

Italy's New Anti-Corruption Law:
Factors that affect Regional Implementation

By

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Abstract

Corruption is a central cause of economic, financial, and political risk and instability; depreciated social capital and trust; democratic deficit; and violence and terrorism. It is thus no surprise that as regionalization and the integration of global markets has intensified, the fight against corruption has become an important part of the global policy agenda. This thesis investigates Italy's new Anti-Corruption Law (*Legge n. 190/2012*)—a law that was passed by Mario Monti's technocratic government in 2012, as part of a series of structural reforms designed to stabilize the Italian economy. This thesis looks at the Anti-Corruption Law from a regional lens. By speaking to Italian academics, jurists, politically-engaged citizens, regional anti-corruption officials, and Transparency International Italia, this thesis evaluates the implementation of the Anti-Corruption Law in two regions and identifies factors that affect its implementation at the regional level.

Dedication

*To my Nonna,
and all others who have suffered
gross injustices in face of corruption.*

Acknowledgements

I began my work on Italian corruption because of personal testimonies of injustice. I wanted to make a positive contribution to Italy's political reforms, but I had no idea how challenging this research project would truly be.

The subject of this thesis was the lens with which I viewed my time in Italy. This is a very negative filter with which to see the world. As a result, while searching for examples of impediments to anti-corruption reform in Italy, I also became very pessimistic and jaded, and I am very thankful to all the friends and family who stuck by me during this trying time.

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List of Acronyms Used

AC	Anti-corruption
ACO	Anti-Corruption Official
ANAC	<i>Autorità Nazionale AntiCorruzione</i> (the National Anti-Corruption Authority).
CIVIT	<i>Commissione Indipendente per la Valutazione, la Trasparenza e l'Integrità</i> (the National Anti-Corruption Authority before it was switched to ANAC)
DFP	<i>Dipartimento della Funziona Pubblica</i> (Department of Public Works)
EU	European Union
GRECO	Group of States Against Corruption
ISTAT	<i>Istituto Nazionale di Statistica</i> (the National Institute of Statistics)
MLG	Multi-level governance
NACP	National Anti-Corruption Plan
NGO	Non-governmental organization
OECD	Organisation for Economic Co-operation and Development
PI	Policy implementation
RACP	Regional Anti-Corruption Plan
RCC	Regional Code of Conduct
TI	Transparency International
TII	Transparency International Italia
UN	United Nations
UNCAC	United Nations Convention Against Corruption

Chapter 1: Introduction

Corruption is frequently cited as a central cause of economic, financial, and political instability. From this risk of instability, spawn a wide range of impacts including democratic deficit, violence, terrorism, as well as a depreciation of social capital and trust. Although corruption has always existed, the resources at stake have greatly increased in the contemporary world. In the words of President Barack Obama, corruption is “one of the great struggles of our time. [It] is a problem we all share [...] a crisis that's robbing an honest people of the opportunities they have fought for—the opportunity they deserve.”¹ It is thus no surprise that with the rise of globalization and the integration of international markets, the fight against corruption has become an important part of the global policy agenda. As a result, the last twenty-plus years have bared witness to the creation of several anti-corruption institutions, including the Council of Europe’s “Twenty Guiding Principles for the Fight against Corruption” and its Criminal Law Convention on Corruption,² the Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention, and the United Nations’ Convention against Corruption (also known as the Merida Convention).³

From the very beginning of the international anti-corruption movement, it became clear that in order for a genuine change to occur, anti-corruption legislation and policies “need to be implemented and monitored through specialised bodies and/or personnel with

¹ President Barack Obama. Speech entitled “Our Past, Our Future & Vision for America,” University of Nairobi, Nairobi, Kenya, August 28, 2006. <http://obamaspeeches.com/088-An-Honest-Government-A-Hopeful-Future-Obama-Speech.htm>

² OECD, “Specialised Anti-Corruption Institutions: Review of Models,” *OECD Publishing*, 2008, p. 17.

³ The Merida Convention was passed by the United Nations in 2003 *via* resolution 58/4. For more information, please see UNODC, “United Nations Convention against Corruption,” 2014, accessed April 12, 2014, <https://www.unodc.org/unodc/en/treaties/CAC/>.

adequate powers, resources and training;”⁴ in this way, several anti-corruption agencies were created within both the public and private sectors.

The European Union joined the anti-corruption movement when, in 2011, the European Commission adopted “an anti-corruption package” as part of its Anti-Fraud Strategy. The Commission argued that corruption is a transnational issue, as it influences “mutual trust, foreign investments, capital flows and even worse, the rule of law across the European Union.”⁵ The decision also established “an European Union anti-corruption reporting mechanism for periodic assessment,” also known as the European Union Anti-Corruption Report.⁶

The recent European economic crises have shed light on a variety of structural problems within European Union (EU) Member States; corruption is one of the gravest of these problems, since this phenomenon can impede any reform from being effective. According to the EU Commission, corruption—which has been widely accepted to mean the “abuse of public power for private benefit”⁷—“may differ [in nature and scope] from one EU State to another, [but] it harms the EU as a whole by lowering investment levels, hampering the fair operation of the Internal Market and reducing public finances.”⁸ Nonetheless, despite several “legal instruments” that are already in affect at the European

⁴ OECD, “Specialised Anti-Corruption Institutions: Review of Models,” *OECD Publishing*, 2008, p. 17.

⁵ Raluca Stefanue, “Corruption, or How to Tame the Shrew with the European Union Stick: the New Anti-Corruption Initiative of the European Commission,” *ERA Forum* 12 (2011), 433.

⁶ Stefanue, “Corruption, or How to Tame the Shrew with the European Union Stick,” pp. 427-428.

⁷ Kevin E. Davis, “The Prospects of Anti-Corruption Law: Optimists versus Skeptics,” *Hague Journal on the Rule of Law*, 4 no. 2 (2012): p. 321.

⁸ European Commission. “Home Affairs: Corruption.” October 26, 2012. Accessed March 25, 2013. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/index_en.htm.

and international levels, “implementation [of anti-corruption policies] by EU States generally remains insufficient.”⁹

In this context, Italy’s case of protracted corruption presents an interesting research opportunity. Although nearly impossible to quantify, it is estimated that 60 billion euros are misappropriated every year in Italy—approximately half of the EU total of embezzled funds!¹⁰ According to the World Bank, it is believed that “an effective fight against corruption would result in an increased income of 2.4%.”¹¹ In addition to these direct economic costs, corruption in Italy has resulted in grave indirect economic costs including “administrative delays, malfunctioning of public office, the inefficiency or even uselessness of public works or services rendered, loss of competitiveness, and reduced investments.”¹² What is more, according to the 2013 Special Eurobarometer on Corruption, 88 percent of Italians believe that “bribery and the use of connections is often the easiest way to obtain certain public services,” 42 percent claim that corruption affects them personally “in their daily life,” and a noteworthy 97 percent “believe that corruption is widespread” in Italy.¹³ Corruption in Italy is certainly a systemic and protracted issue.

⁹ European Commission. “Home Affairs: Corruption.” See also Raluca Stefanue, “Corruption, or How to Tame the Shrew with the European Union Stick: the New Anti-Corruption Initiative of the European Commission,” *ERA Forum* 12 (2011).

¹⁰ Philip Pullella, “New Italy Law Tackles Rampant Corruption,” *Reuters*, October 30, 2012, accessed February 2, 2013, <http://www.reuters.com/article/2012/10/30/us-italy-corruption-idUSBRE89T1MT20121030>; Regione Abruzzo, “Piano Triennale della Prevenzione della Corruzione 2013-2016,” *Giunta Regionale* 2014, p. 9.

¹¹ Transparency International Italia, “Corruption is not an Inevitable Fate but a Cultural Dress,” October 31, 2012, accessed February 6, 2013. http://blog.transparency.org/wpcontent/uploads/2012/10/CS_approvazione_ING.pdf

¹² European Commission, “Report From The Commission to the Council and the European Parliament: EU Anti-Corruption Report,” February 3rd, 2014, accessed February 3, 2014, http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf, p. 4.

¹³ European Commission, “Special Eurobarometer 397 Report on Corruption,” February 2014, accessed April 23, 2014, http://ec.europa.eu/public_opinion/archives/ebs/ebs_397_en.pdf.

Protracted corruption has resulted in the failure of good governance in Italy, “undermin[ing] the legitimacy of public institutions,”¹⁴ while fuelling a politics of resentment and mistrust.¹⁵ Mistrust in government can be menacing and can have dire consequences for the stability of a nation. In Italy, mistrust has been cited as one of the main causes behind the disenfranchisement of the Italian citizenry, the lack of foreign investment in the country, and it has also helped fuel the surprising support for the populist Five Star Movement in Italy’s most recent national elections.¹⁶

To borrow the words of President Obama once more, when it comes down to it, “if the people cannot trust their government to do the job for which it exists—to protect them and to promote their common welfare—all else is lost. And this is why the struggle against corruption is one of the great struggles of our time.”¹⁷ Thus, if Italy wants to restore faith in its government and political institutions, restore investor confidence, and become more competitive in a world of transnational and integrated markets, the issue of corruption *must* be tackled in a comprehensive and decisive way. This is why, as part of a series of structural reforms designed to stabilize the Italian economy, the technocratic government led by Prime Minister Mario Monti passed an Anti-Corruption Law in November, 2012.

¹⁴ Kevin E. Davis, “The Prospects for Anti-Corruption Law: Optimists versus Skeptics,” *Hague Journal of the Rule of Law*, 4 no. 2 (September 2012): p. 321.

¹⁵ Valentina Pasquali, “Mob Rule,” *Foreign Policy*, (May/June 2009).

¹⁶ Anti-corruption has been one of the Five Star Movement’s platforms since the beginning. The Movement has had numerous “anti-corruption rallies” across the country, and corruption is perhaps one of the campaign points that made voters the most sympathetic towards The Movement. See Gavin Jones, “Beppe Grillo And The 5 Star Movement: An In-Depth Look At Italy’s New Kingmaker,” *Reuters*, March 7, 2013, accessed April 15 2013, http://www.huffingtonpost.com/2013/03/07/beppe-grillo-5-star-movement_n_2826213.html; James Mackenzie, “Analysis: Italy’s Grillo Surfs Anti-Establishment Wave,” *Reuters*, July 1, 2012, accessed April 15, 2013, <http://www.reuters.com/article/2012/07/01/us-italy-grillo-idUSBRE86003920120701>.

¹⁷ President Barack Obama. Speech entitled “Our Past, Our Future & Vision for America,” University of Nairobi, Nairobi, Kenya, August 28, 2006. <http://obamaspeeches.com/088-An-Honest-Government-A-Hopeful-Future-Obama-Speech.htm>.

This thesis looks at Italy's new Anti-Corruption Law (also known as Law n. 190/2012) and the factors that affect the law's implementation at the regional level of Italian governance. This study is both novel and timely, and it is hoped that it can generate implications for European Union policy and integration at large. The idea for this thesis emerged from discussions with politically engaged Italian citizens in the wake of the Eurozone crises. Each time these individuals were asked if they believed government reforms would work in Italy, their answers always came with a hint of skepticism: 'it all depends on whether or not *trust* can be restored in the system;' 'yes reforms were passed, but we shall see if they will actually be implemented!' Thus, it seemed that in preliminary discussions of structural reforms—electoral reforms, political reforms, labour reforms, pension reforms, financial reforms, taxation reforms, *et cetera*—it became apparent that 'success' of reform policy is contingent upon eradicating political and administrative corruption, maintaining political will in the reforms, and establishing trust in Italian institutions.

A study on anti-corruption efforts in Italy is critical for several reasons. As already mentioned above, corruption is the major source of mistrust in Italy. Hence, before any structural reforms can be successfully implemented in the country, the culture and attitudes towards corruption—in all spheres of society—must be changed. One of the best mechanisms to actuate this change is through public policy and administration.

Italian regions were used as the unit of analysis in this thesis for four main motives. First, in a system of multi-level governance such as Italy, it is not enough to merely look at the national response to a policy issue. One must isolate each layer of governance to fully understand the overall system and evaluate success. Many sources have argued for

this multifaceted approach when analyzing issues of corruption, and claim that studies which ignore these layers are incomplete. For example, an OECD report on anti-corruption institutions states that “[s]trong and well-functioning inter-agency cooperation and exchange of information among different state law enforcement bodies and control institutions” are “important, features defined in international standards.” More importantly, the report states that if “this area is overlooked (as it often is) in the process of designing the legal basis of a new institution it will likely seriously hinder the performance of the institution and taint its relations with other state institutions in the future.”¹⁸

Second, there is a gap that exists in the anti-corruption literature when it comes to regional anti-corruption efforts. Most studies only analyze national responses to corruption, and inadequately address the involvement of sub-national actors, particularly when it comes to the study of implementation. This gap will be further addressed in the following chapter.

What is more, regions have been at the center of several corruption scandals in recent times; in 2012, for example, the Governor of the Region of Lazio was forced to resign after it was revealed that “members of her regional government had embezzled and misused party funds.”¹⁹ In the same year, “members of the Campania and Lombardy regional governments [were also] under investigation for alleged misuse of public funds,”²⁰ and on October 25th, 2012, the head of the Lombard region dissolved government in response to these corruption scandals. These accusations were, and

¹⁸ OECD, “Specialised Anti-Corruption Institutions,” p. 28.

¹⁹ Naomi O’Leary, “Graft Scandal Forces out Head of Italy’s Lazio Region,” *Reuters*, September 24, 2012, accessed September 15, 2013, <http://www.reuters.com/article/2012/09/24/us-italy-corruption-idUSBRE88N0XO20120924>.

²⁰ O’Leary, “Graft Scandal Forces out Head of Italy’s Lazio Region.”

remain, particularly troubling since they emerged in a period of economic and financial instability. Citizens were enraged that they had to support strict austerity measures while regional public officials had been funnelling public funds into private bank accounts. In addition, the sectors that are most frequently cited as the most vulnerable to corruption are public “procurement, the judiciary, healthcare, EU-funded projects and politics”²¹—sectors which fall mostly within the legal and administrative obligations of Italian regions.²²

Finally, Italy’s new Anti-Corruption Law places emphasis on preventing corruption in the regional and local levels of Italian governance. In particular, it mandates the institutionalization of anti-corruption plans at the regional and local levels of government that must be renewed every year.²³ This obligation entered into force in March, 2013, thus it would be interesting to see how the regional governments fulfilled their legal obligations of submitting anti-corruption plans and whether or not there is any difference in approaches. These differences could be critical to understanding the complexities involved with implementing the law nation-wide.

For all these reasons, this thesis looks at the Anti-Corruption Law through a regional perspective. The overarching research question being explored is the following: **what factors affect the implementation of anti-corruption legislation at the regional level of Italian governance?** In answering this question, this thesis will also answer a series of sub-questions, including: what are the goals, objectives, and regional obligations of the law; and has the law been implemented in the regions under analysis?

²¹ Stefanue, “Corruption, or How to Tame the Shrew with the European Union Stick,” p. 433.

²² In Italy, healthcare is a regional competence and takes up about half of the regional budget. In addition, regions have a lot of power in public procurement and are recipients of EU regional funds.

²³ Pulella, “New Italy Law Tackles Rampant Corruption.”

This study monitors Italy's anti-corruption efforts over the period of November 2012 to March 2014. To begin, this section follows with a description of Italy's past anti-corruption efforts and then dissects and analyzes the scope and legal obligations of the law, while identifying gaps and critiques. Chapter 2 embarks on a conceptual analysis of corruption and anti-corruption, as well as a critical analysis of the scholarly literature on anti-corruption. This section follows with a brief description of Italian regionalism and devolution. Next, Chapter 3 presents the research design and methodology of this thesis, and explains the approaches used to identify both implementation (dependent variable) and factors that affect implementation (independent variables). Finally, Chapter 4 looks at the implementation of the Anti-Corruption Law in two regions (Abruzzo and Molise), and outlines the factors that were identified as influencers of the Anti-Corruption Law's implementation. Finally, this thesis concludes by offering recommendations that can be made from this study.

Italy's Long-Standing Struggle with Corruption

It is widely known that Italy has an arduous history of corruption; however, the first real attempt to put an end to corruption did not occur until the 1990s.²⁴ The main reason for this has to do with external international pressures. Between WWII and the end of the Cold War, the international arena was dominated by the fear of tipping the bipolar balance of powers. The United States, in particular, was afraid of the threat of Eurocommunism, and invested much time and financial resources to ensuring that this threat would not become a reality. In Italy, this meant that the Italian Communist Party

²⁴ James L. Newell, "Corruption-mitigating Policies: the Case of Italy," *Modern Italy*, 10, no. 2 (2005): p. 168.

needed to be restrained. As such, the main Italian political parties—the Christian Democrats and Italian Socialists (*Partito Socialista Italiano*)—agreed that the Italian Communist Party “was unacceptable as a coalition partner and should never be admitted to government.”²⁵ As a result, the Christian Democrats—along with their allies—ruled Italy without any real political competition for over 40 years.

