reformers against corruption? Are anti-corruption reforms designed to make tangible changes? Are the roots and causes of corruption analyzed effectively? Have enough resources been invested in anti-corruption reforms? In other words, principal-agent turns to be an incompetent analytical model when no actor is willing to track and penalize corrupt acts, which even include anti-corruption agencies. This theoretical

framework has largely been used in the literature of anti-corruption in post-Soviet space and I argue, this assumption fits in the context of Azerbaijan more than any other.

To sum up, it has been ascertained that the main anti-corruption policy gap emerges from the lack of proper diagnosis of the nature of corruption as well as from misleading assumption that those who are in a position to monitor and punish corrupt behaviors are principled ones. But how to actually put an end to systemic corruption? What is an ideal anti-corruption strategy?

Rothstein (2011) argues that if systemic corruption existed as a principal-agent problem, then incremental changes would be helpful to curb it. However, he suggests, incremental anti-corruption policies under systemic corruption are even counterproductive. Establishing universalistic norm – in which corrupt practices do not suit – demands a revolutionary intervention, a "big bang" approach, targeting all institutions simultaneously, instead of looking at "entry points" (Ibid).

Vanucci (2011) critically analyzed both incremental and revolutionary approaches in anti-corruption, also taking into account the scope of corrupt practices. In the context of systemic corruption, he contends, incremental changes are limited in their extent and ambiguous in terms of an entry point, thus can be easily defeated or manipulated by the structures of a corrupt system. On the other hand, revolutionary – so-called "big-bang" – approach has its own constraints in terms of the question of whether the political leadership and bureaucratic elite have enough commitment is ensuring the honest fight against corruption and if possible, the eventual outcome cannot be predicted in advance (Ibid).

That is affirmed in the study of systemic corruption by Teorell (2007) that, it is essential to treat corruption as an institution rather than an illegal and immoral behavior. Illicit behaviors can be eliminated by changing incentive structures, he stated, but it would give more clear vision about causes and effects of corruption if we look at it as an institution in its own capacity.

According to Stefes (2007) targeting systemic corruption is about defeating the informal networks that endure between government officials and ordinary citizens, high and low ranking public officials (bureaucrats and their superiors) as well as those networks that connect different state agencies. It is proposed that following anti-corruption efforts – accompanying conventional intervention – can prove sustainable in the context of systemic corruption:

- Systemic corruption has its winners and losers, while ordinary citizens are usually in the latter position. By involving civil society and media, increasing information and awareness of citizens about damages of corruption is essential. Only then, citizens would be involved in protest actions, court proceedings and campaigns against corrupt actors, or at least would prefer to engage with more benevolent actors which provide services and goods. This can also be made possible by state by establishing simultaneous agencies providing the same services in order to increase competition and thus limiting corruption.
- Decentralization, by handing over the political and administrative burden of the central government to local and regional authorities, can dismantle consolidated informal networks that overlap with formal state structures. It would be easier for citizens to watch on the transparency of local authorities.
- It has already been mentioned in this thesis that systemic corruption exists in the countries with weak horizontal accountability and poor system of checks and balances. This is a favorable environment for informal networks of systemic corruption to protect corrupt actors. Thus, the establishment of independent anti-corruption agency and protecting it from turning into the midpoint of corruption.

Similarly, Andvig and Fjeldstad (2001: 12) also point out that systemic corruption "calls for radical political reforms, a system of checks and balances, and deep democratization", and cannot be solved purely by legal and bureaucratic reforms.

All of these approaches explored above reject the assumptions of the principal-agent model framework in developing anti-corruption measures that fit into the context of systemic corruption. It has been clarified that the anti-corruption policy gap is the inconsistency between measures to fight against corrupt practices and the actual state of corruption. This consistency was found to be formed by deficiencies of understanding systemic corruption in terms of its informal networks as well as the shortcomings of anti-corruption policies in terms of consideration of ideas of collective action and political will. Based on the findings of this theoretical analysis, the following chapter will elaborate on the nature of corruption in the country of case study – Azerbaijan and further evaluate the anti-corruption policies in this country.

CASE STUDY: ANTI-CORRUPTION POLICY IN AZERBAIJAN

Background

Azerbaijan is an oil-rich country of the South Caucasus located in the shores of the Caspian Sea, neighbored by Russia, Iran, Turkey, Georgia, and Armenia. After the collapse of the Soviet Union, the country obtained independence but failed in the transition to democracy and market economy. In mid-1990s Azerbaijan managed to attract significant foreign investments in its major natural resources sector, which shortly led to economic growth in the country, however, lack of democratic institutions and public oversight have deepened the roots of corruption.

Almost three decades after becoming an independent state in the edge of Europe, Azerbaijan is still considered to be a deeply authoritarian state where the power is consolidated in the hands of the ruling family. Although democratic institutions exist, they are only of a formal character while there is no substantial separation of power (Bertelsmann Foundation, 2016; Freedom House, 2018). The systematic elimination of opposition parties, civil society institutions, and independent media are among the main factors creating an enabling environment for the high levels of corruption.

To understand how corrupt practices and institutions evolved in Azerbaijan, it is necessary to look at the historical developments that shaped the current economic, political and social environment as well as the institutional framework. In this context, I will discuss three main stages, which the country had undergone.

1922-1991: Azerbaijan under Soviet rule. There is no doubt that corrupt acts, especially political corruption had been prevalent in the Soviet Union and its constituents. As Franke et al. (2009: 112) puts it "the neo-patrimonial, vertical and horizontal personal relations of loyalty between members of the personal and bureaucratic administration shaped all spheres of the Soviet party and state structures". Stefes (2008: 77) writes that Caucasian and Central Asian Soviet officials were very infamous for engagement in corruption. Although there is a lack of data on the levels of corruption in the Soviet Union, according to Andvig (1999), Azerbaijan was leading in the scale of corrupt practices among Soviet states, mainly due to three reasons: existence of oil

industry, emergence of personalized networks and high social acceptance towards them as well as cumulative role of corruption.

The increased scale of corruption in Soviet Azerbaijan has made it easier to manage such acts and did not only lowered the risk of getting caught but also degraded the ethical price of engaging in corruption (Ibid). Oil money was embezzled, public goods were purchased beyond authorization, side payments to public officials became a common practice, while personalized informal networks were facilitating those transactions (Ibid). To determine the level of corruption official corruption in Azerbaijan, data by Clark (1993: 271) would be an explaining indicator, which suggests that, between 1965-1990, Azerbaijan, after Russia, had the highest rate of convictions of state officials for corruption offences, by 21.85 convicted official for one million citizens.

