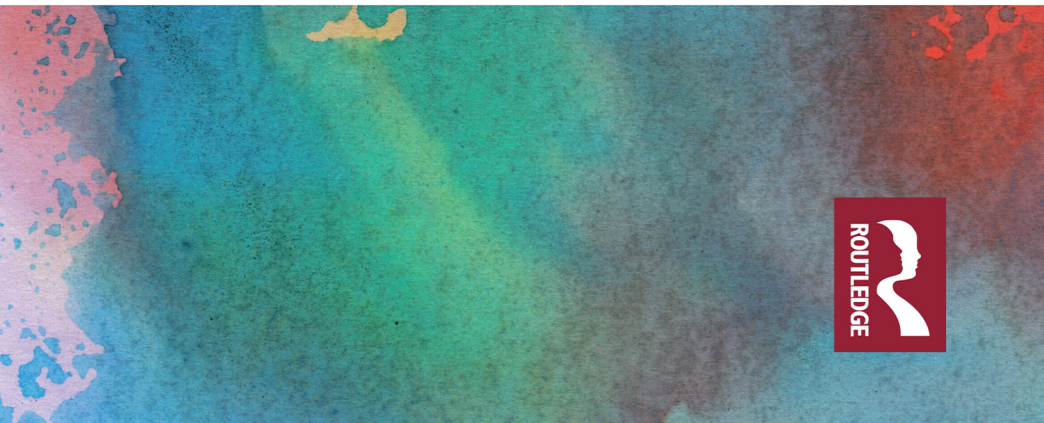
Global Institutions

TOWARDS A GLOBAL CONSENSUS AGAINST CORRUPTION

INTERNATIONAL AGREEMENTS AS PRODUCTS OF DIFFUSION AND SIGNALS OF COMMITMENT

Mathis Lohaus



Towards a Global Consensus against Corruption

Corruption has long been identified as a governance challenge, yet it took states until the 1990s to adopt binding agreements to combat it. While the rapid spread of anti-corruption treaties appears to mark a global consensus, a closer look reveals that not all regional and international organizations are moving on similar trajectories. This book seeks to explain similarities and differences between international anti-corruption agreements.

In this volume Lohaus develops a comprehensive analytical framework to compare international agreements in the areas of prevention, criminalization, jurisdiction, domestic enforcement, and international cooperation. Outcomes range from narrow enforcement cooperation to broad commitments that often lack follow-up mechanisms. Lohaus argues that agreements vary because they are designed to signal anti-corruption commitment to different audiences. To demonstrate such different approaches to anti-corruption, he draws on two starkly different cases—the Organization of American States and the African Union.

Contributing to debates on decision-making in international organizations, this work showcases how global governance is shaped by processes of diffusion that involve state and non-state actors. The book highlights challenges as well as opportunities linked to the patchwork of international rules. It will be of great interest to students and scholars of IR theory, global governance, international organizations, and regionalism.

Mathis Lohaus is a postdoctoral researcher at the Otto Suhr Institute of Political Science at Freie Universität Berlin, Germany. His research interests include international and regional organizations, global efforts to promote anti-corruption and good governance, and the diffusion of ideas. He holds a doctoral degree in political science from Berlin Graduate School for Transnational Studies and Freie Universität Berlin.

Global Institutions

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Towards a Global Consensus Against Corruption
International Agreements as Products of Diffusion and Signals of Commitment
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Abbreviations

ADB	Asian Development Bank
AfDB	African Development Bank
APEC	Asia–Pacific Economic Cooperation
ASEAN	Association of South-East Asian Nations
AU	African Union
AU ABC	African Union Advisory Board on Corruption
BPI	Bribe Payers Index (Transparency International)
CAN	Andean Community
CARICOM	Caribbean Community
COE	Council of Europe
CPI	Corruption Perceptions Index (Transparency International)
EAC	East African Community
ECOWAS	Economic Community of West African States
EU	European Union
FTAA	Free Trade Agreement of the Americas
GCA	Global Coalition for Africa
GRECO	Group of States against Corruption (Council of Europe)
IACAC	Inter-American Convention Against Corruption
IMF	International Monetary Fund
IO	International organization
IRG	Implementation Review Group (United Nations)
LAS	League of Arab States (also known as Arab League)
MERCOSUR	Southern Common Market
MESICIC	Mechanism for Follow-up on the Implementation of the IACAC
NGO	Non-governmental organization
OAS	Organization of American States