During this same time, the executive’s power was also very weak, and thus there was little impetus for passing reform legislation.²⁶ As one can imagine, this monopoly of political power, coupled with a weak executive, greatly facilitated the spread of corruption. The Christian Democrats—and, as it would later be discovered, also the Italian Socialists—developed vast patron-client networks throughout Italy, and over time, corrupt exchanges drastically increased.

Political parties became the agents exercising the greatest amount of power in the country. As Newell says, the political parties in power during this time were “essentially [...] transformed into organizations for the carrying on of mutually profitable exchanges and the constructions of alliances between economic and political potentates willing to stop at nothing to achieve their objectives.”²⁷ The state of affairs during this time was known as *partitocrazia* in Italy (or partyocracy in English), used to describe the parties’ monopoly over the government and most aspects of Italian society.²⁸

²⁵ The Italian Social Movement, a neo-fascist party, was also excluded from government. See, Newell, “Corruption-mitigating Policies,” p. 169.

²⁶ Newell, “Corruption-mitigating Policies,” p. 169.

²⁷ Newell, “Corruption-mitigating Policies,” p. 170.

²⁸ Newell, “Corruption-mitigating Policies,” p. 169; see also Martin J. Bull and James Newell, *Italian Politics: Adjustment Under Duress*, Polity Press, 2005, p. 11.

In short, during the span of the Christian Democrats' reign, corruption went from being an endemic issue that was known of, to a systemic problem that became a generalized mode of operation engrained in all sectors of society.²⁹

The 1990s presented a window of opportunity for the fight against corruption as external "macro-political changes" altered the political status quo.³⁰ The fall of the Berlin wall and the end of the Cold War meant that, for the first time, prosecutors could single out corrupt behaviour within Italy's most dominant political parties without fear of the Italian Communist Party gaining traction.³¹ In addition, a series of factors in the late 1980s and early 1990s produced an unexpected implosion of the Italian political system.³² In the 1970s, the Christian Democrats lost much of their support with the public, particularly with respect to their inaction regarding the kidnapping and assassination of Aldo Moro by the Red Brigades. What is more, the 1992 elections revealed the increase of popularity in the *Lega Nord*, and marked the first significant decline of the Christian Democrats.³³

These environmental changes provided the foundation and fuel for the first anti-corruption movement to take hold in Italy. Consequently, in 1992, a judicial campaign against corrupt politicians revealed an enormous "diffusion of corruption and illicit

²⁹ For a very good overview of the evolution of corruption in Italy, please see the documentary by Italy's public history channel: RAI Storia, "Eco della Storia: Corruzione," <http://www.raistoria.rai.it/articoli-programma/eco-della-storia-corruzione/22811/default.aspx>.

³⁰ Newell, "Corruption-mitigating Policies," p. 165

³¹ Newell, "Corruption-mitigating Policies," p. 165

³² Maurizio Cotta and Luca Verzichelli, *Political Institutions in Italy*, Oxford University Press, 2007: p. 74.

³³ For the first time in the history of the Christian Democracy, the party received less than 30% of the national vote. At the same time, the Northern League emerged as the real winners of the elections with 8.7% of the national vote, making them the fourth most popular party in parliament. See Maurizio Cotta and Luca Verzichelli, *Political Institutions in Italy*, Oxford University Press, 2007: p. 76

financing that involved ministers, members of parliament, and business men.”³⁴ An entire underground system of bribes was uncovered, known as *Tangentopoli* (Bribesville). *Tangentopoli* was a parallel governance system that allocated public resources through clientelism and backhand deals.

Mani Pulite, or Clean Hands, is used to refer to the anti-corruption movement initiated by the judiciary. During this era, many influential people were charged with corruption related offences—in fact, at one point, half of the Chamber of Deputies was under investigation; yet, following judicial procedures, 635 people were acquitted, and nearly half of these acquittals were based solely on the expiration of the statute of limitations.³⁵

Mani Pulite was a significant moment in Italian history, and greatly shaped the public discourse on corruption, souring public opinion and the media.³⁶ Yet, despite all the efforts of the judicial campaign, the momentum of anti-corruption slowly died. The number of convicted “corruption-related offences” following the *Tangentopoli* era has dropped significantly, but corruption has perceivably become even worse,³⁷ and the stakes at risk have become even higher. Sadly, *Mani Pulite* was a missed opportunity for anti-corruption efforts in Italy.

Past Italian Anti-Corruption Efforts

Mani Pulite was an important first-step towards anti-corruption, but it was a campaign initiated by the judiciary—not the government. According to Della Porta and Vannucci,

³⁴ Giorgio Frascini, Davide del Monte, and Giuseppe Imbrogno, *Conto alla Rovescia verso l’Impunità: Termini di Prescrizione per I Reati di Corruzione in Italia e nell’Unione Europea*, Transparency International Italia, 2010, p. 16.

³⁵ Frascini *et al.*, *Conto alla Rovescia verso l’Impunità*, p. 16.

³⁶ See Cotta and Verzichelli, *Political Institutions in Italy*, p. 77.

³⁷ Eugenio Scalfari, “La Triste Storia dell’Italia Corrotta,” *La Repubblica*, December 28, 2008. Accessed September 4, 2014, <http://www.repubblica.it/2008/12/sezioni/politica/giustizia-5/storia-italia-corrotta/storia-italia-corrotta.html>.

“the thirteenth legislature, elected in 1996, was the first parliament to attempt to tackle the corruption emergency in any incisive way.”³⁸ That year, the Chamber of Deputies created a special Commission with the task of “preparing [...] new legislative proposals for the prevention and repression of acts of corruption.”³⁹ However, by the end of its mandate, the Commission only proposed two “ambiguous” measures.⁴⁰ In 1997, two corruption-related proposals managed to become law, however the main objectives of these laws “were to streamline the public administration” instead of directly addressing the issue of corruption.⁴¹

In 2003, the Office of the High Commissioner against Corruption was created in Italy, and started operating the next year. Its main functions included: “(1) regular review of legal instruments and administrative practices in the prevention and fight against corruption; (2) identification of critical areas; [and] (3) assessment of the degree of vulnerability of public administration to corruption and associated criminal behaviour.”⁴² Moreover, at the request of public administrations, the office was supposed to also conduct “fact finding administrative investigations,” complete thorough studies of the corruption problem in Italy, and monitor the “misuse of public money.”⁴³ In 2007, the Italian High Commissioner against Corruption published a study of the corruption question in Italy. Conclusions indicated that

³⁸ Newell, “Corruption-mitigating Policies,” p. 175; Donatella Della Porta and Alberto Vannucci, *Un Paese Anormale: Come la Classe Politica ha Perso l’Occasione di Mani Pulite* (Roma-Bari, Laterza, 1999): p. 45.

³⁹ Newell, “Corruption-mitigating Policies,” p. 175.

⁴⁰ Newell, “Corruption-mitigating Policies,” p. 175.

⁴¹ Newell, “Corruption-mitigating Policies,” p. 176.

⁴² GRECO Secretariat, “Joint First and Second Evaluation Round. Evaluation Report on Italy,” *Council of Europe* (Strasbourg, 2 July 2009).

⁴³ GRECO Secretariat, “Evaluation Report on Italy.”

corruption in public administration is widely diffused and favoured by some specific features of the Italian administrative system, such as a recruitment and promotion scheme that suffers from a certain obscurity and inefficiency. [...] in Italy, corruption is deeply rooted in different areas of public administration, in civil society, as well as in the private sector: the payment of bribes appears to be common practice to obtain licenses and permits, public contracts, financial deals, to facilitate the passing of University exams, to practice medicine, to concludes agreements in the soccer world, etc.⁴⁴

Soon after these findings were released (in 2008), the Office of the High Commissioner against Corruption was eliminated as part of public expenditure cutbacks and administrative shuffling, and its functions were supposedly “transferred to the Anti-Corruption and Transparency Service (SAeT) within the Ministry for Public Administration and Innovation—Department of Public Administration.”⁴⁵

Italy also had many external pressures to address its protracted issue of corruption from organizations including the United Nations, the OECD, and the European Union. In 2003, the UN General Assembly adopted the “Merida Convention” (otherwise known as “The United Nations Convention against Corruption”). The Convention aims to “promote and strengthen measures to prevent and combat corruption more efficiently and effectively; promote, facilitate and support international cooperation and technical assistance; promote integrity, accountability and proper management of public affairs and

⁴⁴ OECD, “OECD Economic Surveys: Italy: 2013,” p. 113.

⁴⁵ OECD, “OECD Economic Surveys: Italy: 2013.

public property.”⁴⁶ In 2005, the convention entered into vigour and became binding on the European Community, meaning Italian legislators also became bound by the Convention and thus had to (and still have to) fulfill obligations emanating from it. These obligations include “the adoption of effective policies to prevent corruption” and “measures aimed at the same time to involve both the public private sectors.” Italy only ratified the United Nations Convention against Corruption in 2009.⁴⁷

On the 30th of June, 2007, Italy became the 45th member of the Council of Europe’s Group of States against Corruption (GRECO). According to the organization, Italy’s

accessions confirms [its] commitment to pursuing its fight against corruption, a plague that it had already started to tackle with measures such as the judicial operation known as ‘mani pulite’ (clean hands) during the 90’s. By joining GRECO, Italy joins its forces with the other member States to fight a form of criminality that affects notably the democratic functioning of institutions and infringes the rule of law.⁴⁸

Despite this accession, Italy did little to fulfill its promises and, in 2008, Drago Kos, then President of GRECO, expressed his “great concern at the elimination of the Office of the Anti-Corruption Commissioner in Italy.”⁴⁹ In the 2009 GRECO “Evaluation

⁴⁶ European Union, “Summary of Treaty: United Nations Convention against Corruption,” *European Union External Action Service*, December 3, 2008, accessed December 10, 2013, <http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=2781>.

⁴⁷ United Nations Office on Drugs and Crime, “United Nations Convention against Corruption Signature and Ratification Status as of 12 November 2014,” accessed December 10, 2013, <https://www.unodc.org/unodc/en/treaties/CAC/signatories.html>.

⁴⁸ Council of Europe, “Italy becomes 45th member of the Group of States Against Corruption,” July 2, 2007, accessed October 22, 2013, [http://www.coe.int/t/dghl/monitoring/greco/news/News2007/News\(20070702\)PressReleaseItalia45thmember_en.asp](http://www.coe.int/t/dghl/monitoring/greco/news/News2007/News(20070702)PressReleaseItalia45thmember_en.asp).

⁴⁹ Council of Europe, “Drago KOS, the President of the Group of States against Corruption (GRECO) Expresses Great Concern at the Elimination of the Office of the Anti-Corruption Commissioner in Italy,” Group of States Against Corruption, 8 July, 2008, accessed October 22, 2013,

Report on Italy”—a report whose main objective was “to assess the effectiveness of measures adopted by the Italian authorities in order to comply with the requirements deriving from the provisions indicated in [the First and Second Evaluation Rounds]”—it was announced that Italy “signed the Council of Europe’s Criminal Law Convention on Corruption (ETS No. 173) and the Civil Law Convention on Corruption (ETS No. 174); however, none of these instruments against corruption had been ratified.⁵⁰

More recently, GRECO published a report in April 2012 (just before the Anti-Corruption Law was passed), which identified “critical shortcomings in the party funding system of Italy.”⁵¹ The working group called on the country to address the first issue “as a matter of priority” by “improv[ing] transparency in political party funding and to sanction[ing] corruption vigorously.”⁵² In addition, the group mentions the fact that during this time period, Italy was “one of the very few member states” which had not ratified the Criminal Law Convention on Corruption, or incorporated it into national legislation. GRECO was also seriously concerned about the effectiveness of the “sanctioning regime” for corruption offences in Italy, as well as the high risk of prosecuted cases being dismissed because of the expiration of the statute of limitations.⁵³

In conclusion, this discussion of the international sphere of anti-corruption regulation has indicated that Italy has a series of international obligations with respect to anti-corruption legislation, which it had to fulfill. Add a history of protracted and systemic corruption, the Eurozone crises, emerging political and regional scandals, and rising

[http://www.coe.int/t/dghl/monitoring/greco/news/News2008/News\(20080708\)EliminationOfficeHighCommissionerItaly_en.asp](http://www.coe.int/t/dghl/monitoring/greco/news/News2008/News(20080708)EliminationOfficeHighCommissionerItaly_en.asp).

⁵⁰ GRECO Secretariat, “Joint First and Second Evaluation Round. Evaluation Report on Italy.” *Council of Europe*, Strasbourg, 2 July 2009.

⁵¹ GRECO Secretariat, “Evaluation Report on Italy.”

⁵² GRECO Secretariat, “Evaluation Report on Italy.”

⁵³ GRECO Secretariat, “Evaluation Report on Italy.”

negative domestic (and international) public opinion, and one can clearly see that Italy's Anti-Corruption Law was both timely and overdue.

Italy's Anti-Corruption Law: An Analysis

Italy's Anti-Corruption Law—also known in Italy as Law n. 190/2012 (*Legge 6 novembre 2012 n. 190*)—entered into vigour on November 28th, 2012.⁵⁴ The law appealed to two policy demands; the first was a response to the national cry against corruption following several regional corruption scandals (discovered during times of economic turmoil), and the second was an overdue response to European and international obligations and criticisms.⁵⁵ These two factors, together with the need to restore faith in the Italian financial market, made the time ripe to pursue a national anti-corruption policy. Although an Anti-Corruption Law was in the making during previous governments,⁵⁶ never has a law as comprehensive as this one been passed. Nevertheless, the law was not approved with great ease, and it initially encountered several opponents. The law has several implications, one being that individuals previously convicted by a court of final appeal can no longer stand for public election.⁵⁷ This fact, in particular, sparked intense controversy and debate amongst elected officials—especially since during the same time, multiple scandals were unleashed in the media involving individuals from practically every national political party.⁵⁸ What is

⁵⁴ Daniele David and Valentina Lepore, “La Legge Anticorruzione: Novità, e Limiti Applicativi Negli Enti Locali,” *Amministrazione in Cammino* (2013): p. 2.

⁵⁵ David and Lepore, “La Legge Anticorruzione,” p. 2.

⁵⁶ In 2010, Berlusconi's government attempted to pass an anti-corruption bill to restore the public image of the nation amid full-blown corruption scandals. However, the bill did not address the need to adopt “codes of conduct for members of Government,” whistleblower protection, conflicts of interest, or anti-corruption in the private sector. Please see OECD, “OECD Integrity Review of Italy: Reinforcing Public Sector Integrity, Restoring Trust for Sustainable Growth,” (2013): 39.

⁵⁷ Economist Intelligence Unit, *Country Report: Italy*, (New York: Economist Intelligence Unit, lmtd., December 2012): p. 2.

⁵⁸ Economist Intelligence Unit, *Country Report*, p. 20.

more, the media had reported that over 120 legislators were under judicial investigation during this time and at least 20 “[had] been convicted of crimes including corruption or ties with the mafia.”⁵⁹ These individuals obviously had a conflict of interest when it came to passing the law, so, in order to assure the law would make it through the house before the end of Monti’s term, he made the matter a vote of confidence.⁶⁰ With risk of further destabilizing the markets, members of parliament voted in favour of the law with 460 members for and 76 against.⁶¹

With respect to the content of the law, it is divided into only two articles: Article 1 entitled, “Regulations for the Prevention and Repression of Corruption and Lawlessness in Public Administration,” and Article 2, “Invariance Clause” (*clausola di invarianza*).⁶² While the Invariance Clause guarantees that the law will not result in additional costs and weigh on the public finances,⁶³ Article 1 and its 83 paragraphs is composed of (1) a repressive element and (2) a preventive element. The latter aspect is the novel part of the law and will be the major focus of this thesis; however, a brief analysis of both now follows.

1. The Repressive Side of the Anti-Corruption Law: The Criminal Code

Before Law n. 190/2012 was passed in 2012, corruption was looked at solely through a punitive perspective and was criminalized in the Italian Criminal Code (*Codice Penale*). In this sense, corruption was divided into two main activities: (1) bribery of a

⁵⁹ Sarah Delaney, “Italy Lawmakers Approve Anti-corruption Legislation,” *Los Angeles Times*, October 31, 2012, accessed November 14, 2013, <http://articles.latimes.com/2012/oct/31/world/la-fg-italy-corruption-20121101>.