One symbolic political figure of Soviet Azerbaijan was state security (KGB) official Haydar Aliyev, who was appointed as the First Secretary of the Communist Party of Azerbaijan in 1969 and then, the first deputy prime minister of the Soviet Union. As an ambitious Soviet official, Haydar Aliyev played a major role in centralizing systemic corruption in Azerbaijan, which was also associated by waves of repression of corrupt public officials in the country - as can be seen from the data discussed above (Andvig, 1999; Clark 1993). A few years before the Soviet Union was collapsed, Aliyev was forced to resign amid corruption accusations against him, primarily by Gorbachev, however, he later returned back as a president of independent Azerbaijan.

The 1990s: challenges to state-building in independent Azerbaijan. First years of independence after the fall of the communist regime in 1991 in Azerbaijan were extremely challenging in terms of statehood. Three presidential elections were held in the first three years of independence before the Constitution was adopted in 1995. Even prior to establishing governance mechanisms, the institutional framework for political and economic affairs, the country found itself in a war (1992-1994) with bordering Armenia, which resulted in the occupation of 20 percent of territories of Azerbaijan. While the war was ongoing, internally, the country was in the edge of civil war amid attempted revolt by regional military chief against the central government (Washington Post, 1993).

Amid economic challenges, along with state failure, poverty remained high and contributed to rampant corruption, which was already a vicious legacy of the Soviet Union. As a consequence

of war, political disputes, ethnic unrest, and severe economic conditions, Abulfaz Elchibey, who was elected in the first and last democratic vote in Azerbaijan handed the power to former KGB official and Soviet leader of the country, Haydar Aliyev in 1993.

Immediately after taking the leadership, Haydar Aliyev established an authoritarian rule, in which, any threat to his power, including the networks of systemic corruption, was taken under control (Franke et al., 2009). In order to strengthen his power, he maintained his access to wealth generated from the export of country's natural resources and signed major foreign investment contracts to secure flow of money to the country (Guliyev, 2009). According to Stefes (2008), centralizing systemic corruption is essential for stabilizing long term power. This is how Haydar Aliyev proceeded – in order to fill the gaps of state failures and economic deficiencies, he created a system, which tolerated corruption but brought it under control by centralizing existing, mainly regional, patronage networks in his government, and forming "almost feudal relations" (Cornell, 2011: 83).

2000s-present: Ilham Aliyev's presidency. Following Haydar Aliyev's death, his son, Ilham Aliyev became a president in 2003 election, which was deemed by international observers as "a missed opportunity for a genuinely democratic election process" (OSCE, 2003). Ilham Aliyev upheld the same political system and set of norms that were established by his father (Cornell, 2011). As the economy continued to grow, this system turned out to be more favorable for the patronage networks with intentions to capture the economy (de Waal, 2016). Unlike his father, Ilham Aliyev felt less secure in his position, so he has initiated harsher measures against opposition and civil society groups as well as the independent media. While the oligarchs in his government expanded their wealth with public money, they also ensured the stability of their regime by buying popular support. (Guliyev, 2009).

The Western world and the country's international allies have accepted Aliyev's undemocratic election with a hope that he is capable of delivering reforms (Gahramanova, 2009). In response to international pressure and with the aim of getting a Western appraisal, the government of Azerbaijan launched major anti-corruption reforms in 2004 by establishing an institutional framework, adopting relevant laws and introducing the first state anti-corruption policy document. In the following years, above-mentioned measures were broadened and deemed as

progress by some Western institutions. However, these reforms failed to lead to any tangible change in the scope of corruption in the country (Börzell and Pamuk, 2011).

Under Aliyev's presidency in the 2000s, oil boom made the economy of Azerbaijan fastest growing in the world for several years, however, it also significantly decreased incentives ensure transparency (Cornell, 2011). Instead, an increased number of reports about corruption of the ruling family and high-level officials in Azerbaijan started to pop up on media: in 2012, Organized Crime and Corruption Reporting Project named Ilham Aliyev the "Person of the Year" for revelations of his family's corrupt practices throughout the year (OCCRP, 2012).

Anti-corruption literature barely finds a correlation between democracy and control of corruption. An example from Singapore discussed earlier is also an example of authoritarian success in the fight against corruption. This will be elaborated further in the next sections, however, one important note to make is that authoritarian regimes with no democratic elections, restricted rights, and freedoms, no checks and balances as well as lack of independent judiciary are supposed to have greater scales of corruption due to the absence of incentives to be transparent (Kukutschka, 2018). Thus, much depends on the contextual factors in respective country as well as profiles of those who are in charge of introducing anti-corruption interventions (Ibid). This section attempted to provide a background and picture of political leadership in Azerbaijan and the next sections will focus on existing data and contextual factors, particularly to the nature of corruption in the country.

Data

Apart from qualitative methods of research, which will be dominant in assessing the nature of corruption and evaluating the effectiveness of anti-corruption policies in Azerbaijan, some quantitative evidence and analysis in support of the main arguments of this thesis are presented below.

I use the main annual global indicators from Transparency International and the World Bank on the level of corruption in Azerbaijan in 2004 and 2017, in order to bring evidence to the fact that there has not been any significant improvement since the introduction of major anti-corruption policy in the country. Transparency International has continuously named

Azerbaijan as one of the most corrupt countries in the world, referring its Corruption Perceptions Index (CPI), in which Azerbaijan scored 1.9 (out of 10) in 2004 and 31 (out of 100) in 2017. Corruption Perceptions Index shows "perceived levels of public sector corruption" based on the inputs from country experts (Transparency International). The score goes from 100 down to 0 when corruption levels get higher (as can be seen in the table, the scale was 0-10 until 2012).

According to the World Bank's Control of Corruption indicator, Azerbaijan showed 11 percentile rank (out of 100) in 2004, which was very close to the lowest and it slightly increased to 18 in the year of 2017, however, still remained very critical. Similarly, Control of Corruption index represents "perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests" (World Bank). Percentile rank demonstrates the country's stand among other countries. 0 means the lowest stand, while 100 is the highest.

Table. Indices of corruption in Azerbaijan between 2004-2017.

Years	TI-CPI (score)	WB-CC (percentile rank)
2004	1.9	10.7
2005	2.2	15.1
2006	2.4	12.7
2007	2.1	10.7
2008	1.9	11.2
2009	2.3	9.6
2010	2.4	6.7
2011	2.4/10	9.5

2012	27/100	11.8
2013	28	16.6
2014	29	14.4
2015	29	16.8
2016	30	19.2
2017	31	17.8

Sources: Transparency International. Corruption Perceptions Index. (www.transparency.org); The World Bank. Databank: Worldwide Governance Indicators. Annual. (databank.worldbank.org)

Before the qualitative analysis of the characteristics of corruption in Azerbaijan, it is important to look at some quantitative indicators below which indirectly informs us about the general environment that relates to corruption in the country.