OECD	Organisation for Economic Co-operation and Development
OLAF	European Anti-fraud Office (European Union)
OLC	Office of the Legal Counsel (African Union)
SADC	Southern African Development Community
SAHRIT	Southern African Human Rights Trust (NGO)
SICA	Central American Integration System
SIDA	Swedish International Development Cooperation Agency
StAR	Stolen Assets Recovery Initiative
TI	Transparency International
UK	United Kingdom
UN	United Nations
UNCAC	United Nations Convention Against Corruption
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
US	United States
WB	World Bank
WSA	World Society Approach

Introduction

- **The arrival of anti-corruption on the global agenda**
- **Comparing the scope and legal design of agreements**
- **The argument in brief: diffusion and signaling motives**
- **Why study anti-corruption agreements?**
- **Chapter outline**

In December 2017, the Organisation for Economic Co-operation and Development (OECD) marked the twentieth anniversary of its anti-bribery convention; and the United Nations Convention Against Corruption (UNCAC) turned fifteen years old the following year. Recent headlines about corruption, however, provide few reasons to celebrate. Latin America has recently seen bribery and embezzlement on an unprecedented scale. The US federal government is shaken by scandals. Around the world, prosecutors are searching for billions of dollars hidden by former ruling elites. Obscure issues, such as banking secrecy and shell companies, have been popularized via the "Panama Papers." Even sports fans with no interest in international business and politics could hardly escape the topic given the turmoil at the international football association FIFA.[1]

There are many opportunities for international cooperation to reduce corruption or at least mitigate its effects. Yet, before the mid-1990s, no international organization had adopted a binding agreement to combat corruption. The issue was addressed in hortatory language, at best, leading to occasional declarations of intent at the intergovernmental level. Since then, however, initiatives have proliferated around the globe. International and regional organizations, such as the OECD, the Council of Europe (COE), and the United Nations (UN), have adopted documents committing member states to implement domestic reforms and strengthen international cooperation. This wave of agreements appears to reflect a new global consensus against corruption.

Yet, a closer look reveals significant differences between the various organizations. Their agreements vary in the scope of issues covered and the degree of legal obligation and follow-up provisions included in the documents. While some contain binding commitments on many aspects of anti-corruption, others are quite narrow in scope or use less obligatory language. Some organizations have not adopted binding agreements at all, apparently resisting the global trend. Motivated by this diffusion and differentiation, I address the following research question: which factors explain the similarities and differences between international anti-corruption agreements?

Rather than making independent choices, international organizations influence each other when they negotiate and draft agreements. This observation draws on a rich literature on the international diffusion of norms and policies, which has identified several mechanisms, such as persuasion and lesson-drawing. I further argue that diffusion processes are subject to scope conditions: international organizations adopt binding agreements if their members want to signal their anti-corruption credentials to domestic constituents, within the group of member states, or to external audiences such as international donors. In the absence of such signaling motives, organizations will resist the global anti-corruption trend. Beyond explaining the decision to adopt an agreement or not, I argue that the signaling scope condition also affects the contents of documents.

To compare international anti-corruption agreements systematically, I disaggregate the main research question into two parts. First, why do some regional and international organizations adopt agreements that include mandatory clauses whereas others do not? Second, how can we explain differences and similarities in the scope of issues covered and the legal design among the binding agreements? I address these questions through a comparison of fourteen international and regional organizations and their respective anti-corruption efforts. Two case-study chapters then analyze how member-state delegates, international bureaucrats, and non-state actors reached consensus in the Organization of American States (OAS) and the African Union (AU).

The remainder of this chapter provides some detail on the background, analytical framework, argument, and empirical relevance of this approach.

The arrival of anti-corruption on the global agenda

Since the mid-1990s, international organizations (IOs) around the world have adopted multilateral anti-corruption agreements. This has

been variously characterized as an "eruption," a growing "industry," and a "campaign" or "movement."[2] Several authors have applied Nadelmann's notion of "prohibition regimes" to anti-corruption.[3] The 2003 UNCAC is at the center of these developments and enjoys almost universal ratification today. However, as I discuss in Chapter 2, the UN was neither the first nor the only forum to address corruption. Due to the patchwork of regional and global initiatives, virtually every independent state today has ratified between one and five international anti-corruption agreements (see Figure I.1).

In hindsight, it seems logical for international organizations to tackle the transnational challenges of corruption. Yet, it took decades for them to overcome obstacles to cooperation and reach the first binding agreement in this field. I will briefly address two questions. First, why did anti-corruption finally take center stage in the mid-1990s after being sidelined for so long? One possible answer is that the end of the Cold War provided the necessary permissive conditions for anti-corruption to receive more attention from the global community. Second, which actors were central in setting the agenda? Whereas the structural changes during the 1990s allowed anti-corruption to evolve as a global issue, agency was also necessary to facilitate its development.