⁶⁰ Economist Intelligence Unit, *Country Report*, p. 20.

⁶¹ Pullella, “New Italy Law Tackles Rampant Corruption.”

⁶² Camera dei Deputi, “Legge 6 novembre 2012 no. 190: Disposizioni per la prevenzione e la repressione della corruzione e dell’illegalità nella pubblica amministrazione,” *Gazzetta Ufficiale*, 2012.

⁶³ David and Lepore, “La Legge Anticorruzione,” p. 4.

public official and (2) graft (*concussione*).⁶⁴ The former refers to acts in which an individual tries to bribe a public servant and is further subdivided into (a) active bribery—the act of bribing (Articles 321 and 322, Italian Criminal Code)—and (b) passive bribery—accepting the bribe (Articles 318 and 319, Italian Criminal Code).⁶⁵ *Concussione*, or graft, on the other hand, refers to “cases where a public official abuses his/her functions or power to oblige or induce the individual to unduly give or promise money or other assets to him/herself or a third party” (Article 317, Italian Criminal Code). In these cases, the person who was extorted is considered the victim of the crime.⁶⁶

The Anti-Corruption Law brought changes to the Italian Criminal Code, by introducing two new offences: (1) “influence peddling” and (2) “bribery in the private sector.”⁶⁷ The law has also increased the sentence for committing crimes of embezzlement, graft, “bribery in the pursuance of official duties,” and “bribery acts against official duties.”⁶⁸ Within one year of the law’s enactment, the government is also obligated to create legislation that will prohibit anyone who has been “sentenced for intentionally committed offences against the civil service” from running for public office.⁶⁹ As previously stated, this last provision has already caused great controversy among those politicians who fit the description.

⁶⁴ Interview with an academic specialized in Italian criminal law, January 11, 2014.

⁶⁵ GRECO Secretariat, “Joint First and Second Evaluation Round. Evaluation Report on Italy,” *Council of Europe* (Strasbourg, 2 July 2009), 5; See also OECD, “OECD Integrity Review of Italy: Reinforcing Public Sector Integrity, Restoring Trust for Sustainable Growth,” (2013): 38.

⁶⁶ GRECO Secretariat, “Evaluation Report on Italy,” p. 5.

⁶⁷ OECD, “OECD Integrity Review of Italy: Reinforcing Public Sector Integrity, Restoring Trust for Sustainable Growth,” (2013), 43.

⁶⁸ OECD, “OECD Integrity Review of Italy,” p. 43.

⁶⁹ OECD, “OECD Integrity Review of Italy,” p. 42.

2. The Preventive Side of the Anti-Corruption Law: Public Administration

Previously, Italian legislation focussed more on the *repressive* aspects of corruption, and little was done to address the *preventive* aspects.⁷⁰ The novelty of the law, thus, is that it aims to prevent corruption through public administration, instead of solely focussing on punitive measures in the Criminal Code. The idea behind this new approach is that by promoting principles of good governance, ethics, transparency, and by training civil servants, public administrations will be able to prevent corruption.⁷¹

The law creates a new National Anticorruption Authority (*Autorità Nazionale AntiCorruzione*), hereafter referred to by its Italian acronym, ANAC. The competences of this agency are elaborated upon in Article 1, paragraph 2 of the law, but its main function is to collaborate and coordinate with all organs that are affected by the law—that is, national, regional, and local administrations, as well as affiliated administrations.⁷² ANAC also has the power to “impose the adoption of acts or measures requested by national anticorruption plans and the removal of implications contrary to the rules on transparency and the fight against corruption.”⁷³

Furthermore, the law affects the organizational nature of Italian public administrations. All administrations—of both national and autonomous territories—must now have an official who is responsible for the prevention of corruption. The rotation of public employees in leadership positions is now obligatory,⁷⁴ and employees must also be

⁷⁰ GRECO Secretariat, “Evaluation Report on Italy,” p. 7.

⁷¹ David and Lepore, “La Legge Anticorruzione,” p. 5.

⁷² David and Lepore, “La Legge Anticorruzione,” p. 6.

⁷³ David and Lepore, “La Legge Anticorruzione,” p. 6.

⁷⁴ David and Lepore, “La Legge Anticorruzione,” p. 6.

given specific training in order to ensure transparency of administrative activity and tighter control of irregularities.⁷⁵

The head of corruption prevention must prepare the administration's annual anti-corruption plan and determine which sectors in the respective administration are at risk for corruption. The idea is to then envision "organizational measures to manage such risks."⁷⁶ The political organ of the respective administration, however, must pass the anti-corruption plan.⁷⁷ Furthermore, the law obliges every public administration to adopt its own Code of Conduct (*codice di comportamento*) that is in harmony with the National Code of Conduct.⁷⁸

What is more, the law introduces whistleblowing legislation for the first time to "protect public servants who expose or report illicit conduct which they may have come across in the workplace."⁷⁹ The law "guarantees anonymity for whistleblowers"⁸⁰ and makes it illegal to impose sanctions on whistleblowers, dismiss them, or discriminate against them in any way.⁸¹

In addition, the law contains clauses that are dedicated to the enhancement of transparency in all public service activities. This means publishing administrative proceedings, budgets, and expenses; providing online resources and contact information

⁷⁵ For example, David and Lepore cite cumulus jobs as a specific issue that needs to be controlled. This refers to public officials having more than one public position at the same time. See David and Lepore, "La Legge Anticorruzione," p. 7.

⁷⁶ OECD, "OECD Integrity Review of Italy," p. 42.

⁷⁷ David and Lepore, "La Legge Anticorruzione," p. 7; See also Domenico Ielo, "Tecniche e Metodologie di Redazione dei Piani Anticorruzione," January 25, 2013, accessed November 14, 2013. <http://www.legautonomie.it/content/download/9264/48635/file/DOMENICO%20IELO%20Relazione%20anticorruzione.pdf>.

⁷⁸ Camera dei Deputi, "Legge 6 novembre 2012 no. 190," Art. 54, para. 5.

⁷⁹ OECD, "OECD Integrity Review of Italy," p. 42.

⁸⁰ Pullella, "New Italy Law Tackles Rampant Corruption."

⁸¹ OECD, "OECD Integrity Review of Italy," p. 42.

for the public; and providing rationale behind discretionary appointments and public procurement contracts.⁸²

Table 1: Relevant Implications of Law n. 190/2012

1. Creates a National Anti-Corruption Authority (was *Civit*, now ANAC)
2. Calls for a Head of Corruption Prevention for each public administration
3. Obliges each public administration (national, regional, and local), to pass triennial anti-corruption plans and integrity action plans, approved by the relevant political organ every year⁸³
4. Includes the obligation that all plans must include risk assessments
5. Introduces whistleblowing provisions for the first time
6. Calls for a national code of conduct for all public employees, and for each administration to adopt their own codes of conduct

Critiques and Lacunas of Italy's Anticorruption Law

Although Italy's Anti-Corruption Law is very novel and innovative, already, it is not without criticism. The following section uses information from primary language sources and interviews to critique and identify gaps in Law no. 190/2012. The analysis of the Anti-Corruption Law was very legalistic—naturally so—and thus I consulted with Italian experts to obtain a thorough understanding of the implications of the law. In particular, three interviews were used for this section: one with a representative from the Italian chapter of Transparency International in Milan, and two with jurists who have specialized in anti-corruption legislation—both pupils of former Minister of Justice, Paola Severino, who drafted the Anti-Corruption Law.

David and Lepore (2013) identify three main lacunas in the law: (1) little focus on *political* corruption, (2) normative voids, and (3) poor provisions regarding territorial

⁸² OECD, "OECD Integrity Review of Italy," p. 42.

⁸³ Must be approved by January 31st of each year.

autonomies.⁸⁴ While it is true that the law does much to address the issue of administrative corruption, it does little to address the serious issue of political corruption. The authors argue that “transparency of political financing” is a topic that needs further legislating.⁸⁵ This echoes GRECO’s concern, in 2012, with Italy’s lack of transparency in political party funding.⁸⁶ Although the Anti-Corruption Law—which was supposed to be comprehensive—fails to address the issue of political financing, it must be mentioned, however, that a separate law was approved in July 2012.⁸⁷

Another gap in the law is that the administrative head of corruption prevention—or anti-corruption official (ACO), as I refer to the position—does not have any practical powers in addressing administrative violations of anti-corruption norms; his/her role is purely one of “regulation, awareness, and training.”⁸⁸ This means that if the culture of the administration is not “converted” to one including anti-corruption principles, the anti-corruption official (ACO) really has no powers to do anything about it. In other words, his/her powers will remain “mere formalities, empty, and therefore totally ineffective.”⁸⁹

⁸⁴ The Italian Republic is composed of the national state, regions, provinces, municipalities, and metropolitan cities. In order to distinguish amongst these levels of government, most of the Italian literature uses the terms *autonomie territoriali* and *enti locali*. Their English translations require precision. Many have translated *autonomie territoriali* into ‘local governments,’ however I have found this translation to be imprecise. This is because in courses of law and in legal texts, the Italian term is usually used to describe *all* autonomous levels of government—that is, the regions, provinces, municipalities, and metropolitan cities—in juxtaposition to the national government, whereas the term *enti locali* (local entities) is used solely to describe those entities without legislative powers (provinces, municipalities, and metropolitan cities). Thus, for the sake of expediency, I will use the term ‘territorial autonomies’ to describe *all* levels of Italian government, excluding the central level, and ‘local entities’ to describe those without legislative powers.

⁸⁵ David and Lepore, “La Legge Anticorruzione,” p. 9.

⁸⁶ Council of Europe, “Council of Europe Group of States against Corruption calls on Italy to Improve Transparency in Political Party Funding and to Sanction Corruption Vigorously,” *Group of States against Corruption*, 11 April 2012, accessed November 14, 2013, [http://www.coe.int/t/dghl/monitoring/greco/news/news\(20120411\)eval3italy_EN.asp](http://www.coe.int/t/dghl/monitoring/greco/news/news(20120411)eval3italy_EN.asp).

⁸⁷ Law 96/2012. See OECD, “OECD Integrity Review of Italy,” p. 43.

⁸⁸ David and Lepore, “La Legge Anticorruzione,” p. 8.

⁸⁹ David and Lepore, “La Legge Anticorruzione,” p. 8.

Furthermore, the respondent from *Transparency International Italia* said that there are still many loopholes in this law, which are causes for great concern. For example, although the law calls for follow-up legislation that should ban individuals who have been convicted of corruption against running for office, it excludes anyone who has been *sentenced* of corruption. In other words, an individual could have accepted a plea bargain in a case of corruption brought against him/her but never received a conviction, and would still be able to run for public office.⁹⁰

What is more, the law still leaves a lot of ambiguity when it comes to whistleblowing provisions. Although the law introduces the framework for whistleblowing protection in the public sphere, this protection does not extend to the private sector.⁹¹

Moreover, lobbying is not regulated in Italy, thus there are no provisions to monitor relations between lobbyists and public servants.⁹² The law does not do anything about the serious issue relating to the statute of limitations; therefore, the issue of time barred cases will continue to persist. In fact, the European Council recommended that Italy address the dilemma of its statute of limitations in 2013.⁹³ Also, false accounting and self-laundering was decriminalized in 2002, and the law does nothing to address this lacuna.⁹⁴

Another issue, according to the EU report on Italy, is with respect to the freedom of the media. It is public knowledge that a few people own the Italian media, and thus the independence of journalists is seriously constricted. This perception was confirmed with

⁹⁰ Interview with Transparency International Italia, February 13, 2014.

⁹¹ European Commission, "Annex: Italy to the EU Anti-Corruption Report," p.4.

⁹² European Commission, "Annex: Italy to the EU Anti-Corruption Report," p.4.

⁹³ European Commission, "Annex: Italy to the EU Anti-Corruption Report," p.8.

⁹⁴ European Commission, "Annex: Italy to the EU Anti-Corruption Report," p.3.

Freedom House's 2014 Press index report, in which Italy's media was rated only as "partially free," ranking at the same level as Namibia, Chile, and Nauru.⁹⁵

Finally, what is ironic is the fact that the law tries to enforce good governance principles in public administrations, but these 'general principles'—"efficiency, loyalty, impartiality, as well as direct liability of public officials"⁹⁶—are already enshrined in the Italian constitution.⁹⁷ As such, they already legally bind all public bodies. Why, then, have they not been previously respected, and why should this law make any difference? These are all concerns and critiques I aspire to address with the unfolding of this thesis.

In sum, Italy's new Anti-Corruption Law is a fresh attempt to address the systemic and protracted issue of corruption in the nation. Given Italy's unique multi-level governance system, as well as its past failures at maintaining the momentum behind anti-corruption initiatives, analyzing the law's implementation is crucial for ensuring its success. Oftentimes, laws are passed and forgotten about, but this is an unfortunate circumstance that Italy can no longer afford. This is why, observing implementation in each layer of Italian governance—particularly the regions—is crucial to understanding the overall implementation, impact, success, and difficulties of the national policy.

⁹⁵ Freedom House is an independent, non-governmental organization that is "dedicated to the expansion of freedom around the world." Its rankings are from 0 to 100 where the former represents the most free and the latter represents the least free. See, Freedom House, "Freedom of the Press 2014, Press Freedom Rankings," accessed May 20, 2014, http://freedomhouse.org/report/freedom-press-2014/press-freedom-rankings#.U4Eiz_msjTo.

⁹⁶ GRECO Secretariat, "Evaluation Report on Italy," p. 28.

⁹⁷ See Article 97 of the Italian Constitution.

Chapter 2: Conceptualization and Review of the Literature

The Anti-Corruption Phenomenon—Theoretical Perspectives and Definitions

According to Dan Hough's comprehensive study on *Corruption, Anti-corruption, and Governance*, "corruption is one of the greatest evils of our time."⁹⁸ In recent periods, there have been increasing levels of mistrust in political institutions, emerging democratic deficits, and gross economic inefficiencies due to the mismanagement of public funds.⁹⁹ As a result of this environment, anti-corruption measures have re-entered the public policy discourse and received considerable attention, especially following the global financial and economic crises.

Concepts of corruption and anti-corruption first appeared in the academic literature in the 1950s and 60s, mostly in studies conducted by development economists. During this same time, theories of modernization and democratization also emerged, and it was believed that corruption was a factor that negatively influenced these phenomena.¹⁰⁰ This literature later expanded with works by political anthropologists, who focused more on the environment, structure, and process that hosted corruption.¹⁰¹ It was not until the 1980s and 1990s that political scientists turned their attention to corruption and anti-corruption.¹⁰²

According to Dan Hough, anti-corruption did not really leave its mark on the global arena until the 1990s.¹⁰³ The author claims there are three main reasons for this. First,

⁹⁸ Dan Hough, *Corruption, Anti-corruption, and Governance* (Palgrave Macmillan, 2013), p. 1.

⁹⁹ Hough, pp. 1-3.

¹⁰⁰ Hough, p. 13.

¹⁰¹ Hough, p. 13.

¹⁰² Hough, p. 14.

¹⁰³ Hough, p. 12.

during the 1990s, there was a rise in investigative journalism, and with this came an increased discovery and dissemination of ‘corruption scandals’ revealed in the media, which negatively influenced public opinion. Second, Hough claims that during this same period, there was a shift in the public and academic discourse; people started to change the way they viewed and perceived the world, and started questioning entrenched concepts such as modern capitalism.¹⁰⁴ This shift was related to the end of the Cold War, which also brought about a shift in Western policy towards “corrupt friends”—the third reason.¹⁰⁵

From the 1990s on, one can categorize the anti-corruption movement further, into what Bryane calls “three distinct waves.” The first wave occurred in the early 1990s is defined as the period of “awareness raising,” where several organizations including the United States Agency for International Development (USAID), the Organization for Economic Co-operation and Development (OECD), and the World Bank published works on the severity of corruption. In 1993, Transparency International (TI)¹⁰⁶ was created by “former World Bank employee Peter Eigen” with anti-corruption as its main *raison d’être*.¹⁰⁷ To this day, these organizations are recognized as the global leaders in anti-corruption research.

The second wave of anti-corruption came in the late 1990s to early 2000s. Bryane claims that this era focused on “capacity-building” anti-corruption projects and, at the

¹⁰⁴ Hough, p. 14.

¹⁰⁵ Hough, p. 14.

¹⁰⁶ PBS. “Corruption in the Crosshairs: A Brief History of International Anti-Bribery Legislation.” *Frontline World*, April 7, 2009. <http://www.pbs.org/frontlineworld/stories/bribe/2009/04/timeline.html>.