- Freedom in the World (2018) aggregate score: "not free" – 12/100 (0=least free, 100=most free) (Freedom House)
- Government Effectiveness (2017) percentile rank: 47.1/100 (0=lowest rank, 100=highest rank) (World Bank)
- Rule of Law (2017) percentile rank: 32.2/100 (0=lowest rank, 100=highest rank) (World Bank)
- Voice and Accountability (2017) percentile rank: 6.9/100 (0=lowest rank, 100=highest rank) (World Bank)
- State of Civil Society (2018) rating: "CLOSED" – 1/5 (1=closed, 5=open) (CIVICUS Monitor)
- World Press Freedom Index (2018) score: 59.73 (0=least free, 100=most free) (Reporters Without Borders)

Mungiu-Pippidi (2006) suggests that the freedom scores of Freedom House give a preliminary explanation about the level of particularism – which is characteristic for systemic corruption – in respective country. According to her study, those countries which are rated as "not free" by

Freedom House, while having a percentile rank lower than 60 in the World Bank Control of Corruption index are neo-patrimonial states (Mungiu-Pippidi, 2011). According to the data above, in past 15 years, Azerbaijan has continuously been rated as "not free" and a percentile rank of Control of Corruption never got higher than 20, which means the country fits into the criteria of neo-patrimonialism as a key component of systemic corruption.

Weak vertical and horizontal accountability is undermining rule of law, while it is also a feature of systemic corruption and its prevailing informal institutions (Stefes, 2007). Azerbaijan has one of the lowest rates among all countries in the World Bank's Voice and Accountability index.

Existence of strong civil society and independent media, combined with other elements, can play a major role in dealing with widespread corruption. Otherwise, when there is an absence of civil society and media is captured by corrupt interests, that creates favorable conditions for systemic corruption. While civil society is deemed to be "closed" in Azerbaijan, the country is also considered to be one of the most hostile places for independent and investigative journalism.

The above-discussed numbers indicate the levels of corruption and general environment in Azerbaijan, however, they tell little about the nature of corruption in the country. The following sections are dedicated to a justification of why I considered the nature of corruption as systemic in Azerbaijan.

Main features of corruption

Effective public policies need a rigorous probe into the environment of implementation beforehand (Potůček, 2017). As discussed earlier, the reason for the failure of anti-corruption policies is a mischaracterization of corruption and the lack of adequate assessment of the nature of corruption in a respective country.

In this thesis, I argue that systemic corruption is a political, economic and social reality in Azerbaijan. In order to make this diagnosis, I apply a qualitative strategy to find out if corrupt practices in the country are exceptions or rule of the game. Earlier in the previous chapter, I developed the indicators of systemic corruption (based on the studies of Stefes 2007, 2008 and

Mungiu-Pippidi 2006, 2011). Nature of corruption will be evaluated below based on those indicators.

Blurry distinction between public and private, involving an abundance of informal networks. Informal networks of systemic corruption are a vicious legacy of the Soviet Union and those countries which targeted such networks have proven success in eliminating levels of corruption. More than a quarter-century after obtaining independence, these networks still exist in the different levels of the political, administrative and economic system, while informing the norms in Azerbaijan. According to (Fric, 2008), three kinds of informal networks undermine structures of formal institutions in the post-communist world: predatory networks, redistributive networks and helping networks. Predatory networks, which are unmodern and socially neglectful (Ibid), are functionalized by clans in Azerbaijan which exist since the 1990s. As stated by Franke (2009: 118), clans in Azerbaijan are "more influential social constructions than formal legal institutions". Clans are set up by influential figures of Soviet nomenklatura, which remained in power after obtaining independence as well as other political figures who proven loyalty to the ruling family and became oligarchs enjoying large privatization acquisitions and awarding expensive procurement contracts for themselves (Guliyev, 2012).

The most important currency of corruption for patronage networks in Azerbaijan is loyalty to the central government. However, what keeps these networks wealthy, powerful and structured is also bottom-up transfers of obtained benefits from corrupt practices (Transparency International, 2017). Especially in law enforcement, military, and healthcare system, corruption is so systemic that sharing bribes with superiors is based on an allocation of monthly quota. This system is also what Stefes (2007) calls a common feature of systemic corruption in post-Soviet space, that lower-level public servants or officials transfer side-payments to those in higher positions in order to get an assurance of protection.

In Azerbaijan, important official positions, which include ministers, mayors and even members of parliaments (though parliamentary elections formally take place) are appointed based on nepotism and favoritism instead of merits. Appointment of a son of one minister as a deputy of another minister, or a police chief is everyday news. Another kind of news one can often come across would be big contradictory tenders won by family members of high-level officials (RFE/RL, 2017). The family which ruled Azerbaijan since 1993, has been the main model for

blurring the public-private distinction in the country. Apart from the transfer of presidency from father to son in 2003, one clear indicator of lack of such distinction was President Ilham Aliyev's appointment of his wife as a Vice President in 2017.

Lack of effective checks and balances in distribution of public goods and benefits. Allocation of public resources in Azerbaijan is subject to limited scrutiny. According to the Open Budget Survey (2017), Azerbaijan's budget transparency score is 34 out of 100, while it is 82 out of 100 for neighboring Georgia. There is a significant deficit of opportunities for public participation in the budgeting process. According to the same survey, the country's public participation in budgeting score is 11 out of 100. Though parliament, formally, should play the key role in keeping the government's financial affairs under control, however, Azerbaijani parliament (Milli Majlis) only functions to approve an annual draft budget that is proposed by the executive government, without any thorough debate (Open Azerbaijan, 2016). These are clear indicators of the lack of checks and balances.

The state budget of Azerbaijan is largely shaped by oil revenues. This makes the country a rentier state, where the government is less accountable to the taxpayers (Crude Accountability, 2019). Based on the transfers from the State Oil Fund, the government implements large-scale projects which aim at improvement of social and economic conditions, also for the future generations, however, the process is not based on proper needs assessment and transparent, which cause levels of misappropriation of funds by officials (Ibid; University of Oxford, 2017; Bertelsmann Foundation, 2018). Meanwhile, this has become a norm of public allocation in Azerbaijan.

The biggest challenge to checks and balances in Azerbaijan, as stated in the report by GRECO (2014) is "undue influence and political interference in the independent functioning of the legislature and the judiciary". Absence of opposition in the parliament and lack of pluralism in the political system, in general, has a critically negative impact on parliamentary control and the legislative process. The same applies to the judiciary system, in which members of the self-governing body are equivocally selected by the president, in absence of impartiality (Ibid).

One key component of systemic corruption is the problem of transparency in political party funding. As suggested by Della Porta (2004: 56), under systemic corruption, political parties operate as "guarantors of the illegal exchanges, socialize their members to illegality, and

sanction illegal transactions – all in order to reduce the risks involved in corrupt exchanges". In the post-Soviet countries with an unsuccessful transition to democracy and good governance, parliaments fail to ensure effective regulations on financing of parties, money laundering, conflict of interest and other issues related to corruption (Karklins, 2002).

