From Greek Temple to Bird's Nest: Mapping, Assessing and Understanding National Integrity Systems

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Introduction

In this short paper, I would like to outline the approach we have taken to mapping and assessing integrity systems and how this has led us to see integrity systems in a new light. Indeed, it has led us to a new visual metaphor for integrity systems – a bird's nest rather than a Greek temple.

This was the result of a pair of major research projects completed in partnership with Transparency International (TI). One worked on refining and extending the measurement of corruption. This, the second, looked at what was then the emerging institutional means for reducing corruption – 'national integrity systems'.[1]

From ICAC to NIS

While it is now fashionable to see national integrity systems as the answer to corruption this is a relatively recent development. When corruption scandals strike one of three responses result – tougher laws, ethical standard setting or institutional reform. Each response has its weaknesses and strengths but are unlikely to be effective by themselves.[2] If a new law, ethical code or new institution is successful, it is because it supports or is supported by other measures already in place. Nevertheless, the apparent success of a particular measure in one jurisdiction may lead some to see a panacea or 'silver bullet'. During the 1980s, the most common response to corruption was the creation of a single, very powerful, anti-corruption agency along the lines of the Hong Kong Independent Commission Against Corruption (ICAC). However, this model was criticized for placing too much reliance on a dangerously powerful single institution. The approach to reform taken in Queensland and Western Australia (two Australian states plagued by corruption) reflected a new approach. The answer to corruption does not lie in a single institution, let alone a single law, but rather in the institutionalisation of integrity through a number of agencies, laws, practices and ethical codes.

This approach has been given various names including an 'ethics regime',[3] TI's 'integrity system'[4] and the OECD's 'ethics infrastructure',[5] but the term with the widest currency is 'national integrity system' (Pope TI, 1996, 2000).[6]

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[1] A report of the pilot study was circulated to all TI chapters in time for the 2001 Prague IACC. The Final Report *Chaos or Coherence? Strengths, Opportunities and Challenges for Australia's Integrity Systems* was launched in December 2005 and is available at http://www.griffith.edu.au/centre/kceljag/

[2] Laws contrary to the norms of those they seek to regulate are unlikely to be followed, 'bare' ethics codes without legal and institutional back up are a 'knaves charter' and institutional reform are unlikely to succeed if it is not clear what norms they seek to bolster and live by.

[3] Sampford (1990).

What do we mean by integrity?

It is interesting that the OECD's preferred term is not 'anti-corruption infrastructure' and TI, despite its central and fundamental focus, does not call it an 'anti-corruption system'. This raises the question of what is meant by 'integrity' (or for the OECD, what is meant by 'ethics'). Our work suggests a relatively simple answer.

Integrity and corruption are conceptually linked terms – with one the obverse of the other. TI defines corruption as the 'misuse of entrusted power for private benefit'.[7] By contrast, integrity is 'the use of public power for officially endorsed and publicly justified purposes'.[8] The latter definition is primary because you cannot know what is an abuse if you do not know what the correct 'use' is. The form of official endorsement will vary from system to system but, in a democracy, the officially endorsed uses of public power are those set by the elected government and legislature. Indeed, democratic competition is about differing views as to how public power should be used for the benefit of citizens. Officials are accountable if they are required to demonstrate that they have used their power in officially approved ways.

This kind of institutional integrity is analogous to individual integrity. An individual has integrity if they are true to their principles and do what they say they will. Institutions have integrity if they operate to further the goals that are publicly set by democratically elected governments.

This is consistent with, and is underpinned by, our approach to ethics. We see ethics acting as the coordinating force because it asks fundamental values questions. For many ethicists the fundamental ethical question that individuals face is 'how should I lead my life?'[9] As I see it, institutions face similar questions:

- How should we lead our lives together?
- What is the institution FOR?
- On what basis can we justify the power and authority that are given to us despite the fact that there is, as in all concentrations of power, a risk of abuse?

[4] Transparency International (1994).

[5] OECD (1998).