¹⁰⁷ Transparency International is an international non-governmental organization with the aim to fight international corruption. Over the years, TI has become *the* leading champion of anti-corruption. Currently, it has national chapters in more than ninety countries, including Italy.

same time, “a secondary market of anti-corruption service providers” emerged to provide expert consulting to firms concerned with corruption risks.¹⁰⁸

The third wave of anti-corruption came in the 2000s, and has been defined as an era of anti-corruption initiatives based on pragmatic bilateral relations and the emergence of the EU as “a key player in the anti-corruption industry.” At the same time, the US took a more direct stance on the issue of corruption during this period.¹⁰⁹

What is most noteworthy in the review of the anti-corruption literature is the fact that few studies have looked at factors conducive to successful implementation of anti-corruption initiatives, and most of the academic literature on anti-corruption focuses mainly on developing countries.¹¹⁰ This, Newell argues, is most likely because early theories of corruption were related to development theories, and it was thought that variables giving rise to economic development would also reinforce anti-corruption efforts. There has been, thus, a lacuna in the literature with respect to corruption and anti-corruption in developed countries. However, the 1990s unveiled numerous corruption scandals in the developed world. In addition, there has been a growing interest in exploring the relationship between financial risk and corruption, mostly as a consequence of the global economic crises. These variables, in addition to the proliferation of anti-corruption organizations across the world, have provided pressure to assess issues of corruption in the developed world as well.

¹⁰⁸ Hough, p. 21.

¹⁰⁹ Hough, p. 21.

¹¹⁰ Newell, “Corruption-mitigating Policies,” p. 164.

Conceptualizing the Research Question

In order to tackle this complex research question, several terms and concepts must first be explained. This thesis deals with anti-corruption mechanisms, regions in a multi-level governance structure, and policy implementation. This section highlights what is meant by these terms, so as to better grasp the elements under consideration throughout the evolution of this research.

Corruption

In exploring the literature regarding anti-corruption legislation models, one inevitably encounters theories of corruption. Corruption is an ambiguous concept that is difficult to define with great precision. Most have come to agree that corruption, in the context of the public sphere, means “the misuse of public power for private gain.”¹¹¹ However, it should be noted that corruption does not always involve the exchange of money; it can also involve the exchange of favours, to be repaid at the whim of the creditor. As I have witnessed, sometimes the line between what does, and what does not, constitute corruption can be quite hazy—especially when an alleged ‘corrupt’ act is used for utilitarian purposes. What is important to remember is that the ends do not always justify the means.

Despite the lack of precision in the definition of corruption, I would argue that corruption is the misuse of power and influence to further the interests of few. Like other ambiguous concepts, including democracy and pornography, it is difficult to pinpoint an

¹¹¹ Transparency International, *The Anti-Corruption Plain Language Guide*, July 28, 2009, accessed March 5th, 2014. http://www.transparency.org/whatwedo/pub/the_anti_corruption_plain_language_guide.

exact definition of the term; “we know it when we see it,” or, in this case, when we live it.¹¹²

When corruption persists in a society, it has negative consequences on the economy, development, political trust, democratic legitimacy, and security—just to name a few examples.¹¹³ There are, nevertheless, counter-arguments claiming that corruption can actually bare a positive influence on a nation’s economy. These scholars argue that when a society is institutionally weak with a bloated bureaucracy, corruption can be a corrective force used to “bypass inefficient regulations and red tape.”¹¹⁴ Yet, these studies tend to focus on the short-term effects and consequences of corruption, not the long-term. In the macro picture, the evidence illustrates that the negative effects of corruption on a society outweigh the positive effects:

[corruption] has a long-term detrimental effect on the operations of companies and a corrosive impact on a country’s overall governance environment, eroding the efficiency and legitimacy of state institutions,

¹¹² I am referring to the famous 1964 US Supreme Court decision *Jacobellis v. Ohio*. In his concurring opinion, Justice Potter Stewart explains how the material in question is not obscene. The Justice states that he cannot begin to explain what justifies hard-core pornography, but “I know it when I see it.” Using this famous quotation, Victor Davis Hanson then went onto compare the concept of democracy to pornography: “we know it when we see it.” Special thanks to Dr. Stephen Brooks (the University of Windsor) for introducing me to these references.

¹¹³ Mlada Bukovansky. "The Hallowness of Anti-Corruption Discourse," *Review of International Political Economy* 13, no. 2 (2006): p. 181.

¹¹⁴ These scholars include: Pierre-Guillaume Méon and Khalid Sekkat, “Does Corruption Grease or Sand the Wheels of Growth?” *Public Choice*, 122 (2005): 69-97; Douglas A. Houston, “Can Corruption Ever Improve an Economy?” *Cato Journal*, 27 no. 3 (2007): 325-342; Pierre-Guillaume Méon and Laurent Weill, “Is Corruption an Efficient Grease?”, *World Development*, 38 no. 3 (2010): 244-259; and Fabio Méndez and Facundo Sepulveda, “Corruption, Growth and Political Regimes: Cross Country Evidence,” *European Journal of Political Economy*, 22 (2006): 82-98. For a full explanation, please see Marie Chêne, “The Impact of Corruption on Growth and Inequality,” *Transparency International, Anti-Corruption Helpdesk*, March 15, 2014, accessed August 17, 2014. http://www.transparency.org/files/content/corruptionqas/Impact_of_corruption_on_growth_and_inequality_2014.pdf.

and ultimately undermining sustainable development and the rule of law.¹¹⁵

Corruption can be further divided into several different categories including *grand corruption*, *petty corruption*, *political corruption*, and *administrative corruption*. This latter category is the main focus of this thesis and will be discussed in greater detail below.

Administrative Corruption

Administrative corruption—whether in the public or private sector—has disastrous effects, as it prevents an institution “from functioning effectively and efficiently,” and thus lowers output.¹¹⁶ It is defined as a dishonest tool used by administrators (in this case, public servants) to obtain goals that serve personal interest, not those of the institution as a whole.¹¹⁷

According to Parvaneh Mousavi and Masoud Pourkiani, the most common forms of administrative corruption are:

- giving false reports about the organization’s performance;
- discriminating between different clients;
- using nepotism as a means of recruitment and using relationships as a basis of decision making instead of rules or merit;
- “using influence” to employ or promote those who do not meet required qualifications;

¹¹⁵ Marie Chêne, “The Impact of Corruption on Growth and Inequality,” p. 2.

¹¹⁶ Parvaneh Mousavi and Masoud Pourkiani, “Administrative Corruption: Ways of Tackling the Problem,” *European Online Journal of Natural and Social Sciences*, 2, no. 3 (2013): p.183.

¹¹⁷ Mousavi and Pourkiani, “Administrative Corruption,” p. 181.

- pressuring a company—that has a contractual agreement with the organization—to hire someone;
- granting “discounts or waiving fees that must be paid according to the rules and regulations;”
- illegitimately affecting the issuance of a permit;
- “using [...] influence to speed up the legal procedures;”
- insisting on the use of illegal services; and
- using state property for personal use.¹¹⁸

In the case of public administration, these acts of corruption undermine government goals and projects, including efforts to reduce economic inequalities. Administrative corruption in the public sphere wastes public money and imposes an additional economic burden (or an extra tax) on citizens and investors. In short, it “prevents [a] society from achieving political and social growth” and depreciates the faith and trust in both the power of the public and government to impose change.¹¹⁹ This latter argument means that reform will be difficult in a country where corruption is pervasive. This is an important point to stress, particularly when dealing with a country, such as Italy, which is so desperately trying to change. Anti-corruption policy, then, is an important instrument to condemn, prevent, and reverse not only corruption, but also all its negative correlates.

Anti-Corruption

Anti-corruption is often referred to in the literature in the context of *anti-corruption initiatives*, which represent acts, projects, laws, policies, and/or movements with the aim

¹¹⁸ Mousavi and Pourkiani, “Administrative Corruption,” p. 184.

¹¹⁹ Mousavi and Pourkiani, “Administrative Corruption,” p. 184.

of combating corruption, or “reducing it to the minimum.”¹²⁰ Here, it is important to note that corruption will never be completely eliminated, and that this is not the goal of anti-corruption movements. Instead, these initiatives strive to drastically decrease levels of corruption and increase the risks and costs involved with engaging in corrupt activities.

Anti-corruption initiatives take on various forms. Some focus on repressive measures that seek to reduce the benefits of corruption while, at the same time, increasing the costs of engaging in corruption.¹²¹ Others may use a preventive approach, meant to promote an environment conducive to ‘good governance.’ Others still, may take on a more comprehensive approach and provide aspects of both repression and prevention.

The term *anti-corruption agency* is also used to further differentiate between initiatives. These are special bodies, institutions, and/or procedures that aim to “prevent[...], detect[...], or punish[...]” corruption.¹²² Patrick Meagher focuses his definition on “*separate, permanent* agencies whose primary function is to provide centralized leadership in core areas of anti-corruption activity.”¹²³

Meagher places anti-corruption agencies into two approaches: those that use (1) multiple-agencies and (2) single-agencies.¹²⁴ In the first approach, countries might establish an *ad hoc*, specialized anti-corruption unit/agency that works in tandem with existing judicial and administrative institutions. These new, specialized agencies are meant to “address gaps, weaknesses, and newly emerged opportunities for corruption.”¹²⁵

¹²⁰ Patrick Meagher, “Anti-corruption Agencies: Rhetoric Versus Reality,” *The Journal of Policy Reform*, 1 (2005): p. 77

¹²¹ Mousavi and Pourkiani, “Administrative Corruption,” p.184.

¹²² Meagher, “Anti-corruption Agencies,” p. 70.

¹²³ Meagher, “Anti-corruption Agencies,” p. 70.

¹²⁴ Meagher, “Anti-corruption Agencies,” p. 70-73; Jon S. T. Quah, “Comparing Anti-corruption Measures in Asian Countries: Lessons to be Learnt,” *Asian Review of Public Administration*, 11, no. 2 (1999): 71-90.

¹²⁵ Meagher, “Anti-corruption Agencies,” pp. 70-71.

Whereas the second approach includes “moving core anti-corruption functions such as investigation and prevention, into a single powerful agency.”¹²⁶ Meagher clarifies that while it is constitutionally impossible to centralize all anti-corruption efforts into one body, a single-agency “places a number of key capabilities, responsibilities, and resources under one roof—thereby creating a powerful centralized agency able to lead a sweeping effort against corruption.”¹²⁷

Similarly, Rothstein claims that anti-corruption strategies should take into account the structural reforms, but also the *processes* that are “likely to be successful for establishing such reforms.” According to him, “[m]ost research on corruption has mainly focused on the first, structural, question while the second one about the change of processes, strategies, and agents’ cognition to a large extent has been ignored.”¹²⁸

Important points to remember when analysing anti-corruption initiatives are *how* these new institutions are constructed, and *why* agents would be interested in changing a system that, until now, they have gained from. Answers to these questions may provide insight into improving anti-corruption initiatives, worldwide.

Multi-Level Governance

The concept of multi-level governance (MLG) was born in the 1990s with increasing European integration and Thatcherism from the United Kingdom.¹²⁹ The creation of autonomous regions and cooperation between these levels of government and the

¹²⁶ Meagher, “Anti-corruption Agencies,” p. 71

¹²⁷ Meagher, “Anti-corruption Agencies,” p. 72.

¹²⁸ Bo Rothstein, “Anti-Corruption: the Indirect ‘Big Bang’ Approach,” *Review of International Political Economy*, 18, no. 2 (2011): p. 234.

¹²⁹ “Multilevel Governance.” 2011. EU Wiki: Democratising Knowledge of the EU. University of Surrey. <http://testpolitics.pbworks.com/w/page/25794792/Multilevel%20Governance>.

European Union were considered essential for the distribution of structural adjustment funds.¹³⁰

The actual term “multi-level governance” was proposed in 1992, by Gary Marks, as a new theory of European studies and is a contending theory of neo-functionalism and intergovernmentalism.¹³¹ As opposed to the other theories, MLG takes into consideration entities that are not traditionally considered organs of the central state (local autonomies and non-governmental organizations, for example).

MLG is a theory primarily developed to describe the evolution of European integration. The term was adopted by the EU in 2009 with its “White Paper on Multi-Level Governance.” In this White Paper, multi-level governance is defined as

coordinated action by the European Union, the Member States and local and regional authorities, based on partnership and aimed at drawing up and implementing [EU] policies. It leads to responsibility being shared between the different tiers of government concerned and is underpinned by all sources of democratic legitimacy and the representative nature of the different players involved. By means of an integrated approach, it entails the joint participation of the different tiers of government in the formulation of Community policies and legislation, with the aid of various mechanisms (consultation, territorial impact analyses, etc.).¹³²

¹³⁰ Simona Piattoni, “Multi-level Governance: A Historical and Conceptual Analysis,” *European Integration*, 31 no. 2 (2009): p. 166.

¹³¹ Piattoni, “Multi-level Governance,” p. 165; See also Gary Marks, “Structural Policy in the European Community,” in *Euro-politics: Institutions and Policymaking in the New European Community*, edited by Alberta Sbragia (Washington DC: Brookings Institution Press, 1992).

¹³² European Union, “White Paper on Multi-Level Governance,” *Committee of the Regions*, June 16, 2009, accessed July 29, 2013, <http://cor.europa.eu/en/activities/governance/Pages/white-pape-on-multilevel-governance.aspx>.

Italy is a unitary state that, after various political pressures, underwent a decentralization of legislative and administrative power. This phenomenon will be explained in greater detail subsequently, but suffice it to say that decentralization has had a great impact on the contemporary political structure. First of all, this new form of multi-level organization clouds the political decision making process. Frequently, many wrongly think that the approval of a law at the national level implies an automatic implementation of such law. In reality, the law needs to be implemented in each relevant level of administration. Therefore, MLG renders public administrations more complicated, if they are not already organized in a clear and concise way. Hence, in order to fully understand a law's implementation in a system of MLG, one must look at its implementation in each level of governance.

Policy Implementation

An essential part of this thesis is the theory of policy implementation, and more specifically, intergovernmental and multi-level policy implementation in a unitary state. Although there is a large body of literature on implementation in general, theories of the specificities just mentioned are more rare.

Similarly, public policy is often analyzed in the context of a “policy process;” this process is usually “conceptualized as including the following steps: (1) agenda setting, (2) issue definition, (3) policy formulation, (4) policy decision, (5) policy implementation, (6) evaluation, and (7) maintenance, succession, or termination.”¹³³ This

¹³³ DeGroff, Amy, and Margaret Cargo, “Policy Implementation: Implications for Evaluation,” in *Knowledge Utilization, Diffusion, Implementation, Transfer, and Translation: Implications for Evaluation*, edited by Judith M. Ottoson and Penelope Hawe, *New Directions for Evaluation*, no. 124 (December 2009): p. 124.

thesis focuses on the fifth step, policy implementation, and by analysing this step, it also serves as a form of evaluation.

Policy implementation (PI), refers to the carrying out of a policy programme as “intended or specified by those who formulated it.”¹³⁴ It “reflects a complex change process where government decisions are transformed into programs, procedures, regulations, or practices aimed at social betterment,”¹³⁵ and has also been defined as “the process of carrying out a government decision.”¹³⁶ Policy implementation is not always linear, and often reflects “a process involving change over time, [... and] is characterized by the actions of multiple levels of agencies, institutions, organizations, and their actors and is influenced by context throughout.”¹³⁷

The secondary literature provides many examples of variables that could affect PI (explored in Chapter 3), and this thesis will determine whether these factors may also affect the implementation of anti-corruption legislation. Furthermore, the literature suggests that since the study of policy implementation is multi-disciplinary, there is no “common idiom or a unified theoretical or methodological discourse from which lessons can be drawn and hypothesis developed.”¹³⁸ This thesis will attempt to bridge this gap. Additionally, this research deals with the subject of intergovernmental, multi-level PI in a unitary state, where studies are scarce.¹³⁹ This thesis will add to this rare body of literature.

¹³⁴ Mark Evans and Jonathan Davies, “Understanding Policy Transfer: A Multi-Level, Multi-Disciplinary Perspective,” *Public Administration* 77 no. 2, 1999: p. 379.

¹³⁵ DeGroff, and Cargo, “Policy Implementation,” p. 47.

¹³⁶ Paul Berman, “The Study of Macro- and Micro-Implementation,” *Public Policy*, 26 no. 2 (1978): pp.155–184.

¹³⁷ DeGroff and Cargo, “Policy Implementation,” p. 48.

¹³⁸ Evans and Davies, “Understanding Policy Transfer,” p. 361.

¹³⁹ A leading public administration expert confirmed this finding.