In the authoritarian system of Azerbaijan, which is characterized by lack of political competition, the parliament is formed by dominance ruling New Azerbaijan Party (YAP) and other political parties, which exist nominally and are loyal to the ruling elites (Chatdam House, 2015). According to the experts, this allows the government to allocate illicit state funds to those political parties in order for them to defend ruling party interests (OC Media, 2018). While doing this, the ruling elites also used legislative means, repressive policies as well as media propaganda against opposition parties to keep them underfunded and thus, less known to the public (Meissner, 2011a).

Moderate social acceptance for corruption among population. Corruption has a moderate acceptance in the society of Azerbaijan and it has several reasons.

There is a widespread phrase in Azerbaijani society – "bribery starts with birth and ends with death" – which associated with real-life practice. That means, bribery that involves one in Azerbaijan starts from birth with side-payments to doctors and nurses in a hospital, and ends with death with bribes to a municipality to reserve a space in a graveyard.

According to Cornell (2011: 178) corruption in Azerbaijan "includes not just high-level malfeasance but everyday practices such as informal payments to schoolteachers, doctors, and low-level officials by individual citizens". When individuals that comprise society grow up into the social norm in which corruption in part of everyday life, large acceptance of corruption does not come as a surprise.

The World Bank's World Development Indicators report (2017) states that 9 of 10 citizens surveyed in Azerbaijan has paid bribes for the education and healthcare sectors. In another survey among students, Sadigov (2014) found that 67.3 percent of respondents had paid bribes to administrators and/or teachers in their university. Rampant corruption in the education sector also has detrimental effects on human development and corruption perceptions of future generations.

Under systemic corruption, as argued by Rothstein (2007), though corruption is considered to be misbehavior among people, they still do not avoid corrupt acts because they believe even if they do, others will not. Thus, there is a strong correlation between the level of social trust and trust to the legal system as well as corruption level (Ibid). In Azerbaijan, weak rule of law, as well as widespread corruption, has a serious negative effect on social trust (Bertelsmann Foundation, 2018). Social distrust is an important component of social norms of systemic corruption.

Existence of the authoritarian system and patronage networks for decades have shaped the perceptions of people that some individuals are above laws. It has created what Mungiu-Pippidi (2006) calls privilege groups in the society and under such conditions corrupt behavior are an acceptable means to belong to those groups. It is a way to get equal treatment by the state, while bureaucracy and administrative system fails to ensure equality.

High-capture. According to Karklins (2002) main features of state capture, which is a common type of corruption in many post-communist states are de facto handling of public office by private business interests, restricting political competition, challenging democratic elections by illicit funds, abusing legislative power, threatening judicial independence, corrupting media and more. Above-discussed characteristics of corruption in Azerbaijan demonstrate that these practices exist in various forms in the country. State capture in Azerbaijan is brought about by those who undermine official duties and responsibilities for personal power while replacing formal practices with informal ones (Safiyev, 2016).

Analyzing informal power structures in Azerbaijan, Kopeček (2016: 76) conclude that those structures – powerful oligarchs and clan leaders, in this case – have de facto captured the state to the point that they are undistinguished from the state. In his study, the environment in Azerbaijan is described as "a system that enables the political and economic elites to gain wealth, to control the state apparatus, and to crush political opposition and competing informal organizations". Characterization of Azerbaijan's economy with state capture also allows powerful oligarchs to establish monopolies while diminishing the institutions that ensure competitiveness, transparency, and rule of law. Their informal capacities to influence over judicial system provides them with immunity in linking their political and business interests.

One clear example of state capture in Azerbaijan would be legislative amendments to which has restricted access to information after series of revelations about grand corruption connected to the family members of the president and other powerful officials, who are also involved in patronage networks (Bertelsmann Foundation, 2018). Not only government officials and parliament members are enjoying lack of asset disclosures despite known family businesses, but also the president, who is frequently named in corruption stories has granted himself immunity from criminal proceedings for a lifetime in 2012 (GRECO, 2014).

This section intended to draw a more comprehensible picture of the systemic nature of corruption in Azerbaijan. Before evaluating the anti-corruption policy in Azerbaijan to identify the gap, the next section will continue further in the diagnosis of corruption by analyzing its roots and effects.

Causes and consequences of corruption

The systemic nature of corruption in Azerbaijan is a showcase of what Stefes (2007: 6) called "a pervasive legacy of Soviet rule". The large inheritance of systemic corruption in Azerbaijan was not only due to remains of informal networks of grand corruption from Soviet time, but also because of the formal rule of those with a solid political background within the elites of the Soviet Republic. In general, the success of post-Soviet countries in controlling systemic corruption has been very much dependent on their experiences of transition in the during the years of becoming an independent state (Stefes, 2008). In Azerbaijan, instead of state-building, the early 1990s were years of power struggle and consolidation of informal structures, as discussed earlier.

Before effectively setting up democratic institutions that could ensure provision of government accountability and transparency, the natural resources of Azerbaijan start to draw foreign direct investments (Gahramanova, 2009). Increasing oil revenues, associated with rent-seeking behaviors of public officials, has contributed to corruption to be deeply rooted through patronage networks (Meissner, 2011b). The growth of GDP without any sufficient state policies on employment, social protection and more have led to expansion of the informal economy, in

which people utilized informal practices to ensure their welfare (Ibid). This has led to more social acceptance of informal networks of systemic corruption.

Though in developed countries GDP per capita associated with amount of average salary, in Azerbaijan, GDP per capita is more than 10 times higher than an average salary (Bertelsmann Foundation, 2018). Low salaries, along with enormous bureaucracy and high-level red tape, gaps in legislation and practices, absence of accountability as well as disrespect to rule of law are among the main causes of endemic corruption (Cornell, 2011; Transparency International, 2017). Meanwhile, what makes corruption systemic is its deeply institutionalized character.

While political opposition has been targeted inside the country, democratic world and Azerbaijan's international partners have welcomed the results undemocratic elections in Azerbaijan with hopes of reforms in the country which would especially target corruption (Gahramanova, 2009). Accordingly, Ilham Aliyev, shortly after coming to power, pledged economic reforms that include anti-corruption measures. However, patronage networks that captured the economy and politics were not undermined, in contrary, oil boom increased their wealth and power, while reducing the incentives of the central government to conduct reforms (Ibid).

To date, several studies have analyzed the origins of corruption under authoritarian regimes, including Chang and Golden (2010), who concluded that the scope of corruption significantly increases once an authoritarian regime has personalistic character. In Azerbaijan, personalist leadership has been hesitant to build a state with functioning democratic institutions because of concern that those institutions may become a threat existence of the regime (Guliyev, 2013).