[6] J Pope, TI, (1996), (2000). Although three different terms were used for essentially the same idea, there were some interesting links. Jeremy Pope coined the term 'national integrity system' to describe the Queensland reforms. The Nolan Committee picked up my idea of an 'ethics regime' when I was called in as their first consultant and Lord Nolan's proselytisation of the idea seemed to have been important in the OECD taking up the idea of an 'ethics infrastructure'. It was during an OECD seminar to discuss ethics infrastructures that Peter Eigen suggested that I work with Jeremy Pope. For what it is worth, Jeremy and I have come to the conclusion that the best term is 'integrity regime' – recognizing that integrity reflects the theory that we ended up developing and that 'regime' is a better word than system because it is neither practical nor desirable to organize integrity institutions in too systematic a fashion.

[7] J Pope (2000) *Confronting Corruption: The elements of a National Integrity System (The TI Source Book)*, Transparency International, p 13.

[8] In some cases, we look to the purposes for which the power is given. However, where powers are exercised in long standing institutions, which develop and change their purposes (consider, for example, how parliaments and universities have changed over the last 800 years) the original purpose is less appropriate than the current justification of the existence of the power.

[9] Peter Singer, see for example *Practical Ethics* (1993) (2nd ed.) Cambridge University Press.

- What values do we further and should we further in order to justify the power and authority given to us and/or tolerated by the community we claim to serve?[10]

What is an Integrity System?

Based on this, a 'National Integrity System' is a term that encapsulates the interconnecting institutions, laws, procedures, practices and attitudes that promote integrity and reduce the likelihood of corruption in public life.

Given that integrity is the opposite of corruption, one may wonder whether it matters whether it is called an integrity system or an anti-corruption system. However, the distinction is an important one. Integrity systems are not built around the negative goal of limiting corruption but the positive goal of maximising integrity. The negative goal is necessarily implied by the positive one – if power is to be used in officially sanctioned ways, it should not be abused by being diverted to other ends. It is not enough to avoid corruption.[11] Institutions need to achieve the goals set for them by the people's representatives.

In placing power in the hands of individuals or groups, human communities are taking a risk — that the benefits to be gained from use for the justified purposes of the institution outweigh the risks of its abuse. Integrity systems are designed to increase the likelihood of the benefit of the intended use of power and reduce the risk of the abuse.

The Queensland (Australia) Experience

The Queensland (Australia) experience of corruption and the resulting Commission of Inquiry led by Justice Tony Fitzgerald highlights a unique reform mechanism which saw the Commission suggest a *process* for reform and an agenda of issues to consider – administrative law reform, constitutional law reform, parliamentary committees, legislative drafting, human rights, ombudsmen, freedom of information, ethics etc. An independent governance reform commission – called the Electoral and Administrative Reform Commission – was created to oversee that process. For each of the items on the Fitzgerald agenda, the Commission went through a very effective and educative process. First it engaged in research into the issues and the means used in other jurisdictions to deal with them. This led to an issues paper, a free two day public conference, public submissions and a report to a bi-partisan Parliamentary Committee which recommended reforms to the Parliament. This process involved some extremely productive exchanges between what I call 'engaged academics' and 'reflective practitioners' – academics who wanted to 'road test' their theories in the complex problems of modern governance, and practitioners who knew a lot about the details of the problems and wanted to stand back and consider them. In many areas, and in particular in the realm of public sector ethics, we achieved that aim and went further. The Queensland model was the strongest influence in the UK Nolan Committee's report on ethics in public sector management recommended by OECD for its members. When Transparency International wanted a complete description of a relatively coherent integrity system that was functioning comparatively well, they

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[10] Sampford (1990).

[11] That goal could be more certainly achieved by abolishing the relevant power – no power, no abuse.

came to Queensland and asked us to document ours and develop means for documenting others.