Anti-Corruption Optimists and Skeptics

Upon analysing the academic literature of anti-corruption, a division among the theoretical perspectives of the so-called anti-corruption *skeptics* and *optimists* (also known as liberal legalists) is discovered. Anti-corruption optimists are of the opinion that there is a strong causal relationship between law and social change, and they assume that “legal institutions can be used instrumentally to combat corrupt practices.”¹⁴⁰ Those from this analytical perspective believe that the law can serve as a mechanism to diminish corruption through four main methods. First, the law is used to define corruption *opportunities*, as it outlines the legal responsibilities and obligations of public officials. The law also creates a series of *incentives* to deter one from engaging in corrupt activity. Next, the law provides *moral guidelines*, as it “delineate[s] the boundaries between acceptable and unacceptable behaviour.”¹⁴¹ Lastly, the law can be a source of *information*, as legal processes often require disclosure. Despite these reasons, Davis argues that there is still “little concrete evidence to support [the optimist] belief,” but that it is, nonetheless, sustained by anecdotal and theoretical analysis.¹⁴²

Skeptics, on the other hand, question the law’s ability to evoke social change. Davis argues that the legal literature presents much evidence that law is not an efficient tool to control corruption. The central arguments used to support this claim are (1) law is “epiphenomenal” and shaped by “more fundamental economic, political, or cultural forces;” and (2) other forms of social control may have more significant impacts on behaviour than the law itself.¹⁴³ According to skeptics, then, countries “will not be able to

¹⁴⁰ Davis, “The Prospects of Anti-Corruption Law,” pp. 319, 329.

¹⁴¹ Davis, “The Prospects of Anti-Corruption Law,” p. 326.

¹⁴² Davis, “The Prospects of Anti-Corruption Law,” p. 320.

¹⁴³ Davis, “The Prospects of Anti-Corruption Law,” p. 320.

rely on law without also effecting fundamental economic, political or cultural changes in their societies.”¹⁴⁴ David Trubek and Marc Galanter also critique liberal legalists (optimists), arguing that this model assumes too many ideal environmental scenarios, such as national allegiance and identity, functioning court systems, social and political pluralism, and a majoritarian legal system; but, the reality in many countries is quite different than the ideal, so the effects of law may not be as predictable.¹⁴⁵

The academic literature on corruption and anti-corruption uses a number of unique theories and frameworks to describe anti-corruption initiatives, most of which are rooted in the schools of political science, international relations, and public administration. These theories can be classified into the optimist/skeptic frameworks, and the most relevant include: principle-agent theory, the social-trap problem, and the theory of interactive rationality.

First, most analyses of policy implementation (and, more specifically, of anti-corruption initiatives), are rooted in the *principal-agent* theoretical framework: “Whenever an individual (the principal) has another person (the agent) perform a service on her behalf and cannot fully observe the agent's actions, a ‘principal–agent problem’ arises. The underlying assumption is that the agent's interests may differ from those of the principal.”¹⁴⁶ Principal-agent theory “focuses on mechanisms to reduce the ‘problem’, such as selecting certain types of agents, and instituting forms of monitoring and various

¹⁴⁴ David, “The Prospects of Anti-Corruption Law,” p. 320.

¹⁴⁵ David M. Trubek and Marc Galanter, “Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States,” *Wisconsin Law Review* (1974): pp. 1075-1076.

¹⁴⁶ Federico Varese, “principal-agent problem,” in *The Concise Oxford Dictionary of Politics* (3 ed.), edited by Iain McLean and Alistair McMillan, (Oxford University Press, 2009), http://www.oxfordreference.com.proxy.library.carleton.ca/view/10.1093/acref/9780199207800.001.0001/a_cref-9780199207800-e-1084.

amounts of positive and negative sanctions.”¹⁴⁷ In the case in question, public policy—anti-corruption legislation in particular—represents the solution mechanism. This framework, therefore, presents a relatively liberal legalist/optimist approach to anti-corruption, as it does not take other factors into consideration.

Meagher claims, “the use of agency theory yields persuasive and actionable findings. However, its focus on individual choice and on simplified preferences rests on assumptions that hold only in limited circumstances.”¹⁴⁸ Rothstein echoes this critique and argues that the assumption behind incentives in the principle-agent framework is flawed. Anti-corruption regimes are meant to increase the consequences of engaging in corruption, so that the agents will be deterred from being corrupt all together. However, the author claims that there is a “second-level collective action problem:”

All the agents may well understand that they would stand to gain from erasing corruption, but because they cannot trust that most other agents will refrain from corrupt practices, they have no reason to refrain from paying or demanding bribes. The only reason they would do so is if institutions could be established that would make them trust that most other agents would refrain from taking part in corrupt behaviour. However, establishing such credible institutions is in itself a collective action problem.¹⁴⁹

¹⁴⁷ Varese, “principal-agent problem.”

¹⁴⁸ Meagher, “Anti-corruption Agencies,” p. 77.

¹⁴⁹ Rothstein, “Anti-Corruption: the Indirect ‘Big Bang’ Approach,” *Review of International Political Economy*, 18, no. 2 (2011): p.231. See also Bo Rothstein, “Trust, Social Dilemmas and Collective Memories,” *Journal of Theoretical Politics*, 12, no. 4 (2000): 477-503; Jan Teorell, “Corruption as an Institution: Rethinking the Nature and Origins of the Grabbing Hand,” Working Paper, Gotenburg: The Quality of Government Institute, University of Gothenburg (2007): p. 5; John Rawls, *A Theory of Justice*, Oxford: Oxford University Press, 1971; and Mark Lichbach, *The Co-operator’s Dilemma*, Ann Arbor, MI: Univeristy of Michigan Press, 1997.

The *social trap/collective action problem* emerged as a critique to the principle-agent theory, and takes on a more pessimistic and skeptic approach to law as a vehicle for change. The theory's premise is that in a nation where corruption is systematic, most people are forced to engage in the corrupt system as a matter of survival. For instance, the social trap could occur in the medical profession. Take, for example, one who has a dying family-member in the hospital. He/she notices that the nurses and doctors are not paying their loved one much attention. After trying raising these concerns without success, they discover that similar patients are receiving better treatment because they are bribing the doctors and nurses with cash. What would you do in a similar circumstance? Engage in the corrupt act, or let your family-member suffer? One might know that it is 'morally' wrong to feed the system of corruption, but he/she might take part in it because there are no other options.¹⁵⁰

As Rothstein puts it, "it makes no sense to be the only honest player in a 'rotten game' because benevolent behaviour by a single or a few agents will not lead to change."¹⁵¹ Consequently, Rothstein argues that principal-agent theory is "dysfunctional for curbing corruption."¹⁵² Using a political economy approach to the issue of anti-corruption, the author argues, "corruption should not be understood as a 'principle-agent' problem but instead as a 'social trap' (or 'collective action') problem."¹⁵³

¹⁵⁰ I used this example because it was a complaint brought to me by several people on separate occasions over my stay in Italy. Healthcare is a competence that is delegated to the regions, and it makes up the largest portion of the regional budget. It is thus logical that the decentralization of healthcare in Italy has resulted in increased levels of corruption in some areas. Moreover, it is important to remember that had this same example been used in the case of, say, the United States, the reader would most likely respond that they would threaten to sue the hospital for malpractice. However, one must remember that the justice system, in Italy, is not as efficient, and thus, most know that it would be an empty threat.

¹⁵¹ Bo Rothstein, "Anti-Corruption: the Indirect 'Big Bang' Approach," p. 230.

¹⁵² Rothstein, "Anti-Corruption: the Indirect 'Big Bang' Approach," p. 228.

¹⁵³ Rothstein, "Anti-Corruption: the Indirect 'Big Bang' Approach," p. 229.

Similarly, *interactive rationality* is a concept that stems from game theory and was developed by Robert Aumann and Jacques Drèze.¹⁵⁴ It is “based on a theory of mutual and higher-order expectation.”¹⁵⁵ The concept assumes that all agents are rational beings and that they interact in a game player situation. Rational players will consider what the other agents’ “most likely strategy” is while playing. They will then act, not only according to their own self-interest, but also according to the most likely interests of the other players. Consequently, “real-life context” (or the rules and culture of the game) is extremely important for agents and helps determine how they will act.¹⁵⁶ This theoretical concept is important for predicting how people will react to anti-corruption reforms.

In sum, this section has highlighted the opposing views of legal optimists and skeptics. A cursory overview of the literature indicates that law, itself, is not sufficient to evoke social change, and that one must take other factors also into consideration when studying anti-corruption initiatives. This skeptical perspective will now be verified through common themes discovered in the anti-corruption literature.

Common Themes in the Literature

Upon reading and analyzing the literature on anti-corruption efforts, several common themes can be identified: (1) the significance of context: one size does not fit all; (2) the importance of cooperation and coordination; and (4) the gap between theory and practice.

¹⁵⁴ Robert J. Aumann, and Jacques H. Dreze, "Rational Expectations in Games," *American Economic Review*, 98 no.1 (2008): pp. 72-86.

¹⁵⁵ Eric Pacuit, “Foundations of Game Theory: Interactive Rationality,” accessed August 17, 2014, <http://pacuit.org/research/gametheory>.

¹⁵⁶ Rothstein, “Anti-Corruption: the Indirect ‘Big Bang’ Approach,” p. 232; Aumann, R. J., and Dreze, J. H., 2005, *When all is Said and Done: How Should You Play and What Should You Expect*, No. Discussion paper #387, March, Jerusalem: Center for the Study of Rationality, Hebrew University, p. 9.

1. “Context Matters:”¹⁵⁷ One Size Does Not Fit All¹⁵⁸

According to Nikos Passas, “a common thread” in anti-corruption studies is “the need for attention to contextual specificities [...]”¹⁵⁹ For the most part, anti-corruption solutions and techniques offered by international organizations and non-governmental organizations have not adequately addressed the unique characteristics that catalyze corruption in each country. These generalized anti-corruption programs, as a result, have been largely ineffective.¹⁶⁰

Similar to the argument that context matters, it becomes clear that anti-corruption programs must be exclusive for each situation. In a study dedicated to understanding the success and failure of anti-corruption initiatives, Richard Heeks and Harald Mathisen claim that when assessing success and failure of anti-corruption regimes, little attention is paid to the actual “interventions themselves” and what can be done to improve them.¹⁶¹ Anti-corruption initiatives vary, and they should “reflect different cultures and traditions.”¹⁶² Future studies should, therefore, evaluate whether or not these differences have been taken into consideration, and what can be done to better embrace them.

Transparency International reinforces this claim, and acknowledges the fact that “the effectiveness of a national anti-corruption strategy will depend to a great extent on

¹⁵⁷ Hough, p. 30.

¹⁵⁸ See Hough, p. 29 and Richard Heeks and Harald Mathisen, “Understanding Success and Failure of Anti-Corruption Initiatives,” *Crim Law Soc Change* 58 (2010): p. 535.

¹⁵⁹ Passas, “Anti-corruption Agencies and the Need for Strategic Approaches,” p. 2.

¹⁶⁰ Hough, p.30

¹⁶¹ Heeks and Mathisen, “Understanding Success and Failure of Anti-Corruption Initiatives,” p. 533.

¹⁶² Passas, “Anti-corruption Agencies and the Need for Strategic Approaches,” p. 1.

whether it has been designed taking the country's context and main corruption challenges" into consideration:¹⁶³

Anti-corruption policy-making has taken different shapes and forms and been implemented in various ways, with mixed results. While there is no single best practice, experience has shown that anti-corruption strategies are very likely to fail if they are not based on a country's own specificities and characteristics."¹⁶⁴

Similarly, the literature emphasizes the need to focus on local fits. Heeks and Mathisen suggest scholars distance themselves from the "grand [anti-corruption] designs developed by technocrats to a focus on interventions that have *local fit* and *strategic fit*."¹⁶⁵ This means, not only should an anti-corruption strategy be country-specific, but it should also fit the needs and demands of local administrations. A plan that relies on national expertise and resources, for example, might not work in the smallest of localities. Similarly, localities in the same country may be organized differently, or operate under different administrative principles. Anti-corruption plans must take these factors into consideration.

2. The Importance of Cooperation and Coordination

The problem with national anti-corruption programs is that often, the focus remains on the national level of governance. Yet, corruption exists at all levels of governance and society; thus, in order for an effective reform to take place, there must be cooperation and

¹⁶³ Maira Martini, "Examples of National Anti-Corruption Strategies," *Transparency International Anti-Corruption Helpdesk*, August 25, 2013, accessed September 5, 2014, http://www.transparency.org/whatwedo/answer/examples_of_national_anti_corruption_strategies.

¹⁶⁴ Maira Martini, "Examples of National Anti-Corruption Strategies," p. 2.

¹⁶⁵ Heeks and Mathisen, "Understanding Success and Failure of Anti-Corruption Initiatives," p. 534.

coordination among all these sectors—particularly in the case of decentralized states. This also fits the aforementioned concept of multi-level governance.

The United Nations reinforces this theme in Article 5 of United Nations Convention Against Corruption (UNCAC), where it states that governments shall “develop and implement [...] coordinated anti-corruption policies.”¹⁶⁶ However, as Transparency International notes, “how to best achieve coordination and develop such policies is still unclear.”¹⁶⁷ Moreover, Heeks and Mathisen point out that “nationwide [anti-corruption] reforms are often [...] weakly coordinated, have no matching resource base, and lack credible implementation strategies.”¹⁶⁸

Thus, it appears that any study of national anti-corruption initiatives should also look at the methods in which these policies are implemented through cooperation and coordination.

3. Gap Between Theory and Practice

One of the most important themes that emerge from the scholarly literature on anti-corruption is the gap between theory and practice. Meagher claims that while there have been few studies on the various kinds of anti-corruption agencies, these studies have “received insufficient scrutiny, and what discussion there has been generally lacks rigor.”¹⁶⁹

¹⁶⁶ United Nations Office on Drugs and Crime, “United Nations Convention Against Corruption,” 2004, http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

¹⁶⁷ Maira Martini, “Examples of National Anti-Corruption Strategies,” p. 2.

¹⁶⁸ Heeks and Mathisen, “Understanding Success and Failure of Anti-Corruption Initiatives,” p. 536.

¹⁶⁹ Meagher, “Anti-corruption Agencies,” p. 77.

What is more, it is often difficult to measure the success and effectiveness of anti-corruption initiatives.¹⁷⁰ In a frank review of existing anti-corruption literature, Hough makes a troubling assertion:

the real issue is the lack of impact and the painful reality is that, for all the funding, all the planning, all the organising, there is precious little evidence that the anticorruption industry has systematically helped to mitigate the impact [...] of corruption in everyday life.¹⁷¹

In a discussion of aid effectiveness in the developing world, Kaufmann brings up a similar critique of anti-corruption efforts:

In its silent crisis, the anti corruption movement has not been able to effectively make the transition from the awareness-raising stage to the concrete action-oriented stage, and from a supply-side, narrow public sector management focus to one encompassing all demand-side issues and stakeholders. The political dimensions of governance and corruption [...], which are key to improve aid effectiveness, have often been ignored.¹⁷²

Heeks and Mathisen argue that “design-reality gaps” exist in anti-corruption initiatives, and that most fail because there is too much of a mismatch between expectations and realities.¹⁷³ Similarly, Pritchett *et al.* claim that when it comes to studies regarding anti-

¹⁷⁰ Meagher, “Anti-corruption Agencies,” p. 69.

¹⁷¹ Hough, p. 22.

¹⁷² Daniel Kaufmann, “Aid Effectiveness and Governance: the Good, the Bad and the Ugly,” *Development Outreach* (Washington D.C.: World Bank Institute, 2009), p. 27.

¹⁷³ Heeks and Mathisen, “Understanding Success and Failure of Anti-Corruption Initiatives,” p. 533.

corruption interventions, “implementation remains conspicuously underappreciated, under-theorized and under-researched.”¹⁷⁴

In conclusion, a review of the literature reveals a very troubling concern regarding the theory and practice of anti-corruption initiatives. There is a chasm between theoretical models and initiatives, and the reality of their implementation. It is evident that corruption is more than just a principle-agent problem, and thus evaluators need to pay close attention to the actual implementation of anti-corruption policies on the ground level. No matter where one lies on the debate between anti-corruption skeptics versus optimists, evaluations of anti-corruption initiatives have been, unfortunately, overwhelmingly pessimistic.¹⁷⁵ This truth echoes the skeptical approach to law as an instrument for social change. Moreover, future research should take social contexts into consideration, look at national specificities, and provide practical prescriptions for improvement.