During the 1990s, two broad trends resulted in conditions under which governments sought to reach agreements about fighting corruption. Democratization and economic globalization led to a change in public

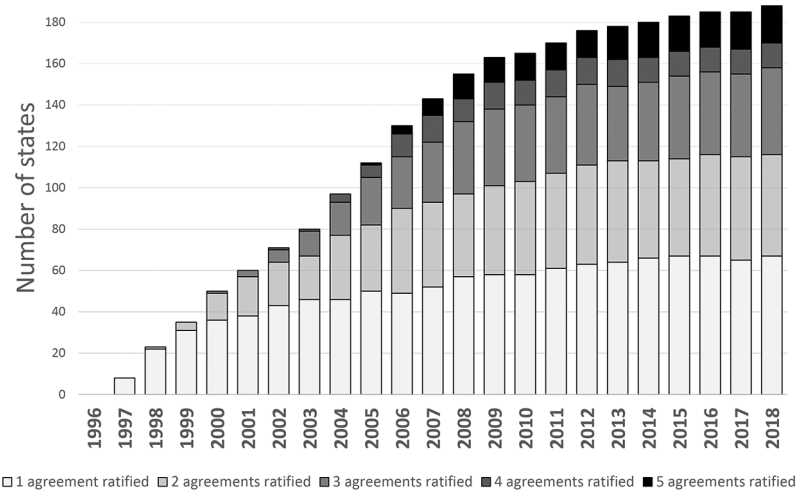

Figure I.1 States that have ratified at least one anti-corruption agreement
Source: Author, based on official records.

perceptions of corruption, and consequently to increased pressure on governments to address it: "The hardships of global competition have exhausted voters' patience with government excesses and misconduct."[4] This applies directly to transition countries, whose leaders faced high expectations from their newly empowered electorates. A number of politicians in Latin America and South-East Asia were forced to step down due to high-profile corruption cases. With more room for civil society and public debate, corruption gained more attention at the national level.[5]

At the same time, large-scale corruption had been discovered in countries with long traditions of democratic rule. Two major examples are Japan, where Prime Minister Takeshita stepped down in 1989, and Italy's "*mani pulite*" campaign, which began in 1992.[6] For Europe, an additional outcome of democratization was that the post-Soviet states were to be integrated into the Council of Europe and ultimately the European Union (EU). This led policymakers to put anti-corruption at the top of the political agenda. The EU and COE launched a joint program called Octopus, which ran from 1996 to 2000 to assist prospective new members with bringing their domestic legislation up to EU standards.[7] As Western European states asked their Eastern counterparts to enact reforms, they themselves had to commit to anti-corruption in order not to appear hypocritical.[8]

Meanwhile, ever more countries were involved in global trade, and foreign investments reached unprecedented levels. With national markets no longer the most important reference points, corruption scandals in globalized industries started to attract a lot of attention.[9] Whereas domestic political crises could be seen as issues for national lawmakers, their effects on transnational business required international cooperation. To safeguard the benefits of open markets and transnational investments, activists began to argue against the payment of bribes.[10] Even among countries with different ideological orientations, it made sense to create a level playing field "to increase the confidence of their prospective trading partners."[11] In a similar vein, the Asian financial crisis was partly blamed on "crony capitalism," further emphasizing the need to tackle unethical behavior in international business.[12] Several authors have criticized this linkage of anti-corruption to market liberalization without denying its importance as a permissive condition for the new set of policies to emerge.[13]

Also in the early 1990s, US foreign policy and security objectives changed as a consequence of the end of the Cold War: "compliant or friendly policies towards superpowers ceased to be the driving criterion for foreign relations, and other principles such as democratic

governance, trade relations, human rights, and transparent governments could take center stage."[14] Put more bluntly, the end of the Cold War eliminated the need to protect every ally, regardless of their shortcomings. Priorities for development assistance and diplomatic relations changed, and exposing corrupt leaders was no longer unthinkable.[15]

Closely related to the change in ideological conflicts due to the end of the Cold War is the evolution of the US debate on global security. The emphasis on traditional military threats and the stand-off between the superpowers gave way to worries about alternative forms of conflict. Promoting good governance and the rule of law was framed as a strategy to fight transnational crime and avoid the negative externalities from civil wars associated with failed or weak states. Security concerns in the wake of 9/11 played an important role in the drafting of the 2003 UN Convention Against Corruption, as reflected in official US statements about corruption and its relation to international terrorism.[16]