The first National Integrity System Assessment (NISA)

In 2000, TI sponsored two kinds of research methodologies to document and assess national integrity systems. The first methodology involved "NIS country studies", led by Professor Alan Doig. The NIS studies used a 'checklist' approach that took a standard list of integrity institutions and documented which of these was present within the country studied and commented on its effectiveness. The second research methodology, National Integrity Systems Assessments ('NISAs') is a much more ambitious assessment process, seeking to understand the dynamics of an integrity system and takes into account integrity institutions that may be characteristic of some societies but not others. The process seeks to map, describe and assess the effectiveness of the entire set of institutions designed to reduce corruption and enhance integrity. It examines their interconnectedness (including systemic and non-systemic) interactions, their overlaps, conflicts and mutual supports by examining the operational interactions between institutions and allows the development of proposals for strengthening the 'national integrity system'. The first such NISA involved a methodology that was developed by the Key Centre for Ethics, Law Justice and Governance (Key Centre) in collaboration with TI and completed for three jurisdictions within Australia as part of a four year $500,000 Australian Research Council linkage grant. Although the initial conceptual work was done in conjunction with Jeremy Pope, TI Australia was the formal linkage partner with Peter Rooke providing the direct link with TI.

The primary aim of this project was to identify, analyse and record the institutions, laws, procedures, practices and attitudes in Australia which increase transparency and accountability and inhibit corruption (the 'integrity system') with a view to:
• comparing the nature and role of ostensibly similar institutions in different jurisdictions
• identifying the ways in which these elements interrelate and any gaps or overlaps between those elements
• assessing the strengths and weaknesses of the present Australian integrity system and recommending improvements
• identifying areas of potential risk from which corruption might develop
• providing a benchmark for comparison between jurisdictions and against which changes in the effectiveness of the integrity system can be measured
• providing a basis for action by relevant Australian governmental and non-governmental agencies and organisations, including TI .

The key outcomes for TI's international goals included:
• a map of a by-and-large effective integrity system/ethics regime in a federal system
• general principles for developing and reforming integrity systems
• examples of good practice for Australian jurisdictions and for ethical export
• suggestions for improvement that go beyond existing best practice
• wider dissemination of ideas for effective ethics regimes.

We developed a range of methodologies for assessing the capacity, coherence and consequences of integrity systems and a range of different ways of mapping and understanding them. There was a strong emphasis on the 'systemic' qualities of the integrity system – how the various elements interacted with each other in mutually supporting and mutually checking ways.[12] Ultimately, varied relationship types came to the forefront of the examination and indicating that a more complicated system needed to be mapped and assessed in the Australian context. Our research revealed that the relationships that need to be examined in an integrity system assessment extend from constitutional (or mutual accountability) relationships to include also operational and policy relationships.[13]

I will not seek to summarize the Report, its findings, recommendations and methodology. However, I do want to highlight one of the more striking results, a new visual metaphor that aids in conceptualizing National Integrity Systems.

The Greek Temple

There are several ways of representing a National Integrity System. The best known is of a Greek temple in which national integrity is supported by a number of institutional pillars based on society's values and public awareness and which support, in turn, the rule of law, the quality of citizens' life and sustainable development. The pillars are founded on public awareness and society's values, rules and practices also serve as a means to underpin the integrity pillars.[14]

The Greek temple is a powerful and well known visual metaphor. However, it has a number of short-comings:

- Temples are built to a specified design (generally of a single architect) and are built over a relatively limited time frame, whereas integrity systems tend to grow over time with institutions created by different 'builders'.
- The pillars have to be of equal height whereas integrity institutions are of different strengths and sizes (which would mean that the lintel of 'national integrity' could very rarely be horizontal).
- Pillars can be rigid and strong, whereas integrity institutions are often relatively weak and flexible. The strength of integrity systems is based on something that is not part of the temple image – the "cross-bracing" that gives the mutual support that the institutions provide each other.

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[12] This is not necessarily paradoxical. In well ordered integrity systems, integrity institutions which work together to combat corruption may notice when the other is not performing its role.

[13] C Sampford, R Smith and AJ Brown (2005) 'From Greek Temple to Bird's Nest: Towards a Theory of Coherence and Mutual Accountability for National Integrity Systems' 64(2) *Australian Journal of Public Administration* 96 and AJ Brown and A Shacklock (2005) *National Integrity Systems Assessment: An Overview and General Model*, Key Centre for Ethics, Law, Justice and Governance Griffith University, p 99.