Regionalism and Devolution in Italy

In recent decades, the global trend of integration has been accompanied by the increase of regionalization, and has opened up a plethora of questions regarding the future of territorial governance.¹⁷⁶ Since the 1970s, the study of regionalism has exploded due to increasing developments of devolution. Devolution, theoretically speaking, is supposed to bring governance down to the local level and increase policy outcomes; after

¹⁷⁴ Lant Pritchett, Michael Woolcock, and Matt Andrews, “Capability Traps? The Mechanisms of Persistent Implementation Failure,” *Working Paper 234*, Washington: Center for Global Development, 2010.

¹⁷⁵ Frank Anechiarico, “Protecting Integrity at the Local Level: The Role of Anticorruption and Public Management Networks,” *Crime Law Soc Change* 53 (2010): pp. 79-80.

¹⁷⁶ Anssi Paasi, “The Resurgence of the ‘Region’ and ‘Regional Identity’: Theoretical Perspectives and Empirical Observations on Regional Dynamics in Europe,” *Review of International Studies* 35 (2009): p. 125.

all, who better to know a region's needs, and how to achieve these needs, than the region itself. Yet, devolution has also led to a divergence of policy outcomes—a phenomenon that could have great ramifications for both the regions in question, and also for the nation-state and the EU as a whole.

In order to adequately understand the implementation of a nation-wide Anti-Corruption Law, it is important to grasp the role that regions play in this implementation. The intent of this section is to (1) briefly outline regionalism in the Italian context and (2) summarize the legislative and administrative competences of these regions, in order to comprehend their role in policy implementation.

Origins of Italian Regionalism

According to Maurizio Cotta and Luca Verzichelli, one of the central themes in Italy's political history “concerns the changing equilibrium between centre and periphery [...]”¹⁷⁷ Although the country “has historically adopted a centralistic model of administration,”¹⁷⁸ Italy has never really had a unified culture, and differences between regions—particularly between the North and South—have been a serious ‘Italian problem.’ Following WWII, there was a growing resentment and distrust towards the central government, and the dominant political parties demanded greater decentralization.¹⁷⁹ Pressures from both within Italy and its membership obligation to the European Community challenged the pre-existing Italian governance model and forced it to reform. As a result, the Italian Constitution of 1948 not only recognized Italian municipalities and provinces, but also constitutionally entrenched the concept of regions.

¹⁷⁷ Cotta and Verzichelli, *Political Institutions in Italy*, p. xvi.

¹⁷⁸ Cotta and Verzichelli, *Political Institutions in Italy*, p. xvi.

¹⁷⁹ Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy*, (Princeton: Princeton University Press, 1993): p.19.

In short, it was hoped that devolution from the central state to newly created regions would boost national accountability, economic growth and equity, and regional content.

Even though decentralization was formally granted and entrenched in the constitution, the reality was quite different. The central government kept a tight grasp over regional competences by holding further legislation on the matter. At first, the Italian government met pressures to decentralize by giving special status to five distinct regions within Italy,¹⁸⁰ but it was not until 1970 that the fifteen “ordinary regions” came into existence and had their first elections, making Italy a republic of twenty regions in total.¹⁸¹

During the early 1990s, there was an explosion of both qualitative and quantitative empirical research on Italian regionalism. Notable contributors to this research include Robert Putnam, Enzo Mingione, and Carl Levy.¹⁸² Since then, less attention has been given to the subject.

Italy is still strongly divided along regional lines, particularly between the Northern and Southern regions. These differences are most evident in economic development, but also in governance. Putnam’s seminal work, for example, highlights several divergences between the North and the South.¹⁸³ According to him, Northern regions seem to be greatly more satisfied with many aspects of their regional governments than

¹⁸⁰The regions with ‘special status’ include the Northern regions of Trentino-Alto Adige and South Tyrol, The Aosta Valley, Friuli-Venezia Giulia, and the two Southern islands of Sicily and Sardinia. See: Putnam, p.19.

¹⁸¹ The fifteen ‘ordinary’ regions include Piedmont, Lombardy, Veneto, Liguria, Emilia-Romagna, Tuscany, Umbria, Marche, Lazio, Abruzzo, Molise, Campania, Apuglia, Basilicata, and Calabria. (Putnam, p. 14) ; Maurizio Cotta and Luca Verzichelli, *Political Institutions in Italy*, p. 40.

¹⁸² Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy*, (Princeton: Princeton University Press, 1993); Enzo Mingione, “Italy: The Resurgence of Regionalism,” *International Affairs*, 69, no. 2 (1993): pp. 305-318; Carl Levy (ed.), *Italian Regionalism: History, Identity and Politics*, (Washington: Palgrave, 1996).

¹⁸³ Putnam, p. 53.

Southerners.¹⁸⁴ In fact, in his graphical depiction, it seems that Southerners are less satisfied than the North in all sectors of regional governance. These observations are important to take into consideration when analyzing regional policy implementation.

In sum, by the end of the 20th century, Italian regions still faced problems with exercising their competences. The national government was now used to working on regional competences and the transfer of these competences to the regions was a very slow process.¹⁸⁵ In addition, funds for the regional budgets still came from central government distributions, and the latter retained a veto power over regional legislation.¹⁸⁶

The results of this devolution are mixed, and there is plenty of evidence to suggest that regional inequalities and grievances actually increased post decentralization. This divergence is clearly demarcated by the Northern and Southern regions. Nonetheless, in recent years, the Italian government has further devolved its legislative and administrative functions to the regions, and this devolution culminated with a constitutional reform in 2001. This reform has resulted in significant changes to Italian governance and merits particular explanation for, in the words of Gianluca Gardini, “an approach to the legislative frame about the political and administrative organization of the Italian regions cannot leave aside an (even briefly) analysis of the new Title V, Part II of the Constitution.”¹⁸⁷

¹⁸⁴ Putnam, pp. 53-54.

¹⁸⁵ Cotta and Verzichelli, *Political Institutions in Italy*, p. 40; Putnam, *Making Democracy Work*, 1993.

¹⁸⁶ Putnam, pp. 21, 24.

¹⁸⁷ Gianluca Gardini, “Political and Administrative Organizations of the Italian Regions,” *IUS Publicum* (March 2011): pp. 1-13.

The Italian Constitutional Reform of Title V, Part II

In 2001, a constitutional reform (the Constitutional Act n. 3/2001¹⁸⁸) was passed in Italy that “introduced substantial innovations into the organization of public authorities in Italy.”¹⁸⁹ The reform further decentralised the Italian governance system and increased the independence of territorial autonomies. Some scholars have explained the reform as a shift from a centralized and “hierarchal and pyramidal” model of governance, to one “that is multi-polar (or “network based”) in nature, pursuant to the modern multi-level constitutionalism approaches.”¹⁹⁰ Others have said that the reform has brought along many changes that resemble federal states.¹⁹¹ The following explains the main changes that were made to the distribution of legislative and administrative powers.

Table 2: Main Implications of the 2001 Constitutional Reform ¹⁹²

- 1. *Reversal of the residual clause and the criteria dividing legislative powers**
- 2. *Increase of administrative powers for local authorities**
- 3. Recognition of greater financial autonomy for local authorities**
- 4. Establishment of metropolitan cities as new, autonomous territories**
- 5. *Equalization between the constituent entities of the Republic**
- 6. Constitutional entrenchment of (1) the principle of subsidiarity, (2) differentiation, and (3) appropriateness**

* = changes that are most relevant to this thesis.

¹⁸⁸ Camera dei Deputati, Legge costituzionale 18 ottobre 2001, n. 3, "Modifiche al titolo V della parte seconda della Costituzione," <http://www.parlamento.it/parlam/leggi/01003lc.htm>, pubblicata nella Gazzetta Ufficiale n. 248 del 24 ottobre 2001, retrieved October 5, 2013.

¹⁸⁹ Gloria Marchetti, “Italian Regions and Local Authorities within the Framework of a New Autonomist System,” *Perspectives on Federalism*, Centro di Studi sul Federalismo, 2, no.1 (2010): p. 91.

¹⁹⁰ Giancarlo Rolla, “L’autonomia dei Comuni e delle Province,” in *La Repubblica delle autonomie. Regioni ed enti locali nel nuovo Titolo V*, edited by Tania Groppi and Marco Olivetti, (Giappichelli, Torino, 2001): p. 162.

¹⁹¹ Based on Diritto delle Autonomie Territoriali, Lecture LUISS-Guido Carli, 2013. See also, Paola Amato, Giorgio Armillei, and Marina Bruschini, “Local Development and Role of Cities in the Italian Multilevel Governance System,” *Meeting with Representatives of the Government of Georgia in the Frame of EU ENP Technical Assistance - DG Regio and Urban Policies*, May 14, 2013, accessed July 29, 2014, <http://www.comune.terni.it/portaldato/UserFiles/File/2013/europe-direct/Multilevel-Governance-AMATO.pdf>.

¹⁹² Based on Diritto delle Autonomie Territoriali, Lecture LUISS-Guido Carli, 2013.

A) The Division of Legislative Powers

In Italy, the national and regional levels of government are the only entities with legislative competence. The division of legislative powers is outlined in Article 117 of the Italian Constitution (see Appendix A). Before 2001, the criteria dividing legislative competences in Italy resembled one of a regional state; the competences appertaining to the regions were listed in the constitution, while those competences that were not listed belonged to the state.¹⁹³ In other words, the state was the general legislator and possessed the residual power.

The 15 ordinary regions had two forms of legislative power: (1) concurrent legislative power and (2) integrative-implemental legislative powers (*integrativo-attuativa*). **Concurrent powers** are those in which the state must define the ‘general principles’ of the subject, while the states must define the details. For example, the state might, as a general principle, decide that every locality that serves alcohol must obtain a liquor licence within a determined deadline. It is the region’s responsibility to then decide how many days this deadline encompasses.¹⁹⁴ The trouble behind concurrent legislative powers is fairly obvious: what happens if the state does not follow-up by legislating general principles, or the regions do not legislate upon the details? The law or policy cannot be fully implemented, and this has happened before in Italy. In these kinds of situations, the constitutional court has ruled that the regions must research if the state has already legislated on the subject matter before, and find the general principles upon which to create details. In cases where a region does not implement the law (it fails to

¹⁹³ Based on Diritto delle Autonomie Territoriali, Lecture LUISS-Guido Carli, October 15, 2013.

¹⁹⁴ Based on Diritto delle Autonomie Territoriali, Lecture LUISS-Guido Carli, October 15, 2013.

legislate details), the state creates details that will stand in effect until the region finally legislates.¹⁹⁵

Integrative-implemental powers relate to situations when the state decides to leave room for the regions to legislate upon. In other words, the competence still belongs to the state, and it can legislate beyond just the fundamental principles, but it delegates some power to the regions by choice.

What about ‘special’ regions? Their legislative powers were (and still are) laid out in their special statutes—not the Constitution. The main difference with their competences is that they are also afforded a list of *guaranteed* competences, called primary legislative competences. In this list of guaranteed competences, the special regions are not bound by the general principles of the state. Thus, their autonomy in this respect is far greater.¹⁹⁶

After the Reform of 2001, the residual clause and the criteria dividing legislative powers were reversed. Article 117, paragraph 2 of the Italian constitution now lists the matters of exclusive *national* powers, and all other legislative powers that are “not expressly covered by State legislation” belong to the regions.¹⁹⁷ Thus, after the 2001 reform, the regions have become the general legislator with the residual power. In addition, Article 117, paragraph 3 provides a list of subject matters that are concurrent.¹⁹⁸ These include “international and EU relations of the Regions; foreign trade; job protection and safety; education [...]; health protection” and many other subjects (see Article 117, paragraph 3). Again, the article clearly states that “[i]n the subject matters

¹⁹⁵ Based on Diritto delle Autonomie Territoriali, Lecture LUISS-Guido Carli, October 15, 2013.

¹⁹⁶ Based on Diritto delle Autonomie Territoriali, Lecture LUISS-Guido Carli, October 21, 2013.

¹⁹⁷ Art. 117, paragraph 4 states that “The Regions have legislative powers in all subject matters that are not expressly covered by State legislation.” In other words, the regions possess the residual power to legislate. The Constitution of the Italian Republic, p. 40.

¹⁹⁸ The Constitution of the Italian Republic (*Costituzione della Repubblica Italiana*), The Italian Chamber of Deputies, May 8 2012, p. 40.

covered by concurrent legislation legislative powers are vested in the Regions, except for the determination of the fundamental principles, which are laid down in State legislation.”¹⁹⁹ In addition, Article 117, paragraph 6 gives the Italian state regulatory powers in those matters that fall within their exclusive legislative power. Regions hold regulatory power in all other subject matters. An important point, however, is that the Italian state can delegate some of its exclusive regulatory powers to the regions.²⁰⁰

In sum, the constitutional reform of 2001 focused on territorial autonomies, “giving them much more autonomy than before, so that the general power to legislate does not belong to the State any longer.”²⁰¹ However, according to Gianluca Gardini, “the situation cannot be represented so straightforwardly, because the State maintains the exclusive power to legislate about some areas, crossing the regional competence.”²⁰² These intergovernmental dynamics are crucial to understanding the complexities of policy implementation.

B) The Division of Administrative Powers

Article 118 of the Italian Constitution describes the division of administrative powers. Before the reform of Title V in 2001, administrative powers were divided according to the principle of parallelism (*principio di parallelismo delle funzioni*). According to this principle, those levels of government that have the power to legislate, have the power to administer those same subjects.²⁰³ This presents an interesting paradox considering the information on legislative powers, presented in the previous section. If the Italian state

¹⁹⁹ The Constitution of the Italian Republic, Art. 117, paragraph 3, p. 40.

²⁰⁰ The Constitution of the Italian Republic, Art. 117, paragraph 6, pp. 40-41.

²⁰¹ Gianluca Gardini, “Political and Administrative Organizations of the Italian Regions,” p. 2.

²⁰² Gianluca Gardini, “Political and Administrative Organizations of the Italian Regions,” p. 2.

²⁰³ Antonio D’Atena, *Diritto Regionale*, (Torino: G. Giappichelli Editore, 2010): p. 174.

and regions are the sole levels of government with legislative competence, then does this mean that other local entities (the provinces, municipalities, and metropolitan cities) do not have administrative powers?

In reality, there were two permissible derogations to this constitutionally enshrined principle. The first exception was with respect to subject matters that were deemed ‘exclusively local.’ In these cases, the state could attribute (*attribuire*)²⁰⁴ the administrative powers of these competences to the local entities through a law. The second exception was that regions should have delegated some of their administrative competences to the local entities. Based on these two permissible derogations, there was a gradual transfer of administrative powers to regions and local entities that started in the 1970s. However, these transfers were largely inadequate, and ultimately lead to the constitutional reform in 2001.²⁰⁵

After the 2001 reform, administrative functions belong to the municipalities (*comuni*), which now possess the administrative residual power.²⁰⁶ What is more, the principles of (1) subsidiarity, (2) appropriateness, and (3) differentiation became the criteria behind the

²⁰⁴ The Italians use the word *attribuire* in contrast to delegate. One must be careful not to use the two interchangeably. Attributing (assigning/allocating) a competence to another level of government is stronger than delegating a competence because it implies giving the competence away (making sure, of course, that the attribution follows the principles of subsidiarity, appropriateness, and differentiation). Delegating, however, has a weaker implication, as the competence remains a national/regional competence, but is just temporarily charged. Based on *Diritto delle Autonomie Territoriali*, Lecture LUISS-Guido Carli, 2013.

²⁰⁵ The first transfer of administrative powers was in 1972 through eleven legislative decrees—each corresponding to a national ministry. This process of administrative transfer was found to be largely ineffective, however, because the decrees were fragmented and inorganic. In 1977, the state tried to resolve this issue through a Decree of the President of the Republic and the creation of organic macrosubjects (*macromaterie*). Finally, in 1997, law n° 59/1997 (otherwise known as the Bassanini law) was passed with the clear objective of favouring governments closest to the citizen. In particular, this law brought about three main changes in the transfer of administrative competences: (1) it listed the administrative subjects that were the exclusive competence of the state; (2) it outlined the participation of the regions; and (3) it changed the criteria of administrative transfer from that of parallelism to the principles of subsidiarity, appropriateness, and differentiation. Based on *Diritto delle Autonomie Territoriali*, Lecture LUISS-Guido Carli.

²⁰⁶ D’Atena, *Diritto Regionale*, p. 174.

division of administrative powers and overtook the principle of parallelism. These principles are now entrenched in the constitution and thus bind all legislators.²⁰⁷ With regards to subsidiarity, it is important to differentiate between vertical and horizontal subsidiarity. The first refers to relationships between territorial entities, whereas the second refers to relationships between the public and private sectors.²⁰⁸

Table 3: Administrative Powers Before and After 2001 Reform
Before 2001, Division of Administrative Powers:
<ol style="list-style-type: none"> 1. Followed the principle of parallelism 2. Could be attributed or delegated by the state and regions respectively
After 2001, Division of Administrative Powers:
<ol style="list-style-type: none"> 1. Principle of parallelism is overcome 2. Principles of subsidiarity, appropriateness, and differentiation become constitutionally enshrined 3. Municipalities (<i>comuni</i>) receive the administrative residual power

By and large, the Italian constitutional reform of 2001 has completely reformed the legislative and administrative competences of regional governments, and this information will prove essential in determining their role in implementing national policy.