In addition, the US government was the principal agenda-setter and proponent of banning transnational bribery. This activism was rooted in the 1977 Foreign Corrupt Practices Act (FCPA). In the wake of the Watergate and Lockheed scandals, American legislators had banned US corporations from paying bribes to foreign officials. Export-oriented businesses felt the FCPA put them at a competitive disadvantage because no other country enacted similar laws.[17] Yet, at least initially, the US government was unable to pressurize others to follow suit after it "unilaterally disarmed."[18] After the FCPA was amended in 1988, the United States again tried to create a level playing field. Combining economic arguments with normative claims, in 1997 US negotiators succeeded in convincing their counterparts at the OECD to ban transnational bribery.[19] They thus propelled one aspect of anti-corruption onto the global agenda. Critics argue that the United States' motives were far from altruistic, and that the net result might be an internationalization of US law rather than the creation of a global norm.[20] Yet, as subsequent chapters will show, international anti-corruption efforts cover a broader range of issues than this argument suggests.[21]

Another factor in the promotion of anti-corruption was a change in expert opinion, particularly regarding the detrimental effects of corruption on developing countries. Scathing assessments from economists and social scientists prompted a shift in priorities among the policymakers in multilateral institutions, particularly the World Bank (WB) and the International Monetary Fund (IMF). During the 1990s, a quite benevolent attitude toward corruption finally started to give way

to increasingly negative appraisals. Huntington is often cited as an example of the former perspective, but others, such as Nye and Leff, similarly did not consider the fight against corruption a priority. However, as ever more research incorporated surveys and quantitative indicators, a wealth of new evidence in support of anti-corruption efforts came to the fore.[22] For instance, IMF economist Paolo Mauro published a series of highly influential working papers and journal articles in which he likened corruption to sand in the wheels of growth.[23] Principal-agent models and institutionalist perspectives were embraced as this new generation of research revealed corruption's negative impact on a vast range of economic and social variables.[24]

The academic discourse was closely linked to the WB and the IMF, which hosted researchers and publicized their findings. James Wolfensohn became the WB's president in 1995 and began prioritizing bribery the following year.[25] Indeed, in his 1996 presidential address, he stated that the WB must "deal with the cancer of corruption."[26] Compared to the previous non-interventionist stance, this was a significant change of direction. Wolfensohn's World Bank became an important teacher of norms in the field of anti-corruption, both through anti-corruption provisions in its own programs and by publicly advocating for reform.[27] While the level of action did not necessarily match the rhetoric, let alone achieve positive effects on the ground,[28] the change in policy did inspire others. Among the first to follow the WB's lead was the IMF, which "adopted stringent guidelines for public sector transparency and accounting as part of its standard conditionality" in 1996.[29] Whereas researchers and policy experts had previously been undecided, by the middle of the 1990s there was almost universal acceptance of a strong anti-corruption stance.

Finally, Transparency International (TI) is often considered the key non-governmental organization (NGO) in terms of advancing the anti-corruption agenda. Founded in 1993 by Peter Eigen, a German economist with long experience working for the WB in Africa, and several colleagues, it quickly became "the most visible non-governmental player in the anti-corruption movement."[30] Since 1995, TI has published the annual Corruption Perceptions Index (CPI), in which countries are ranked according to their perceived levels of corruption. Yet, overall, the organization is regarded as diplomatic and cooperative rather than confrontational.[31] It relies on cooperation with governments, a combination of advocacy for legal reform with general awareness-raising, and a decentralized structure with national chapters around the world.[32] At first, it focused on bribery and tried to address the prisoner's dilemma among export-oriented countries by engaging with key

business leaders and national politicians. Of course, this approach corresponded with the US government's efforts to ban transnational bribery.[33] In addition, TI aims to shape public opinion by naming and shaming miscreants in the widely publicized CPI and the Bribe Payers Index (BPI).[34] As early as 1998, the organization claimed that the CPI "influences the policies of major aid agencies and is a factor in the foreign investment decisions of multinational corporations."[35] Nevertheless, some commentators are critical of TI due to its close links to Western governments and the WB.[36] Indeed, because its initial funding came almost exclusively from government sources, it has even been labeled "*quasi*-nongovernmental."[37] Still, there is no doubt that the organization has been a crucial agent of change in the anti-corruption movement. Later, it was joined by the International Chamber of Commerce, the International Bar Association, and the American Bar Association, among other NGOs.[38] However, no other non-state actor has received as much attention and credit in the literature as TI.

This brief account of how anti-corruption made its way up the global policy agenda provides a useful starting point for my analysis. Yet, research that focuses exclusively on norm emergence neglects subsequent developments and important variations between cases. Other studies might discuss case-specific arguments about the emergence and design of agreements but lack a comparative approach.[39] Meanwhile, comparative studies by legal scholars might address the implications of variations between cases but fail to present causal arguments.[40] This study, in contrast, not only compares international anti-corruption agreements but also explains the similarities and differences between them.