[14] J Pope (2000) p 36.

NIS Visual Metaphor 1: Greek Temple (Pope 2000)
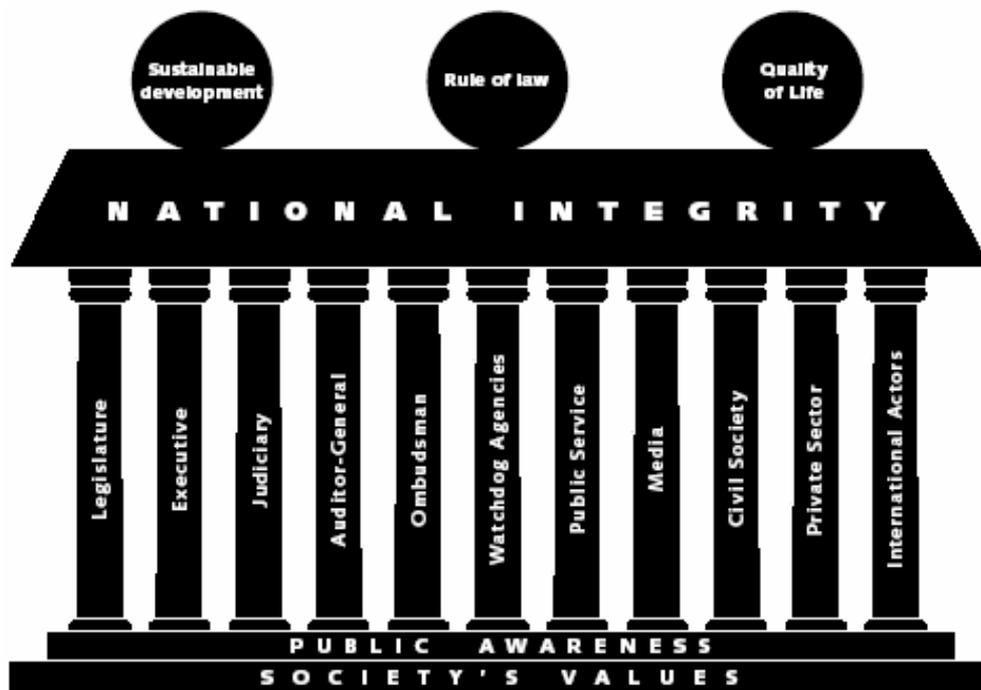
The Bird's Nest[15]

There is no reason for the temple metaphor to be abandoned, since all metaphors convey a part of the phenomena which they seek to represent. Moreover, the Greek temple was in some respects a particularly suitable way of representing the post-Fitzgerald reforms in Queensland (Australia), which partly inspired the concept. However, another metaphor is needed to augment it. I have suggested the metaphor of a 'bird's nest' – built up over time from the material that is available in which the components are individually weak but, in combination, are very effective in holding up something rather fragile (eggs in real birds' nests and 'integrity' in the metaphorical nest).

If a few twigs in a bird's nest are broken or removed, the nest may have gaps and weaknesses but the egg (public integrity) remains fairly secure. It is only when a critical mass of twigs fail that the whole nest is in danger of collapse, and the egg of being broken (at which point the strength of some of the remaining twigs counts for little). This critical point may only be obvious after the collapse has occurred – after which reconstruction is difficult. Bird's nests, like integrity systems, need frequent tinkering and strengthening with new material being added from that which is available. Based on this description of an integrity system it is less the individual elements (pillars) that give the system strength.

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[15] See C Sampford, R Smith and AJ Brown (2005) and AJ Brown et al (2005) *Chaos or Coherence: Strengths, Opportunities and Challenges for Australia's Integrity Systems*, National Integrity Systems Assessment (NISA) Final Report, Transparency International Australian and the Key Centre for Ethics, Law, Justice and Governance.

Here, the strength of the system is from the interrelationships that exist between and across the individual elements that constitute the system. Using the bird's nest metaphor, the assessment process is to examine what exists already in the given context prior to formulating what else may be required to give strength to the system, keeping in mind that the system's structure must fit with the context, just as a bird's nest must be designed to fit with its locality.