Another crucial point that should be emphasized is that since the constitutional reform of 2001, there is no longer a governance hierarchy. To borrow an adequate phrase, the state is “governing in the shadow of hierarchy.”²⁰⁹ The central government, regions, provinces, municipalities, and metropolitan cities are constitutionally all autonomous and on the same level. This new method of organization is referred to as the principle of autonomy, and reduces the national government’s control over other territorial

²⁰⁷ *Principi di adeguatezza e di differenziazione*. See Chapter V., “L’autonomia amministrativa,” In Antonio D’Atena, *Diritto Regionale*, G. Giappichelli Editore, Torino (2010). By “binding,” I mean that these principles now have constitutional force. If a law, regulation, or local statute is decided by a court to be contrary to the principle of subsidiarity, for example, it will now be also considered anticonstitutional.

²⁰⁸ D’Atena, *Diritto Regionale*, p. 181.

²⁰⁹ Adrienne Héritier and Martin Rhodes, eds., *New Modes of Governance in Europe: Governing in the Shadow of Hierarchy*, Palgrave Studies in European Union Politics, 2010.

autonomies. What is more, the national parliament and regions are the sole entities with legislative and administrative competences. Other local entities have the power to create legislative decrees and regulations that are subject to national law, the constitution, EU law, and international law. Further, the national prefects still exist and must “[oversee] the enforcement of the national laws and [make] sure that no decision is made locally by the municipalities that are not consistent with the law and the interest of the national government.”²¹⁰ In addition, the constitutional reform of 2001 has “result[ed] in a roughly equal sharing of total government expenditure between the central and regional levels (53% and 47%, respectively).²¹¹

Regional Anti-Corruption Efforts

The state of the literature includes various accounts of corruption indicators; however, micro-level analyses of corruption that focus on regional and local levels of government are seriously lacking. Besides Putnam, Del Monte and Papagni, and Di Vita, few have written about the role Italian regions have to play in corruption.²¹² While these studies are all influential, they address the determinants of corruption in a holistic approach, and do not look at corruption in individual regions. Putnam, for example, distinguishes between corrupt tendencies and social capital in northern and southern regions, but he does not isolate each region. Del Monte and Papagni offer a detailed

²¹⁰ Salvatore G. Rotella, “Federalism in Italy: Past, Present and Future,” in Luigi Troiani, *Fratelli d’Italia. 150 anni di cultura, lavoro, emigrazione*, (Stony Brook, NY: Forum Italicum Publishing, 2012): p. 73.

²¹¹ OECD, “OECD Economic Surveys: Italy: 2005,” OECD Publishing, p. 77.

²¹² Putnam, 1993; Alfredo Del Monte and Erasmo Papagni, “The Determinants of Corruption in Italy: Regional Panel Data Analysis,” *European Journal of Political Economy*, 23 (2007): pp. 379–396; Giuseppe Di Vita, “Curbing Corruption in Public Administration: A Case Study from Italy,” *International Journal of Public Administration*, 34, no. 10 (2011): pp. 631–645.

empirical account of the main drivers of Italian corruption, and identify varying levels of corruption between regions; however, the authors only differentiate between ordinary and special regions. Di Vita, on the other hand, observes corruption incentive regimes in the province of Catania (Sicily), but does not consider regions.

What is more, datasets on regional levels of corruption in Italy do not exist at the moment. In addition, there exists no study regarding the *preventive* role national regions play in corruption, to the best of my knowledge. In light of recent scandals emanating from regional executives and the Anti-Corruption Law's emphasis on regional anti-corruption plans, such a study is warranted.

According to Frank Anechiarico (2010), anti-corruption initiatives are “most effective” when they incorporate local anti-corruption and public management networks.²¹³ Despite this important observation, international anti-corruption efforts have mainly focused on curbing corruption at the national level, leaving local efforts neglected.²¹⁴

There is, thus, a gap in the literature when it comes to looking at anti-corruption efforts at the sub-national level. Anechiarico attempts to fill this gap. The author claims that many national attempts to curb corruption through reform originate from the discovery of scandals at the local level. This observation has held in examples including the United States, the Netherlands, and China.²¹⁵

In sum, it quickly becomes clear to anyone living in Italy that remnants of Italian unification, along with political instability throughout the country's history, have yielded

²¹³ Anechiarico, “Protecting Integrity at the Local Level,” p. 79.

²¹⁴ Anechiarico, “Protecting Integrity at the Local Level,” p. 79.

²¹⁵ Anechiarico, “Protecting Integrity at the Local Level,” pp. 80-81.

a fragmented society with a strong skepticism for central administration. These sentiments have culminated with the political crisis of the early 1990s, which, as has been argued, bolstered the role of regions in the Italian political structure. Today, regions have been consolidated as mechanisms of political mobilization, governance, and identity, and, I argue, are important units of analysis when analyzing the implementation of legislation.

Chapter 3: Assessing Regional Implementation—Research Design and Methodology

A. Research Question

This research thesis poses the following overarching research question: **what factors affect the policy implementation of anti-corruption legislation at the regional level of Italian government?** In doing so, the study will also reveal what the goals and regional obligations of the Anti-Corruption Law are, and whether or not it was so far implemented in the regions. In this study, *policy implementation* represents the dependent variable, and the various *factors* represent the independent variables the researcher will be looking for. *Policy implementation* (PI) refers to the carrying out of a policy programme as “intended or specified by those who formulated it.”²¹⁶ The academic literature provides many examples of variables that could affect PI, specifically with regards to anti-corruption initiatives. This thesis will determine whether these factors also affect the implementation of anti-corruption legislation in Italian regions.

Since a discussion of all possible factors is well beyond the scope of this thesis, I explore factors that were most cited in the literature.

B. How Can We Measure Implementation at this Stage?

This thesis looks at policy implementation within public administration. The study of public administration involves looking at the organizational structure and delivery of

²¹⁶ Mark Evans and Jonathan Davies, “Understanding Policy Transfer: A Multi-Level, Multi-Disciplinary Perspective,” *Public Administration* 77 no. 2, 1999: p. 379.

public goods and services, but it also looks at theories that explain the *behaviour* of these institutions.²¹⁷

In order to establish whether or not the Anti-Corruption Law has been implemented in the regions, I first had to identify what obligations the law imposed on the regions. In order to do so, I analyzed the Anti-Corruption Law, as well as the emerging Italian literature on the subject. Upon doing so, I concluded that the following actions must have been taken by the regions in order to qualify the law as being implemented:

- Appointment of a regional anti-corruption official (ACO);
- Completion of an anti-corruption plan—this includes (a) completing a final draft plan, (b) passing it in regional parliament, (c) submitting it to the national anti-corruption agency, and (d) publishing it on the regional website for public access, all by the January 31st deadline;
- The Regional Anti-Corruption Plan (RACP) must have included an analysis of regional sectors at risk of corruption, as well as measures to prevent these risks;
- Adoption and publication of a regional code of conduct (RCC).

C. Factors Affecting the Implementation of Anti-corruption Initiatives

Scholarly works on anti-corruption spend much time discussing the general successes and failures of agencies. Yet, few sources actually attempt to dissect specific anti-corruption initiatives in order to learn from them, and, according to Heeks and Mathisen, “little is understood about the factors that make them happen.”²¹⁸ This section

²¹⁷ Paul Barker, *Public Administration in Canada*, (Nelson Thomson Canada, 2008): p. 143.

²¹⁸ Heeks and Mithisen, “Understanding Success and Failure of Anti-Corruption Initiatives,” p. 535.

will now highlight the factors said to impact implementation of anti-corruption legislation, which were most apparent in the literature.

Culture

It is frequently argued that corruption is a product of culture and social capital. In an analysis of the effectiveness of anti-corruption policy in Latin America, Bryan W. Husted claims that there is a wide literature on the concept of culture and corruption.²¹⁹ Geert Hofstede, for example, has identified five different types of “work cultures” that are identifiable along “cultural dimensions:” (1) power distance, (2) individualism-collectivism, (3) uncertainty avoidance, (4) masculinity-femininity, and (5) Confucian dynamism.²²⁰

Power distance, according to Hofstede, is “the extent to which the less powerful members of institutions and organizations within a country expect and accept that power is distributed unequally.”²²¹ As such, the problem may arise that decentralised levels of governments may “devise ways to defeat the anti-corruption regime through passive resistance and other means so that observers may characterize the conduct with the famous Spanish dictum [...] I obey but do not carry out.”²²² This means that in work cultures that fit the power distance description, there is a risk that laws will be implemented in theory, but not practice. This finding also coincides with the concept of a

²¹⁹ Bryan W. Husted, "Culture and International Anti-Corruption Agreements in Latin America," *Journal of Business Ethics*, 37 (2002): p. 415.

²²⁰ Husted, "Culture and International Anti-Corruption Agreements in Latin America," p. 415; Geert Hofstede, *Cultures and Organizations: Software of the Mind*, (New York, NY: McGraw Hill, 1997); Geert Hofstede, *Culture's Consequences: International Differences in Work-Related Values* (Beverly Hills, CA: Sage Publications, 1980).

²²¹ Hofstede, *Cultures and Organizations*, 1997.

²²² Bruce Zagaris and Shaila Lakhani Ohri, “The Emergence of an International Enforcement Regime on Transnational Corruption in the Americas,” *Law and Policy in International Business*, 53 (1999): p. 90.

“lack of political will” –another factor that affects implementation that will be discussed at a later point.

Individualism and collectivism refers to “a set of shared beliefs and values of a people concerning the relationship of an individual to aggregates or groups of individuals.”²²³ Collectivist countries, like those in Southern Europe and Latin America, “show preferences toward members of the in-group.”²²⁴ As a result, these individuals tend to place the interests and goals of their own in-groups “above the goals of society at large. [...] The result is that the law or rules of society are applied differently to those who are members of the in-group and those who belong to the out-group.”²²⁵ This situation creates a parallel system of rules—a set of formal rules that are used for strangers, and a set of informal rules for members of the in-group.

Uncertainty Avoidance “deals with the way that individuals in a given society react to ambiguity and uncertain situations.”²²⁶ Looking forward (*ex ante*), formal rules can be seen to provide structure and guidelines “in an ambiguous situation” and thus provide a framework for how one should act. But, in retrospect (*ex post*), “since [these formal] rules may not correspond to reality, the lack of fit between the rule and reality generates anxiety, which is reduced by breaking the rule.”²²⁷ Countries with high uncertainty avoidance tend to respect formal rules much less.²²⁸ Thus, with respect to anti-corruption

²²³ Miriam Erez and P. Christopher Earley, *Culture, Self-Identity, and Work*, (Oxford University Press, 1993): p. 95.

²²⁴ Husted, "Culture and International Anti-Corruption Agreements in Latin America," p. 416-417.

²²⁵ Husted, "Culture and International Anti-Corruption Agreements in Latin America," p. 416-417.

²²⁶ Husted, "Culture and International Anti-Corruption Agreements in Latin America," p. 417.

²²⁷ Husted, "Culture and International Anti-Corruption Agreements in Latin America," p. 417.

²²⁸ Husted, "Culture and International Anti-Corruption Agreements in Latin America," p. 417.

legislation, people might abandon the law if it is too ambiguous, “in favour of solutions that seem more in tune with reality.”²²⁹

Masculinity-femininity “countries high in masculinity are more likely to tolerate higher levels of corruption.”²³⁰ Husted argues that feminine countries place more emphasis on relationships, while masculine countries emphasize “material success and money.” Thus, repressive anti-corruption measures should be in-tune with these differences in society.²³¹ Finally, *Confucian dynamism* “refers to a general orientation to value virtue as opposed to truth.”²³²

Now, taking these cultural concepts into consideration, Husted suggests their implications for anti-corruption efforts. In the case of whistleblowing and transparency, in particular, he argues that collectivism will be a hindrance, since blowing the whistle may go against “personal obligations owed to members of his or her respective in-groups.”²³³ Likewise, hiring may not be done according to meritocratic methods in a collectivist society, since one will probably favour hiring someone within the in-group than someone who—albeit more qualified—is from the out-group.²³⁴

There are, however, critiques when it comes to associating culture with corruption. According to Rothstein, “[w]hile the practice of corruption has cultural traits, it should not be seen as culturally determined.”²³⁵ The author uses the examples of Singapore and Hong Kong’s anti-corruption initiatives and claims that “the extent of corruption is not necessarily culturally determined.” Instead, it is a product of a social trap scenario:

²²⁹ Husted, "Culture and International Anti-Corruption Agreements in Latin America," p. 418.

²³⁰ Husted, "Culture and International Anti-Corruption Agreements in Latin America."

²³¹ Husted, "Culture and International Anti-Corruption Agreements in Latin America," p. 419.

²³² Husted, "Culture and International Anti-Corruption Agreements in Latin America," p. 419.

²³³ Husted, "Culture and International Anti-Corruption Agreements in Latin America," p. 419.

²³⁴ Husted, "Culture and International Anti-Corruption Agreements in Latin America," p. 419.

²³⁵ Rothstein, “Anti-Corruption: the Indirect ‘Big Bang’ Approach,” p. 231.

[...] ordinary people in severely corrupt systems usually do not internalize corrupt practices as morally legitimate acts. Instead, they usually condemn corruption as morally wrong and put the blame on ‘the system’ for forcing them to take part in corruption, thus understanding that they are in a ‘social trap’ like situation. Given that they were confident that most other agents would not participate in corrupt practices, their main preference would be not to take or give bribes.²³⁶

Therefore, in analysing factors that affect implementation of anti-corruption policy, it is important to qualify and categorize the sample’s cultural attributes: Do the participants under question fulfill the collectivist work culture, for example? These elements of culture may significantly impact the Anti-Corruption Law from being implemented in reality.

Political Context

Alan Doig offers a clear analysis of the reasons why anti-corruption initiatives fail to meet their objectives, and divides these variables into “Seven Deadly Sins.” The first of these sins are “political sins.”²³⁷ It would appear that too often, national governments adopt anti-corruption policies in order to appease internal and external public pressures;

²³⁶ Rothstein, “Anti-Corruption: the Indirect ‘Big Bang’ Approach,” p.232. See also, Robin Hodess, Jessie Banfield, and Toby Wolfe, *Global Corruption Report 2001*, (Berlin: Transparency International, 2001); Rasma Karklins, *The System Made Me Do It: Corruption in Post-communist Societies*, (Armonk, NY: M.E. Sharpe, 2005); Sten Widmalm, *Decentralisation, Corruption and Social Capital: From India to the West*, (Thousand Oaks, CA: Sage Publications, 2008); and Brian C. Smith, *Good Governance and Development*, (New York: Palgrave MacMillan, 2007).

²³⁷ Alan Doig, “A Good Idea Gone Wrong? Anti-Corruption Commissions in the Twenty First Century,” EGPA 2004 Annual Conference, Ljubljana.

however, their actions to implement these policies are lacking. *Political sins* thus refer to the lack of commitment—or lack of genuine *political will*—to fight corruption from the political elite.²³⁸

Fritzen confirms this obstacle to anti-corruption, and states that “political will” and “institutional context” are important factors when determining the success or failure of anti-corruption strategies.²³⁹ In this case, political will refers to a strong and collective consensus to combat corruption amongst the ruling elite; however, political will can also be guised by fragmented interests.²⁴⁰ Oftentimes, political will can simply be rhetoric, and the political elite will continue to act as rational, self-interested actors resulting, in what Catherine Weaver calls a “hypocrisy trap.”²⁴¹

In a study about anti-corruption legislation in Vietnam, Scott Fritzen presents a dilemma that occurs in the fight against corruption: “the very actors that which must adopt and implement policies to curb corruption are those which may face weak or event negative incentives to do so.”²⁴² Fritzen calls this dilemma the “orthodox paradox of anti-corruption work.”²⁴³ Moreover, those officials who are given the task of adopting and enforcing anti-corruption policies often lack the support system needed, and thus “must essentially police themselves, which will be difficult precisely where corruption is already systematic.”²⁴⁴

²³⁸ OECD, “Specialised Anti-Corruption Institutions,” p. 33.

²³⁹ Scott Fritzen, “Beyond ‘Political Will’: How Institutional Context Shapes the Implementation of Anti-Corruption Policies,” *Policy and Society*, 24 no. 3 (2005): pp. 79, 82.