The long-standing corrupt practices and institutions have had deeply destructive effects, particularly on the economic and human development in Azerbaijan. Lack of competition as well as the existence of privilege groups have hard-hitting effect on small businesses. Entrepreneurs face various challenges and discriminatory policies, including demands regular demands of unofficial payments (Bertelsmann Foundation, 2018). As stated by an economy expert, "the ordinary businessmen tend to think that participating in pubic bids [when they are held] is useless, since nepotism always wins" (RFE/RL, 2017). This situation further consolidates the demand-supply side of corruption, while the administrative system continues

to fail due to the vicious cycle of corrupt practices. Lack of enabling business environment also hinders growth of the non-oil sector in the country.

Systemic corruption sets adverse social norms. As discussed earlier, systemic corruption develops particularistic relations in governance, which contribute the emergence of privilege networks and increased incentives in society to be included in those groups. In a study which set out to determine societal attitude toward corrupt practices, Sadigov (2017: 423) found that "citizen-initiated bribe offers" is an important component of corruption in Azerbaijan. According to his survey of more than a thousand citizens in Azerbaijan, 77 percent of respondents proposed bribes throughout the year prior to the research (Ibid). This is an indicator of the preferences of the general public to engage more with informal institutions, rather than formal ones.

Systemic corruption in Azerbaijan has had its international repercussions. In 2017, it was revealed that the government of Azerbaijan has utilized an international money laundering scheme, through which they have corrupted Western politicians and journalists (Guardian, 2017). It appeared that the Azerbaijani authorities have made illicit transfers to the foundations that are related to the members of the Parliamentary Assembly of Council of Europe, in order to block criticism against human rights abuses that take place in the country (Transparency International, 2018). Thus, revenues that have been gathered through informal networks of systemic corruption within the country were used to build an international corrupt network.

One key reason of absence of societal resistance to corruption in Azerbaijan is that the government has managed to undermine civil society institutions and independent media – which will be elaborated in the next section.

Civil society and media

"Where state and society are in balance, it is more difficult for either side to exploit the other..." (Johnston, 1998: 93).

Since the years of the emergence of global standards against corruption, there has been much more emphasis on the role of civil society in post-Soviet countries in boosting democratic norms

and anti-corruption policies, mainly because anti-corruption has been perceived as a prerequisite for furthering democratization (Schmidt, 2007). Hence, strengthening the institutions of civil society as well as developing horizontal accountability have been seen as key measures to eliminate corruption and consolidate democratic institutions (Stefes, 2005).

In order to target the roots of systemic corruption, according to Johnston (1998), what he calls "civic empowerment" – expanding political and economic resources to make them available to ordinary citizens – is necessary. However, when corruption is systemic – which means there is weak political competition and independent media – it would be unrealistic to expect civil society to be an enforcer of accountability in the state (Grimes, 2008). Case studies demonstrate that civil society proves to be successful in building up accountability only once anti-corruption measures are effectively implemented in legislative and institutional meaning (Ibid). Thus, although civil society is not the main player in ensuring accountability, it still can play an important role in the contribution of well-functioning of horizontal accountability institutions.

When civil society is not strong, citizens are more vulnerable to the informal networks of systemic corruption, as there is an absence of formal political and administrative means to ensure their rights (Johnston, 1998). In this absence, citizens often respond to corrupt practices with more corruption, as they find themselves incapable of individually fighting against corrupt practices (Ibid). Meanwhile, the existence of civil society does not always mean it fulfills principal functions. It is sometimes corrupted by the government by cooperating and accepting funds in order to support undetermined anti-corruption practices (Mungiu-Pippidi, 2011).

In his study of "the conditions for successful civil society involvement in combatting corruption", Grimes (2008: 12), based on principal-agent approach, suggested that effectiveness of addressing corruption is likely to increase when civil society horizontally push the principals to "bring agents in line". But what if the civil society institutions, which are supposed to act as principals, are weakened or compromised?

The example of Azerbaijan is a showcase of how the authorities systematically exerted crackdown on independent civil society organizations using the instruments of law enforcement to launch unlawful criminal proceedings and by implementing restrictive legislation against them (Human Rights House Foundation, Freedom Now, 2015). The government attacks on civil

society and independent media have established a conducive environment for systemic corruption (Transparency International, 2017).

The government eventually managed to close the space for formal existence of independent NGOs, especially working in the field of rule of law, transparency and judicial independence. Instead, the government has created its dependent civil society institutions (GONGOs) in order to fill this space (Bertelsmann Foundation, 2016) and to involve them in anti-corruption activities. Independent media outlets and journalists investigating high-level corruption have constantly been targeted with the same instruments discussed. Although the law on access to information exists, it is impossible for journalists to obtain relevant information, especially from those who are managing public finance.

Based on the discussion of roots, characteristics, and consequences of corruption and environment in Azerbaijan, next chapter will analyze the gaps of anti-corruption policies that are in place in the country.

ANTI-CORRUPTION POLICY EVALUATION

In 2004, as a part of a so-called large economic reform package, the Azerbaijani government introduced several measures with an aim of combatting corruption. One of the initial steps came with the adoption of "Law of the Republic of Azerbaijan on Combating Corruption" in January. In February, the country signed the United Nations Convention against Corruption (UNCAC). The first anti-corruption policy document, "The State program on Fight against Corruption" was approved in September. In October, the Anti-Corruption General Directorate was set up under the Office of Prosecutor General of the Republic of Azerbaijan.

In the following years, a number of legislative measures were taken, including amendments to existing laws and adoption of new anti-corruption laws and state programs as well as the creation of institutions supervising or aiding anti-corruption efforts. However, the scope of these efforts has remained highly disproportionate to the level of progress achieved in elimination of

corruption in the country. The main dimensions of the anti-corruption policy in Azerbaijan will be elaborated in this section in order to identify the reasons.

International commitments

Azerbaijan has become a party to several international agreements against corruption since the early 2000s. Below are the key international anti-corruption documents that the country has signed.

- United Nations Convention against Corruption (signed in 2004, ratified in 2005)
- Council of Europe Group of States against Corruption (member since 2004)
- Organization for Economic Cooperation and Development Anti-Corruption Network for Eastern Europe and Central Asia (member since 2003, when Istanbul Anti-Corruption Action Plan was launched)

In the framework of the Convention against Corruption, the United Nations is providing assistance to the developing states in order to advance anti-corruption measures. This assistance is based on the conditions of agreements with respective states and its means are technical support and exchange of information. This includes working on and improving anti-corruption strategy and training anti-corruption actors. However, UNCAC turns to be an efficient mechanism of the fight against corruption only when it is utilized by all domestic actors, as argued by Mungiu-Pippidi (2011), who further suggests that, ideally, the tools that are offered by UNCAC should be inciting collective action. The impact of UNCAC is limited if there is a lack of control over the government by the whole society (Ibid). Azerbaijani authorities have taken series of legislative steps in order to bring national anti-corruption laws in line with UNCAC, however, serious questions remain whether there is enough political will to put the laws in practice.