Comparing the scope and legal design of agreements

When international organizations draft and adopt agreements to combat corruption, the results are far from uniform in form and scale. At one end of the spectrum, there are short statements about corruption in non-binding language. Such provisions are often adopted at the end of high-level meetings and characterized by hortatory language. To conclude the first Summit of the Americas in Miami in 1994, for instance, the heads of state and government adopted a five-page declaration of principles, including one sentence on corruption as an issue to be tackled.[41] At the other end of the spectrum, there are international treaties with legally binding provisions. A case in point is the UNCAC, which contains 71 articles that cover a vast range of

issues.[42] Action plans, protocols, and additional documents occupy the middle ground between these two extremes.

To allow for valid comparisons, the analysis in this book is limited to treaties and comparable documents with a minimum degree of legal obligation. Furthermore, the relevant dimensions and criteria for the comparisons need to be specified: first, the *scope* of anti-corruption efforts; and second, their *legal design* (see Table I.1).

To measure the scope of agreements, I disaggregate anti-corruption into five categories:

- What do states commit to do to prevent corruption?
- Which acts of corruption are to be criminalized domestically?
- What do agreements say about how states should define jurisdiction over corruption cases?
- Which provisions exist on standards for domestic enforcement?
- Which provisions does an agreement encompass about international cooperation?

Guided by these categories, I track which items occur in each document. The result is a mapping that covers 57 elements, which jointly represent the scope of each anti-corruption agreement.

The second analytical dimension—legal design—captures how the agreements are set up. Here, I follow the suggestions contained within the legalization framework.[43] First, I consider obligation: for each element of scope, the language in the agreement indicates the extent to which states are legally bound to comply. Phrases such as "shall" or "will" indicate a high level of obligation, whereas states that "consider" an issue are merely making an aspirational statement. This aspect of legal design can be coded separately for each element covered in the scope dimension. Second, I analyze delegation, which takes a single value for the whole case. The crucial question here is: does an agreement establish a body or forum to fulfill tasks related to enforcement or monitoring? Empirically, the range of outcomes is quite

Table I.1 Analytical framework

Scope: What is covered?	*Legal design: How is the agreement set up?*
Prevention	Obligation: high–low
Criminalization	Delegation: Follow-up, monitoring
Jurisdiction	
Domestic enforcement	
International cooperation	

limited. For instance, no international organization has ever created a specialist court to adjudicate only on corruption cases. In practice, anti-corruption follow-up is either non-existent or reaches the monitoring level of delegation (see Chapter 2).

Analyzing scope and legal design allows for nuanced comparisons between agreements. Of course, two international organizations may be completely dissimilar if one adopts an agreement with binding anti-corruption commitments and the other refuses to do so. Or they can be very similar if their respective documents share virtually every characteristic regarding scope and legal design, which would suggest that one was modeled on the other in its entirety. Yet, most importantly, my focus is on the middle range of varying similarities and differences. Regarding scope, this means comparing which issues are covered in each agreement. Moreover, the wording of individual provisions might be similar across multiple cases. In terms of legal design, two agreements might be almost identical or very different in their degree of obligation and how this varies between issue areas. Finally, I compare how their follow-up mechanisms are designed.

Based on this analytical framework, I analyze and compare the anti-corruption agreements created by nine international organizations mostly between 1996 and 2003. Four IOs may be described as early adopters: the OAS, COE, OECD, and EU all started negotiations around the same time and adopted binding documents between 1996 and 1999. The COE and the OECD included follow-up mechanisms immediately, while the OAS added one in 2001. Between 2001 and 2003, three African organizations—the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), and the African Union (AU)—followed suit and adopted their own anti-corruption documents. This global trend culminated in December 2003, when the UN Convention Against Corruption was adopted after three years of preparation and negotiations. A review mechanism was added six years later. Finally, the League of Arab States (LAS) adopted a convention in 2010.

While the LAS was rather lethargic, some regional organizations have shown even less appetite for drafting a binding agreement. For instance, in Latin America, neither the Southern Common Market (MERCOSUR) nor the Andean Community (CAN) has created its own anti-corruption protocol; instead, they both defer to the OAS. Similarly, neither the Caribbean Community (CARICOM) nor the East African Community (EAC) had signed up to a binding agreement at the time of writing, although negotiations were at least under way in the latter (see Chapter 4). The Association of South-East Asian

Nations (ASEAN) is another outlier, making Asia the only continent with no binding anti-corruption agreement.

Another difference between organizations is that some have become active only once, whereas others have addressed corruption in several documents. The OECD, COE, and EU have all added multiple recommendations and supplementary documents to their main agreements. These have either expanded on issues established in the original agreements or introduced new ones. To a lesser extent, the OAS and AU have also added some extra documents that address corruption. In contrast, the ECOWAS and SADC agreements appear to be singular declarations as neither has been amended or developed since adoption.