The diversity of the world's birds and their nests provides a convenient reminder that there is no one ideal, let alone transportable, design for an integrity system. In different systems, different institutions perform similar functions. Introducing a 'pillar' from another system may do little good because it does not link in with existing integrity institutions and may even do harm if it damages existing relationships. Institutional diversity is almost as vital a part of the human condition as biological diversity. Birds typically make their nests from material to hand, rather than flying it in from far away. The materials may include twigs or larger objects that suit the purpose or cover a gap. If a new nest is constructed in a new place, it does not matter that the material is different, or even that it takes a different size or shape, provided that it performs its vital function. Indeed, the nest will not succeed if its design is not suited to its local environment, and is built into the tree in which it must sit, rather than of a design to suit trees growing on distant shores.

Every country and jurisdiction already has a national integrity system of some description in place, whatever its challenges. Even if it is not effective in promoting and supporting public integrity, it will contain some institutions that could become vital elements in an effective integrity system. Institutions that play no part in the integrity system in one country may play a prominent role in others (e.g. religious institutions do not appear in most descriptions of western integrity systems but the Catholic Church played a critical role in the emergence of the Polish integrity system and faith based NGOs may be an important part of an emerging Indonesian system).

In an effective integrity system, the relationships between the various elements of the system will be rich and varied. Relationships will be those based on powers and responsibilities set out in the constitution and other laws, on mutual involvement in each others knowledge gathering or policy formation, and on support for each other's operational effectiveness. Some relationships will be supportive, some procedural and some will involve checks and balances (although these should not be seen as limiting and negative but as part of the way that the integrity system keeps its elements to their mission and prevents them from abusing their power for other purposes).

New Visual Metaphor for the Integrity System: 'Bird's Nest'

Legend:
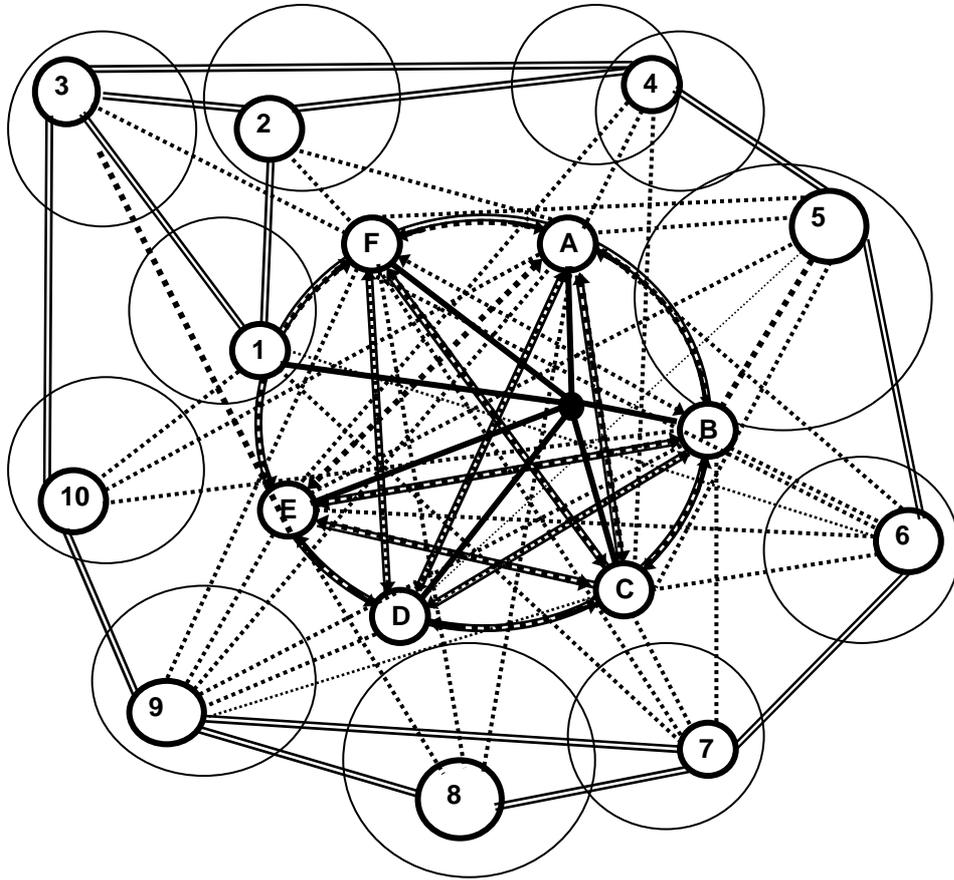
- (A) Core integrity institutions
- (1) Distributed integrity institutions (line agencies)
- ····· Constitutional relationships
- —— Policy relationships
- ═══ Operational relationships