The Council of Europe Group of States against Corruption (GRECO) observes the compliance of its members according to the anti-corruption standards set by the Council of Europe. It intends to detect insufficiencies of anti-corruption measure of member states and induces relevant political, institutional and legislative improvements. GRECO makes an evaluation of countries on rounds that focus on specific issues related to corruption, which is followed by

consistent recommendations. Abidance by member states to recommendations is further evaluated based on a compliance framework. While GRECO does not rate countries by the level of corruption, it indicated, in its second Evaluation round report, that Azerbaijan "still appeared to be excessively affected by corruption, at all levels of society". GRECO fourth round evaluation report states that "corruption in Azerbaijan is often referred to as being a systemic problem that broadly affects society".

The Istanbul Anti-Corruption Action Plan was launched in 2003 by the Organization for Economic Cooperation and Development (OECD) as an initiative to review activities of several post-communist states of Central Eurasia with regards to fight against corruption. Within this framework, the OECD makes comprehensive evaluation rounds to assess the level of compliance of participating countries with international anti-corruption mechanisms, including UNCAC. As a conclusion of monitoring rounds, OECD offers a set of recommendations in many dimensions of anti-corruption, including policy, civil society involvement, access to information, business integrity, political corruption and more.

Results of OECD evaluation rounds makes it clear in the case of Azerbaijan that the authorities have been avoiding to target the roots of systemic corruption in the country. According to the compliance ratings of Azerbaijan with the Third evaluation round, the country has failed to fully implement 19 out of 20 recommendations, which include no improvement recorded in public financial control, public procurement as well as in fighting political and judicial corruption (OECD, 2016).

Azerbaijan joined international transparency coalitions Extractive Industries Transparency Initiative (EITI) in 2007 and Open Government Partnership (OGP) in 2011. EITI ensures global standards in good governance of natural resources, while OGP promotes open government, fight against corruption and citizen empowerment. In 2017, Azerbaijan was suspended from both of the coalitions due to the lack of space for civil society in order to be involved in the policy process and maintain checks on the government.

Legislation

Anti-corruption laws and policy documents in Azerbaijan have largely been shaped by international obligations of the country, especially in relation to the OECD, UNCAC and Council of Europe anti-corruption bodies. Although international anti-corruption standards have been effectively imported in the form of legislative documents, there has not been a practical success in fighting corruption. The main reason here is rooted in the assumption that those who are responsible for the implementation of anti-corruption measures have a principled approach against corruption. I will argue otherwise with the analysis below.

The Law on Combating Corruption was adopted by the Parliament of Azerbaijan and signed by the President. The Article 5 of the law (2004) sets clearly the duty of the officials (principals), including the President, members of parliament and ministers to annually submit the amount of their income, indicating the source. According to the assessment of the law by Michael and Mishyna (2007), the relevant article of the law lacks the provision of clear regulations on asset declarations. Another study suggests that there is no such record of declarations by Azerbaijani officials at all (Reed, 2010). In contrary, there has been an abundance of reports on corruption, involving the President and other high-level officials in the country. Civil servants (agents) in Azerbaijan are also required to disclose their earnings, but it is unrealistic that, this measure would decrease corruption in civil service, mainly due to their low income (Bayramov and Aliyeva, 2011).

Although the Rules of Ethical Conduct of Civil Servants, which was adopted in 2007 prohibits conflict of interest for agents, the Law on Conflict of Interest for public officials has been waiting to be passed by the parliament for more than a decade (Transparency International, 2017). Meanwhile, GRECO (2016) reports that owning or controlling businesses is widespread among the members of the Azerbaijani parliament in the absence of clear conflict of interest regulations and procedures.

The government has also failed to establish a legal mechanism for whistleblower protection (OECD, 2016) which is considered to be a necessary component of accountability and fight against corruption. In opposite, according to the nature of systemic corruption, public servants or journalists, who exposed corrupt practices have been subject to unlawful criminal proceedings (Open Azerbaijan, 2019).

According to Article 10 and 13 of UNCAC, as well as the country's obligations before the Council of Europe, in 2005, Azerbaijan parliament adopted the Law on Access to Information. In fact, access to information is essential for citizens to be informed and collectively active against corruption. However, the Azerbaijani authorities have also expanded side mechanisms that create grounds for rejecting disclosure of information (Council of Europe, 2017).

The inaugural policy document against corruption in Azerbaijan was adopted in 2004 and it was followed by two more action plans until 2015. The anti-corruption state programs were developed in accordance to Article 5 of UNCAC as well as recommendations by international economic and transparency organizations, including the OECD. Following are three anti-corruption policy documents that have been approved to this date:

- State Program on Fighting Corruption (2004–2006);
- National Strategy on Increasing Transparency and Combating Corruption (2007–2011);
- National Anti-Corruption Action Plan (2012–2015).

In line with the anti-corruption policy documents, laws and regulations were adopted, amendments were made, agencies were established and framework for public and civil society participation was built. Duties – including "improvement of legislation on criminal prosecution", "improvement of the activity of the Commission on Combating Corruption", "prevention of conflict of interests and financial declaration", "improvement of Ethical Conduct Rules" and more – were allocated among different state bodies such as ministries and state committees. That means, those who had been in charge of implementation were integral part of the clan-based informal networks in ruling elites in Azerbaijan. According to the OECD (2016), the action plans have not been successful in resolving the issue of fundamental corruption in the country, which include grand corruption, as well as corruption in judicial system, tenders, healthcare and more, because it lacked systemic and comprehensive approach.

Interim and final reports about the action plans indicate the number of implementing state bodies and performed actions, however, they do not make clear the criterion for effectiveness and impact of the activities. There is also a lack of mechanism which would increase incentives of implementing agencies to advance their performance (Ibid). Though framework for civil society

participation exists, there is a certain lack of will for involving civil actors to the process. It has also not been clarified how the impact of implemented policy measures is analyzed in a systematic way by the government. It is due to lack of impact indicators that would be key in evaluating effectiveness of policy eventually.

As stated by Michael and Mishyna (2007), the main problems of anti-corruption measures in Azerbaijan is emerging from more emphasis to legislative approach, while missing the means of translating them into decision-making as well as limited adequacy in delegation of functions to the implementing agencies. As collective action is considered to be key in eliminating systemic corruption (Mungiu-Pippidi, 2011), anti-corruption legislation of Azerbaijan – though having components of raising public awareness against corruption – is not compatible to create popular resistance against corrupt practices.