How do the organizations with at least one binding agreement compare with one another? Simply put, researchers and practitioners must carefully consider the contents of each agreement because both scope and legal design differ markedly from case to case. For instance, the OECD's convention is relatively narrow in scope in terms of criminalization and enforcement related to transnational bribery, but it contains a high degree of obligation plus delegation to a strong follow-up mechanism. Some other issues are addressed too, but mostly as non-binding recommendations. Meanwhile, the OAS and UN agreements are much broader in scope and display either more or less obligation, depending on the issue. In both cases, follow-up mechanisms were created a few years after ratification. All of the agreements adopted by African organizations share a broad scope and a high degree of obligation for most provisions. Yet, in terms of delegation, they have either no or only weak follow-up mechanisms.

In sum, anti-corruption agreements present a mixed picture in terms of overall legalization. On the one hand, there are some narrow but strongly enforced commitments; on the other, a number of broad and binding documents are stymied by a lack of delegation. As a further consequence of the choices made by different organizations, there is variation from region to region. In the Americas, the OAS is the only organization with a binding agreement; all of the others have either not addressed corruption at all or they defer to the OAS, at best adding technical, non-binding documents. In Europe, multiple anti-corruption agreements have developed in parallel to achieve specific objectives, with the COE and the EU prioritizing different issues. The OECD, with its focus on transnational bribery, also fits into this pattern. Among the African organizations, by contrast, there is already an overlapping set of agreements, with another currently under negotiation.

The argument in brief: diffusion and signaling motives

I argue that these similarities and differences among international organizations' approaches to anti-corruption are best explained by a diffusion perspective that incorporates scope conditions. Diffusion generally refers to processes of interdependent decision-making.[44] When applied to the subject of this study, it implies that the choices relating to anti-corruption that are made in one international organization are systematically influenced by the choices that are made in others. Rather than expecting all organizations to engage in independent attempts to solve the problem, or to be driven by other idiosyncratic factors, I assume that decisions on how to draft an effective agreement are influenced by other actors' prior—or anticipated—decisions.

These influences may be based on direct mechanisms of diffusion. Outside actors might offer positive or negative incentives as well as capacity-building to induce a change of behavior. They might also engage in normative pressure and persuasion in the hope of triggering desired outcomes, for instance by arguing that corruption is morally wrong and ought to be addressed by every international organization. Yet, diffusion does not depend on any such direct attempts to exert influence; indeed, it could be driven by indirect mechanisms alone. For instance, an IO might reach a decision solely to keep pace with others that are competing for similar resources. Alternatively, decision-makers might draw lessons from an external model when seeking solutions for a particular policy problem. Finally, the literature on diffusion highlights the importance of normative emulation, when an organization is influenced by the actions of peers with high prestige or legitimacy.[45]

However, I do not assume that diffusion affects all cases uniformly. Because the member states are the primary decision-makers in international organizations, their motives serve as scope conditions for diffusion. I argue that the choice to adopt an anti-corruption agreement is driven by member states' motives to use treaties for signaling purposes. These signals may be intended for domestic, intra-group, or external audiences. In organizations whose member states are more democratic (on average), one may expect the domestic signaling motive to play a decisive role. Because corruption is a highly relevant issue for many constituents, adopting an international agreement to tackle this issue is a useful way to display commitment to the electorate. The second motive—intra-group signaling—applies to situations in which member states draft an agreement to codify their commitments to one another, for instance to solve cooperation problems. This is likely when at least one member of the group pushes for the agreement and seeks

commitments from its peers, as illustrated by the US government lobbying the other member states of the OECD to adopt similar laws against bribery in transnational business. Finally, the external signaling motive applies in organizations whose member states are highly dependent on inflows of development aid. In such cases, anti-corruption efforts are primarily driven by the wish to react to actual or perceived external pressure and therefore avert demands for further action.

Organizations are unlikely to adopt binding anti-corruption agreements in the absence of a signaling motive. This explains ASEAN's and the LAS's reluctance to follow the global anti-corruption trend. Beyond their impact on the core decision to become active or not, the scope conditions also influence both the scope and the legal design of agreements. If either domestic or intra-group signaling is the principal motive, agreements tend to display a trade-off between scope and obligation as well as strong follow-up provisions to foster compliance. This outcome is most obvious in the OAS, COE, and OECD agreements. By contrast, when external signaling is the main motive, agreements tend to be broad in scope and highly obligatory, but with weak follow-up mechanisms. Therefore, it is safe to assume that the African regional organizations were signaling primarily to donors and the international community when drafting their agreements.