Stakeholder Interest

The NISA research was a result of a long-standing collaborative relationship we have with TI, which ultimately developed 21 recommendations for government, business, civil society groups and members of the general community. The recommendations present a mixture of priorities and overarching principles for development of effective integrity systems as a whole and are described according to the themes of core integrity institutions, distributed integrity institutions and education, evaluation and research.

The NISA Report was launched last year by Australia's Commonwealth Ombudsman, Professor John McMillan and has since been circulated to relevant organisations. With TI we have actively sought an Australian Federal Government response to the Report and are currently pursuing this with renewed vigore by circulating copies of the Report to a broader cross section of public sector representatives. We continue to see themes stemming from the NISA Report permeating public sector integrity system thinking. Evidence of such is found in the development and revision of public sector ethical codes as well as the recent federal moves to establish an Australian Commission for Law Enforcement Integrity and the related Senate Committee report, which endorsed recommendations from the NISA Report, although somewhat indirectly. The Commission is designed to improve oversight of law enforcement within the Australian Crime Commission, Australian Federal Police and other Australian Government agencies with law enforcement functions.[16] We would suggest that unless its mandate is broadened to cover other Commonwealth public sector jurisdictions the Government has missed an opportunity to strengthen the Australian national integrity system.

A key outcome of the Queensland integrity system assessment was the development of the position of Queensland Integrity Commissioner who provides, upon request, advice to senior decision makers within the public sector, on conflict of interest matters.[17] The Queensland Integrity Commissioner is currently collaborating with us in relation to integrity system strengthening in jurisdictions outside Queensland. For example, the Commissioner is assisting the Institute for Ethics, Governance and Law (IEGL) with an AusAid funded Public Sector Linkage Project, which focuses on integrity training in key public sector institutions in the Philippines.

The NISA project has also gained considerable interest from international organisations interested in integrity system strengthening. Currently our research team is collaborating with Tiri, a London based NGO, which focuses on integrity based reform process, and in-country researchers in Georgia to conduct a Georgian NISA. The project is in the final workshopping and drafting stages of a report designed to map and analyse the Georgia's national integrity system. We have completed preparatory work on an Indonesian NISA in collaboration with the Indonesian Parliament's upper house, the Dewan Perwakilan Daerah (DPD), with the assistance of AusAID.

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[16]See:http://www.nttf.gov.au/agd/WWW/justiceministerHome.nsf/Page/Media_Releases_2006_2nd_Quarter_23_June_2006_-_Ground-breaking_reforms_to_law_enforcement_integrity_and_discipline
[17] Members of the public sector who are deemed designated persons under the *Public Sector Ethics Act 1994*. See http://www.integrity.qld.gov.au/

In conjunction with the United Nations University, we are planning an integrity systems assessment of the United Nations (UNISA) which has received the strong endorsement of the Under Secretary General (Management). IEGL is interested in working with TI country chapters and others to conduct NISAs in other jurisdictions.

Conclusion

The NISA development of integrity system theory is based on an examination beyond what we have termed mutual accountability relationships to a recognition of the relationship types that relate to the cooperation between institutions when required and the overall coherence of the system based on the roles played by individual agencies, management responsibilities and positive standard setting. The NISA research and resulting diagrammatical representation of integrity systems as a bird's nest provide an effective mechanism for assessing integrity systems, understanding their operations and ultimately strengthening their capacity and coherence.