Hence, it is apparent that the problem of corruption in Azerbaijan did not arise in the principal-agent framework, thus, measures based in this approach have not proven to be successful. Corruption in the country is rather a systemic issue, but due to the lack of willingness of decision-makers in the implementation of anti-corruption measures, it still remains grave and established institutions are not capable of fighting it, as explained below.

Agencies

Doig (1995) suggested that setting up a strictly concentrated and independent anti-corruption agency can play a key role in increasing the performance and transparency in government and public sector. In the past three decades, more than 30 states have founded anti-corruption agencies (Rose-Ackerman, 2018). However, only well-structured anti-corruption agencies can effectively target corrupt actors and behaviors, therefore, the impact of agencies is very much dependent on the general environment and nature of corruption in respective country. According to Rose-Ackerman (2018: 15), apart from substantial support from political leadership, what is needed for success if anti-corruption agencies are "a clear, legally defined mandate, a well-articulated communication strategy, coordination with other agencies, and a clear long-term

funding source". Agencies can bring little change if they are functioning with an ambiguous legal status (Ibid).

Azerbaijan is among those countries which established agencies to fight against corruption. Apart from institutions of civil service recruitment and judicial independence, which indirectly aim to reduce corruption, there are two main specialized anti-corruption agencies that operate in the country:

- Commission for Combatting Corruption,
- Anti-Corruption General Directorate under Prosecutor General's Office.

The key agency against corruption in Azerbaijan, the Commission for Combatting Corruption was established in 2005, according to Article 4 of the Law on Combatting Corruption, which is largely influenced by UNCAC. The main duties of the Commission are aiding supervision of anti-corruption policy, and prevention of corruption with the means of collecting asset declarations, raising awareness, probing efficiency of anti-corruption measures and more, however, there is a significant deficit in the work of the agency (OECD, 2016).

Main reasons for the non-fulfillment of the Commission is first that it has no legal power and its functions fall short in preventing corruption in high-level (Michael and Mishyna, 2007). Most importantly, there is a serious question about its independence, as its 15 members are appointed separately by the President, the Parliament and the Constitutional Court, but there is no real separation of power between these three (Freedom House, 2018). According to Bertelsmann Foundation (2016), although the Commission for Combatting Corruption and the Anti-Corruption Department of the Office of Prosecutor General exist, they have only been targeting agents, such as bank officers, teachers, company employees, members of municipality and more, but not any high-ranking officials. Principals enjoy not being held accountable, as they are assumed to be "principled" actors.

Anti-corruption agencies are usually unable to target the informal networks that systemic corruption is based on (Meagher, 2005). Capabilities of anti-corruption agencies decrease significantly, when state institutions are compromised by informal institutions that were discussed earlier and when there is no vertical as well as horizontal accountability in the government (Ibid). According to the study by Mungiu-Pippidi (2011) establishment of anti-

corruption agency and a decrease in the levels of corruption is not correlated. She argues that the main problem of the agencies is the principal-agent logic in addressing corrupt practices and raises a critically important question: "why would governments in either neo-patrimonial or competitive particularistic countries want to change a system which is so profitable for them and empower truly independent, well-trained and equipped anti-corruption agencies to fight against them?".

In the case of Azerbaijan, anti-corruption agencies are not only subject to political interference (Transparency International, 2017), but also captured by the patronage networks that exist in the country. According to the report by a group of international local and investigative journalists, head of Azerbaijan's Anti-Corruption General Directorate – which is responsible for inspecting corruption offences – is involved in large financial fraud which made his family "real estate barons" (OCCRP, 2017). No inquiry so far has been made by the anti-corruption agencies into the reports of grand corruption in Azerbaijan.

Another indicator of the principal-agent approach in the anti-corruption measures in Azerbaijan is the establishment of an agency which has been successful in reducing corruption in the bureaucratic sphere. Azerbaijani Service Assessment Network (ASAN) was created in 2012 as a one-stop-shop which provides public service delivery to citizens. It alternates several state bodies in transparent and quality public service delivery, which is provided by selected bureaucrats (agents) on merit-based and without bribery (University of Oxford, 2017). ASAN service received appraisal from international organizations such as the OECD and the UN, but its scope remains narrow, and according to the analysis – though it would be successful tool in reducing bureaucratic bribery – it is certainly not designed to fight the most common forms of corruption in the country, which are corrupt transactions within informal networks as well as state capture, as elements of systemic corruption (Ibid).

The policy gap

Earlier in this thesis, I argued that anti-corruption policy gaps emerge when introduced measures are not suitable to the nature of corruption. The anti-corruption policy in Azerbaijan continues to demonstrate no success in eliminating levels of corruption despite the fact that laws,

regulations, frameworks, and institutions are in place. In order to further clarify the causes of it, the main features of the anti-corruption policy gap framework will be discussed below based on the case of Azerbaijan.

Analysis into the nature of corruption in Azerbaijan allows us to come to three main conclusions, which are indicators of the policy gap:

- The anti-corruption policy, which is based on the dominant global approach – principal-agent model – fails because it does not take into account informal networks of systemic corruption and absence of those who act as principals.
- Another missed determinant is that systemic corruption also resembles a collective-action problem because corruption plays a problem-solving role while state institutions remain weak and ineffective, while the informal networks create incentives for the corrupt acts.
- Most importantly, those who are in charge of anti-corruption interventions lack the political will to ensure successful outcomes, as they are beneficiaries of the corrupt status quo.

In the case of Azerbaijan, the existence of "clan-based pyramid system of corruption", lack of modernization in public administration, discretion of ownership as well as distinct local perception about the scope of ethical regulations remain obstacles for effective implementation of anti-corruption policy measures (Reed, 2010: 13). Stefes (2005) wrote that leaderships of the South Caucasus countries, for a long time since independence, demonstrated no political will to combat corruption in a systemic way, and maintained the Soviet experience of having tolerance to corrupt practices. The example of the neighbor country Georgia shows that targeting systemic corruption is possible – even if it is a strong communist legacy – by political will of a leader. The case of ASAN service in Azerbaijan, which was discussed earlier, illustrates that achieving positive results is possible in addressing the corruption problem and weakness of public administration, when there is a commitment and political will by the leadership (University of Oxford, 2017).

To elaborate more on the political will, I use the characteristics from Brinkerhoff (2000). He introduced five key determinants of commitment by leaders in sustaining anti-corruption efforts.

The situation in which anti-corruption polity is initiated. In Azerbaijan, major anti-corruption interventions have been launched since 2004, amid so-called economic reforms, in order to boost the reputation and relations of the government with international financial organizations. The anti-corruption policy is influenced significantly by international assistance for good governance. There is no evidence, which support that the authorities initiated anti-corruption reforms because they realized that corruption turned to be "a salient issue" (Brinkerhoff, 2000: 242).