Beyond the study of corruption and the political responses to it, this study contributes to broader debates in international relations. Depending on their theoretical point of departure, researchers may focus on the emergence of specific issues on the global agenda, the resulting patterns of institutional convergence and differentiation, or the processes and mechanisms through which ideas spread. One such research approach is comparative regionalism: that is, the comparative study of regional orders and regional governance. A subset of this literature investigates how regional organizations shape domestic governance structures, including the rule of law and good governance.[46] International anti-corruption agreements may be viewed through this lens.

Moreover, these agreements are relevant for research into norm and policy diffusion. The starting point here is that decision-making in international organizations is seen as interdependent, meaning that each decision is systematically influenced by those in other units. The structural variant of this perspective—the World Society Approach (WSA)—sees the broad trend towards anti-corruption as an instance of convergence or isomorphism.[47] Fighting corruption, in this interpretation, has become part of a shared script of rationality and modernity. Other diffusion researchers are more interested in the agency of various actors and the possibility that different mechanisms might be at play.[48]

The more nuanced differentiation of agreements analyzed in this study speaks to debates about direct and indirect mechanisms of diffusion. For structural as well as agency-centered approaches, the emergence and further development of the international agenda to combat corruption presents an opportunity to test and develop causal arguments.

In addition, this study contributes to the literature on international regimes and institutional design by analyzing decision-making in IOs and the design choices of international institutions. Addressing the question of what motivates member states to adopt anti-corruption agreements within a diffusion approach allows studies of institutional design to be linked to research into commitment to treaties and the signaling logic behind international law.[49]

Why study anti-corruption agreements?

While the campaign against transnational bribery and the US government's efforts to promote it have received the bulk of the academic attention, anti-corruption is much broader both conceptually and empirically. A commitment to combat corruption can have different meanings depending on the terminology used in the document. For instance, if an IO's member states agree to ban one specific practice but nothing else, that is very different from a commitment to address a wide range of corruption-related issues.

In 1964, US Supreme Court Justice Potter Stewart suggested that it was almost impossible to define pornography, so he would refrain from trying. Instead, he simply stated, "I know it when I see it."[50] Arguably, the same could be said for corruption. TI has suggested the widely cited definition "abuse of entrusted power for private gain," and further differentiates between "grand," "petty," and "political" corruption, based on the actors involved and their motives.[51] However, this still leaves a great deal of room for interpretation.

This approach to defining corruption follows the commonly used public-office or breach-of-duty perspective. "Entrusted power" here includes what earlier authors have labeled "public office," although TI's phrase allows for private-sector corruption to be included in a more holistic definition. Such definitions are based on the notion that some individuals occupy positions of power that are linked to norms of behavior, which corrupt actors violate by seeking gains for themselves or others. I will refrain from a more thorough discussion of the various perspectives on how to define corruption.[52] Suffice to say that a wide range of behavior has been categorized as corruption, and violations of impartiality norms are a common denominator.

As part of this study, I track how international agreements define corruption. If there is no explicit definition, we can at least explore how corrupt behavior is circumscribed in these documents. It makes sense to treat definitions as part of the empirical variation to explain, as both they and implicit assumptions can shape the contents of agreements. Importantly, the concept of corruption is not free of normative or moral connotations. Even relatively technical definitions must refer to some normative basis to be meaningful. Therefore, it is crucial to study which norms have spread in the international system and thus potentially contradict and/or influence those at the domestic level.

Moreover, international agreements to combat corruption affect international and domestic politics. Most obviously, they have direct effects on national law-making and thus potentially contribute to combating corruption. National laws are supposed to curb undesirable behavior, as national authorities define and enforce mandatory rules. Ostensibly, this is what international anti-corruption agreements, with their focus on obliging member states to change their domestic laws, aim to achieve. Yet, critics have argued that betting on laws to reduce corruption betrays "naive confidence" with "little concrete evidence to support this belief."[53] Even with the best of intentions, some governments might simply be unable to address the deep-rooted causes of corruption in their societies. Indeed, quantitative empirical research has found little or no evidence of a causal link between commitments to international agreements and reductions in corruption at the national level.[54]

Nevertheless, there is no doubt that the international anti-corruption agenda has had some impact on national political systems. National laws to combat corruption have evolved around the world in tandem with the international agreements. Indeed, "virtually every country has domestic [anti-corruption] laws covering its public officials."[55] For African countries in particular, "the coming into force of [the African Union and the United Nations conventions] had a dramatic effect on the development of anti-corruption and good governance laws and institutions."[56] The OECD's influence on its member states' anti-bribery laws is another case in point.[57]

In addition to standard-setting at the domestic level, international agreements enable cooperation between member states. If bribes are paid in the context of transnational business, successful prosecution often depends on international cooperation to collect and share evidence. Mutual legal assistance, extradition, and the freezing of assets are further aspects of the international cooperation relating to

corruption. International agreements are meant to facilitate and promote such interactions, which ultimately depend on case-by-case political will.[58]

Anti-corruption agreements are also significant focal points and benchmarks. Several of them have established follow-up mechanisms, with peer review being the most typical design choice. When an organization's member states regularly review one another's performance regarding treaty commitments, this constitutes an inherent means of information collection, sharing, and benchmarking. Such mechanisms are meant to induce higher levels of compliance by applying peer pressure and reputational costs. Anti-corruption agreements can thus become focal points for naming and shaming.[59]

Less directly, they also become focal points by setting the agenda on corruption and raising awareness of the problem. International efforts are most likely to reach their goals when they facilitate local stakeholders and policy entrepreneurs.[60] TI, the leading NGO in the field, publishes regular "progress reports" on the UN and OECD conventions. In this sense, the international agreements focus the attention of activists, who are able to highlight non-compliance among parties to the various treaties or pressurize states to commit to anti-corruption compacts in the first place. For instance, TI called on Germany and Japan to ratify the UNCAC when it felt they were dragging their feet. Moreover, while the official monitoring mechanisms associated with international agreements stop short of ranking member-state performance, TI uses the OECD's data on the application of foreign-bribery clauses to do just that.[61]

In developing countries and emerging markets, curbing corruption has become a benchmark for both donor agencies and investors. As discussed above, the WB reversed its stance on corruption in the 1990s. Now, it aims to help countries implement domestic good-governance reforms, but also considers corruption indicators when it assesses country performance and makes procurement decisions.[62] Specific expectations as to what governments should implement draw on international agreements, and the UN convention in particular has become a model for domestic legislation.[63] This provides outsiders with leverage on domestic policy. As one expert explained, the fact that countries see the need to implement conventions has "helped donors and people who provide technical assistance in building cooperation with recipient countries."[64] This goes hand in hand with naming and shaming on the basis of corruption indices, and both trends indicate the "huge ambition of international donors to have an impact on national governance."[65]

Whatever normative position one might adopt in these debates, it is an indisputable fact that international agreements have become important benchmarks and focal points. In addition to the theoretical appeal of studying the political processes leading to international anti-corruption agreements, this study is motivated by their political relevance, both internationally and domestically.

Chapter outline

Chapter 1 deals with the theoretical building blocks that are used to explain similarities and differences among international agreements. I first address diffusion as a theoretical framework, emphasizing the processes and mechanisms of interdependent decision-making. This is complemented by a discussion of agency in international organizations. I argue that activists and international bureaucrats as well as member-state delegates can play important roles. The third building block relates to international law as signaling, showing how agreements serve to send messages to various audiences. My theoretical model applies the signaling logic as a scope condition for diffusion mechanisms.

Chapter 2 starts with a short overview of the agreements that various organizations have adopted. To account for the existence or absence of agreements, I then discuss member states' signaling motives as scope conditions for diffusion. Next, I focus on the organizations that have created binding agreements and present detailed comparisons of their scope and legal design. I discuss how differences in the underlying signaling motives correspond to different outcomes in terms of scope and legal design. Finally, I compare the agreements' contents in greater detail and emphasize that many provisions are copied verbatim. The comparison thus demonstrates the plausibility of the diffusion approach, setting the scene for the two case-studies that follow.

In Chapter 3, I analyze the process that led up to the Organization of American States adopting its anti-corruption convention in 1996. This is a typical case of domestic and intra-group signaling motives shaping the decision-making process. Under the leadership of a US-led coalition of member states, the organization swiftly drafted and adopted an agreement, then added a monitoring mechanism at a later date. This case illustrates how documents can be influenced by different national as well as international reference models. The resulting agreement focuses on a relatively narrow set of issues, reflecting the varied interests of member states.

Chapter 4 focuses on the African Union, which adopted an anti-corruption agreement in 2003. In this case, the impetus to address

corruption came primarily from donors and multilateral institutions, rather than advocates within the organization itself. Thereafter, regional bureaucrats, legal experts, and civil society activists dominated the drafting and negotiation process. The resulting agreement is a typical case of diffusion conditioned by external signaling motives. The evidence points to multiple mechanisms of diffusion, showing how the drafters drew on a variety of international reference models. The final convention covers many issues in mandatory language but lacks delegation.

In Chapter 5, I summarize and discuss the scope and legal design of these agreements. International anti-corruption agreements range from narrow enforcement cooperation to broad but poorly enforced agreements that I label "illusionary giants." OAS and AU were driven by contrasting signaling motives, and they also differ with respect to the diffusion mechanisms that drove the process. The book concludes with a discussion of the theoretical and practical implications of these findings.

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