Degree of the accuracy of policies. The anti-corruption measures in Azerbaijan has clearly neglected the existence of patronage networks and state capture. Laws and policy documents are adopted in accordance to a state in which rule of law, independent judiciary, and good governance are respected, however, this is – as argued above – not the case in Azerbaijan. Alternative anti-corruption reports state that efforts to fight against corruption are not based on need and impact assessments.

Mobilization of stakeholders. In this manner, two important questions arise. Is there a willingness to involve and obtain support of various groups in the anti-corruption measures which create a real environment for broad participation? Is there determination to build coalitions against those actors which can possibly hinder anti-corruption efforts? Civil society, as an element of collective action against corruption, is considered to be a key stakeholder in the fight against corruption. Azerbaijani authorities, according to reports, have made years of efforts to crackdown civil society institutions, especially operating in the fields of rule of law, transparency and media freedom. The actors which would undermine anti-corruption activities are also those who captured the state which their patronage networks, which makes it infeasible to build reform coalitions against them.

Use of solid sanctions. Though Azerbaijani Criminal Code and anti-corruption laws clearly criminalize corrupt practices both by principals and agents, instruments of sanctions, mainly prosecution is used against agents who are engaged in administrative corruption, while high-level corrupt actors, as well as ordinary citizens who initiate bribes enjoy impunity from credible sanctions. In contrary, such instruments are used against those who report corrupt instances. In alternative to punishment, it is essential for a reformer to identify incentives (Brinkerhoff,

2000). Existence of privilege groups in Azerbaijan naturally reduces incentives of all of the parties to act honestly.

Sustainability of efforts. Three indicators of the lack of sustainability of anti-corruption measures have been discussed in the section of the evaluation. Firstly, the draft law on the conflict of interest for public officials, although drafted a decade ago and often brought on agenda, has not been adopted, as its adoption may frustrate interests of those officials who captured the state with business interests. Secondly, though three anti-corruption action plans were adopted between 2004 and 2015, no policy document on fighting corruption followed them afterward. Thirdly, according to reports, resources that are allocated to anti-corruption agencies are not sustainable and often limited.

All of the characteristics of political will in fighting corruption are interrelated and they are also very much linked to the general environment in the country, which include the regime type and nature of corruption (Ibid). There are common reasons for the absence of political will: lack of confidence in the leadership to fight corrupt institutions or clash of interest in fighting corruption. The latter reason is valid in the case of Azerbaijan due to the existence of deeply centralized government and systemic nature of corruption.

This combination of findings provides some support for the conceptual premise that corruption, when it is not incidental but systemic, does not resemble principal-agent problem. Though systemic corruption can be characterized in various frameworks in different parts of the world, the study on Azerbaijan confirms that it is rather a problem of political will.

Conclusion

Although it is widely agreed that corruption weakens state institutions and retards socio-economic development, it still remains as a practice in every part of the world. Nature and levels of corruption differ from one country to another, and before introducing a policy to fight against with effective means, it is essential to have a clear view of where the problem is rooted. I past decades, fight against corruption have significantly risen in the international agenda and this reflected itself in the introduction of anti-corruption policy measures in individual countries. However, until now, there have been very few success stories, while a majority of these efforts

have evidently been failed. Systemic corruption appears to be the answer to the question about failure.

The principal-agent theory - as a dominant framework to understand corruption - has been criticized by modern literature as the cause for the failure of anti-corruption activities around the world. As the assumptions of this theoretical framework do not fit into the settings of systemic corruption, a large gap has emerged between the nature of corruption and anti-corruption practice. In this paper, while intending to analyze this gap in the context of Azerbaijan, I concluded that the principal-agent approach in the fight against corruption is not applicable in such environment where systemic corruption exists and the decision-makers have strong disincentives.

While analyzing the nature of corruption based on the background information above, one can clearly state that regime type is deeply authoritarian in Azerbaijan (Freedom House, 2018), where power distribution is highly monopolized – as there is no free election (OSCE, 2018) and thus, the "ownership" of the state is in the hands of few. Since there is little or no public control over the state budget, the distribution of public goods is also subject to high-level misappropriation (Cornell, 2015) and therefore, is unfair. Corruption is largely utilized by the Azerbaijani society in order to deal with the state agency failures (Sadigov, 2017) and to ensure equal treatment, so there is a moderate level of social acceptability of corruption. Finally, the public/private distinction is undermined by the existence of informal networks, especially within ruling elites, which make a number of clans, that have excessive public powers, while there is the absence of practical mechanisms to ensure those powers are not used for private benefits. These characterizations fit in the features of systemic nature of corruption according to the set of criterion.

Various theories - most popularly collective-action framework – has been suggested as an effective alternative to the principal-agent model in understanding corruption. However, in line with evidence-based reports, I claimed that the high-ranking officials, decision-makers, lawmakers, judicial authorities – which also make patronage networks – are benefiting from the current status quo of the systemic corruption and thus, clearly lack political will to fight against it.

In the anti-corruption literature, the lack of political will has been shown as a common reason for the ineffectiveness of the fight against corruption, mainly due to the fact the those who take the lead of the anti-corruption measures are also the ones that enjoy existing corrupt state of affairs (Batory, 2012). Another common reference point is legacies of previous regimes, which is, in this case, the long term communist rule and informal networks, which persisted since then while continuing to feed favoritism, nepotism and blurry public and private distinction (Ibid). A large gap has emerged in the context between policy measures and the environment where the policies are conducted. In the anti-corruption literature, such failure is seen as an outcome of an "implementation problem", a situation where there is lack of those who function as principals (Persson et al, 2013: 3).

Corruption remains endemic in Azerbaijan, despite more than 15 years of anti-corruption activities by the authorities. Evaluation of anti-corruption efforts in Azerbaijan suggests that relevant laws and institutions exist but incapably to curb systemic corruption. Relevant literature indicates that dealing with systemic corruption requires real interventions that enact the rule of law, advance accountability, increase participation and limit side interferences. The most obvious finding to emerge from this study is that no similar real steps were taken in Azerbaijan. This indicates that, widespread corrupt practices in the country have not emerged in the frame of principal-agent frame, but as a systemic problem, while fighting with it requires political will, which is lacking in the studied case.

Considering corruption as a wider "social order framework", such as a regime type, leads to crucial policy outcomes (Mungiu-Pippidi, 2011). In this context, many international efforts to support anti-corruption policies in countries with systemic corruption have had a strong risk of being counterproductive and favoring for corrupt elites by increasing their reputation (Mungiu-Pippidi, 2016). As the international development support remains one of the major drivers of anti-corruption policies in many states, it is also essential to be cautious in order not to enhance the policy gap. One way for the international community for eliminating gaps in anti-corruption policies around the world is investing more on civil empowerment as well as democratic institutions – stronger civil society and strengthened independent media.

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