²⁴⁰ Fritzen, “Beyond ‘Political Will’,” p. 80.

²⁴¹ Weaver’s famous study describes the hypocrisy behind the World Bank’s ‘good governance’ discourse and institutional corruption. The book is a case study of the World Bank and explains the nature and reasons for hypocrisy within international organizations. See Catherine Weaver, *Hypocrisy Trap: The World Bank and the Poverty of Reform*, Princeton University Press, 2008.

²⁴² Scott Fritzen, “Beyond ‘Political Will’.”

²⁴³ Fritzen, “Beyond ‘Political Will’,” p. 81.

²⁴⁴ Fritzen, “Beyond ‘Political Will’,” pp. 79–96.

Institutional Context

How will the institutional context—that is, the “existing institutions and governance characteristics”—influence the implementation of such policies? Anti-corruption institutions do not exist in vacuums. Their success and effectiveness is contingent upon “the overall performance of other institutions. Thus, if other public institutions within a nation are “highly deficient or defective, [then] the anti-corruption institution [...] will likely fail to carry its burden.”²⁴⁵ Doig refers to this situation as a *governance sin*. Similarly, *legal sins* refer to the rule of law and “the functioning of the criminal justice system, and in particular the courts.”²⁴⁶

Similarly, Fritzen argues that institutional context has “a profound influence on reform efforts” and also “determines the degree of complementarity between new and existing institutions, which has an important impact on the likely effectiveness and sustainability of the institutions or measures introduced.”²⁴⁷ Countries that “suffer from systematically corrupt structures” are held back by its various ineffective institutions.” These institutions include existing laws, regulations, and procedures; the judiciary; audit systems; rule of law, *et cetera*.²⁴⁸ Variables one might look for are the efficiency of the court systems, the freedom of the media, and the amount of non-governmental organizations, public interest groups, or civil society. It should be mentioned, however, that “civic factors such as the

²⁴⁵ OECD, “Specialised Anti-Corruption Institutions,” p. 34.

²⁴⁶ OECD, “Specialised Anti-Corruption Institutions,” p. 34.

²⁴⁷ Fritzen, “Beyond ‘Political Will’,” p. 82. See also World Bank, *World Development Report 2002: Building Institutions for Development*, (New York, NY: Oxford University Press, 2002); Elinor Ostrom, “A Framework to Analyze the Robustness of Social-ecological Systems from an Institutional Perspective,” *Ecology and Society*, 9 no. 1 (2004).

²⁴⁸ Rothstein, “Anti-Corruption: the Indirect ‘Big Bang’ Approach,” p. 235.

media and capable non-governmental watchdogs are not clearly associated with anti-corruption agency success.”²⁴⁹

From this, it would be interesting to determine whether or not the presence of pre-existing anti-corruption institutions or mechanism (regional anti-corruption committees, transparency laws, *et cetera*) increases the chances of policy implementation. This discussion was generally absent in the literature.

Economic Context and Resources

When discussing the success of anti-corruption initiatives, the state of the economy is an important factor that can impede implementation of anti-corruption reform. Doig uses the term *economic sins* to refer to both the micro- and macro-economic conditions of a country.²⁵⁰ If a country’s economy is highly regulated, for example, then there will be more opportunities for corruption. Likewise, adequate and transparent tax systems, as well as funding of anti-corruption initiatives are important in this category.²⁵¹ What is more, a nation’s economic wellbeing and budget will determine what funding can be attributed to anti-corruption efforts. If a country is in economic turmoil, it may not invest enough money in the fight against corruption.

With respect to funding, the quality and quantity of resources at disposition have been important variables attributing to success. Resources can be broken down into several sub-categories: (1) financial resources (funding and budgets), (2) human capital, and (3) expertise.

²⁴⁹ Meagher, “Anti-corruption Agencies,” p. 98

²⁵⁰ Alan Doig, “A Good Idea Gone Wrong? Anti-Corruption Commissions in the Twenty First Century,” EGPA 2004 Annual Conference, Ljubljana.

²⁵¹ OECD, “Specialised Anti-Corruption Institutions,” pp. 33-34.

First, anti-corruption agencies need to have sufficient funding and budgetary capabilities to ensure they can perform their duties. Pope goes further and says that “fiscal independence” is also an important variable to ensure the success of anti-corruption agencies. By this he means “either the ability to propose a budget directly to the legislature, or a guarantee of budgetary stability.”²⁵² Oftentimes, it has seemed that anti-corruption agencies did not receive adequate financial resources to perform their duties, and this omission has had dire consequences:

[I]n the long run it is even more costly to set up a specialised body and then fail to provide it with adequate resources, hence hindering its performance. This consequently results in the failure to obtain and maintain public confidence. The requirement to provide anti-corruption institutions and their *personnel with adequate training and sustainable financial resources* is an obligation included in all international legal instruments [...].²⁵³

Next, human capital is an important asset to the success of anti-corruption efforts, and emphasis has been placed on quality and quantity. According to Rothstein, staff should be well trained, “well compensated, subject to integrity reviews and quick removal, and endowed with a strong ethic of professionalism.”²⁵⁴ Moreover, there should be a good number of staff that is representative of the workload required. Employees should also be

²⁵² Jeremy Pope, “The Need for, and Role of, and Independent Anti-Corruption Agency,” prepared for *Transparency International*, August 13, 1999; Meagher, “Anti-corruption Agencies,” p. 86.

²⁵³ OECD, “Specialised Anti-Corruption Institutions,” p. 27.

²⁵⁴ Rothstein, “Anti-Corruption: the Indirect ‘Big Bang’ Approach,” p. 97.

highly specialized and recruited based on merit in order to ensure efficiency and effectiveness.²⁵⁵

Related to human capital is expertise. Since corruption can reveal itself in various environments, there is a need for expertise from numerous different disciplines. Anti-corruption agencies should strive to recruit experts from fields including law, politics, public administration, finance, accounting, economics, healthcare, and science, all specialized to fight corruption in their respective sectors.²⁵⁶ Moreover, all public servants—not just those tasked with corruption prevention mandates—should be trained in anti-corruption, in order to understand the principles of good governance and exactly what is expected of them. The OECD confirms this sentiment: “Special professional training is one of the most crucial requirements for the successful operation of a anti-corruption body, whether it is newly established or already existing.”²⁵⁷

Size of Government and Administration

Many argue that the size of government and its bureaucracy is related to levels of corruption. The general assumption is that bigger government and bureaucracy means more regulation, and increased levels of corruption, “since more resources may be stolen and more rules exploited or subverted.”²⁵⁸

Nevertheless, there are plenty of studies that suggest the *size* of bureaucracy is not a main cause of corruption. Take the Nordic countries, for example. They have some of the

²⁵⁵ Rothsetin, “Anti-Corruption: the Indirect ‘Big Bang’ Approach,” p. 97.

²⁵⁶ From the “Conclusions and Recommendations of the First Conference for law enforcement officers specialized in the fight against corruption,” Strasbourg, April 1996. See OECD, “Specialised Anti-Corruption Institutions,” p.17.

²⁵⁷ OECD, “Specialised Anti-Corruption Institutions,” p. 27.

²⁵⁸ Nadia Fiorino and Emma Galli, “An Analysis of the Determinants of Corruption: Evidence from the Italian Regions,” *Department of Public Policy and Public Choice – POLIS, Working paper n. 171* (September 2010), p. 11.

largest bureaucracies in Europe, and they are also the least corrupt. If a public administration is corrupt and one shrinks it, the result is still a corrupt administration—just a smaller one. Thus, the policy question asked in Italy should not solely be how to reduce the size of public bodies, but also how to make the system more efficient and less prone to corruption.

Coordination and Cooperation

As mentioned in Chapter 2, anti-corruption success also depends on coordination and cooperation with other agents—government departments and agencies, other anti-corruption initiatives, non-governmental organizations, or supra/inter-national anti-corruption regimes.²⁵⁹ “Even comprehensive institutional efforts against corruption are prone to fail without the active involvement of the civil society and the private sector.”²⁶⁰ Thus, the absence of coordination and cooperation may negatively influence the implementation of anti-corruption legislation.

Timing

Many sources analysed mention how the macro-political environment had an influence on anti-corruption initiatives. In the case of Italy, for example, it was stated that the end of the Cold War had a significant role to play in *Tangentopoli* and the massive judicial investigations. A changing political environment, such as a change of government, can also impact anti-corruption efforts from sticking. At the same time,

²⁵⁹ See, for example, Meagher, “Anti-corruption Agencies,” p. 100.

²⁶⁰ OECD, “Specialized Anti-Corruption Institutions: Review of Models,” *OECD Anti-Corruption Network for Eastern Europe and Central Asia*, 2008, p. 28.

international pressures may play a role in influencing public opinion, the latter of which can place pressure on the political elite. Similarly, certain events could act as “catalysts” to promote anti-corruption movements. Such events could include the unveiling of corruption scandals.²⁶¹ Thus, what is important to take from this is the fact that when it comes to the success of anti-corruption reforms, the time must also be ripe for change.

Evaluation and Results

Once the anti-corruption agency is up and running, it is crucial not to neglect it. It is important for outside scholars, departments, organizations, and/or agencies to monitor and evaluate the results of the reform program. This factor has to do with what Doig terms the *performance* of the anti-corruption agency. Oftentimes, the anti-corruption agencies will make unrealistic promises and then are not able to fulfill those promises. In turn, the public becomes disillusioned with the anti-corruption institutions, adding to the vicious cycle of failure. This is then related to *public confidence* sins. The public should be informed about the operations of the anti-corruption institutions and be confident in its effectiveness. What is more, the public should perceive the anti-corruption institutions to be open and co-operative.²⁶²

In addition, the OECD claims that evaluating and demonstrating results “might often be the crucial factor for an anti-corruption institution to gain or retain public support and fend off politically-motivated attacks.”²⁶³ However, according to the same OECD report, many of these countries lack the resources or expertise when it comes to evaluating anti-corruption institutions. Thus, evaluation goes back to the important factor of resources;

²⁶¹ Newell, “Corruption-mitigating Policies,” pp. 165-166.

²⁶² OECD, “Specialised Anti-Corruption Institutions,” p. 34.

²⁶³ OECD, “Specialized Anti-Corruption Institutions,” p. 12.

agencies must make sure they hire specialized experts, who can adequately evaluate programmes, in order to highlight deficiencies and improve future strategies.

In sum, there are numerous factors cited in the literature that impact the implementation of anti-corruption reform. When analysing these factors, however, one must be careful of cause-and-effect dilemmas. Rothstein, for example, argues that many authors have produced tautologies in explaining anti-corruption efforts—that is, a situation where it becomes difficult to separate the dependent variables from the independent variables.

Similarly, Pierson argues that policy changes when certain windows of opportunity present themselves, but these opportunities often depend on more than one variable. As a result, it is difficult to isolate variables from cause and effect:

as feedback loops become central to the process that follows a critical juncture, it becomes impossible to delineate clear causes and effects; instead, a set of factors mutually reinforce one another.²⁶⁴

Thus, when evaluating factors that affect implementation, it may be difficult to isolate variables and find causal relationships because “the causes and consequences of solutions for corruption tend to be intertwined;”²⁶⁵ however, this should not discourage research, and interrelated variables could be a finding in and of itself.

²⁶⁴ Paul Pierson, *Politics in Time: History, Institutions, and Social Analysis* (Princeton, N.J.: Princeton University Press, 2004): p. 95; When I first sought out to write this research thesis, I wanted to establish a causal relationship between the Eurozone crises and this recent anti-corruption movement in Italy. Upon speaking with many experts in the country and consulting the literature, I can conclude that there is no doubt that crisis affected the anti-corruption movement in Italy; however, as Pierson notes, it would be very difficult to isolate cause and effect in this case, as there are several other variables that have affected the movement in the country including, but not limited to, the crisis.

²⁶⁵ Meagher, “Anti-corruption Agencies,” p. 78.

D. Research Design

Exploratory Research

The subject of this research thesis is quite novel. As such, there is a lack of concrete data needed to form any definitive hypotheses or conclusions. For this reason, this research thesis is exploratory in nature and serves as a stepping-stone for future research. By thoroughly analyzing the Anti-Corruption Law's implementation in two Italian regions, this thesis presents a model for similar studies. In addition, the findings presented in the empirical section of this thesis reveal pressing questions that should be tackled in future research projects.

Single Country Case Study—Italy

The research thesis focuses on Italy because it is one of the most perceivably corrupt countries in the EU and is also the third largest economy in the Eurozone.²⁶⁶ As such, the political and economic stability of the country is important for the future of the EU as a whole. Thus, a study of the implementation of Italy's new Anti-Corruption Law is both timely and significant since the success of other structural reforms is very much dependent upon the implementation of anti-corruption measures.

Regional Focus

As was previously mentioned, Italy is a decentralized republic that is composed of the central government, 20 regions, 110 provinces, over 8,092 municipalities, and several

²⁶⁶ BBC News, "Italy Profile," *BBC News*, February 26, 2013, accessed March 29, 2013, <http://www.bbc.co.uk/news/world-europe-17433142>.

metropolitan cities.²⁶⁷ Although the constitutional revision in 2001 granted them all equal status, Italian regions have greater legal and administrative competences than other territorial autonomies. Regions control a significant amount of the country's public spending, having important competences such as that of public healthcare.²⁶⁸

What is more, Italian regions have been at the centre of several massive corruption scandals in recent times. In 2012, the governor of the region of Lazio was forced to resign after it was revealed that “members of her regional government had embezzled and misused party funds.”²⁶⁹ In the same year, “members of the Campania and Lombardy regional governments [were also] under investigation for alleged misuse of public funds.”²⁷⁰ The involvement of Lombardy in corruption scandals is even more troubling since the region once prided itself on being different than the rest, and frequently criticized regions in the south for being corrupt. Yet, on October 25th, 2012, the head of the Lombard region dissolved government in response to its own corruption scandals. This is a clear indication that corruption is pervasive in Italy, and not just limited to regions of the south.

What is more, these accusations were, and remain, particularly troubling since they emerged in a period of economic and financial instability. Citizens were enraged that they had to support strict austerity measures, when, at the same time, it was discovered that regional public officials have been funnelling public funds into private bank accounts. There have also been talks of further revising the constitution “to regain control over

²⁶⁷ Istat, “Italy in Figures,” 2012, <http://www.istat.it/en/files/2011/06/Italy2012.pdf>.

²⁶⁸ Pullella, “New Italy Law Tackles Rampant Corruption,” *Reuters*, Oct 30, 2012.

²⁶⁹ Pullella, “New Italy Law Tackles Rampant Corruption,” *Reuters*, Oct 30, 2012.

²⁷⁰ Pullella, “New Italy Law Tackles Rampant Corruption,” *Reuters*, Oct 30, 2012.

spending by regional governments” because of these “several recent cases of alleged corruption.”²⁷¹

Furthermore, the scholarly literature on anti-corruption repeatedly mentions the importance of looking at local efforts to curb corruption. However, most of the literature to date only focuses on national anti-corruption initiatives. This leaves a large gap in the literature. Similarly, the need to increase cooperation and coordination among the various levels of governance has been demonstrated repeatedly in the review of the literature. In order to do so, it would be of great benefit to understand what strides sub-national governments have taken to fight corruption. This thesis helps to fill this lacuna in the literature and draw observations that will, at the very least, start a conversation on how to improve cooperation among the various territorial autonomies in Italy to finally reduce the systemic and protracted levels of corruption.

Comparative Method—Most Similar Research Design

In order to analyze the implementation process at the regional level, this thesis compares and contrasts two Italian regions using qualitative research methods. Four ‘ordinary regions’ were targeted for interviews: Umbria, Marche, Abruzzo, and Molise. These regions were selected for a number of reasons, the first being their geographic location. Because of Italy’s North-South divide, selecting two regions from the North or two from the South would lead to results that would be difficult to generalize. On the other hand, selecting a region from the North and one from the South would have to take political and civic culture into consideration when assessing factors that influence

²⁷¹ Pullella, “New Italy Law Tackles Rampant Corruption,” *Reuters*, Oct 30, 2012.

implementation, and these factors are very difficult to measure. Therefore, I tried to select regions that were considered to be, more or less, part of central Italy, and could thus provide a compromise between northern and southern regions.²⁷²

Another reason for their selection is size. These regions are not very large, and thus I hypothesized that it would be easier to study implementation in a smaller region with ‘average’ resources at disposition, than to study a larger region such as Lazio or Lombardy. Moreover, it was hypothesized that larger regions would be less likely to provide interviews, and this concern was also raised by fellow academics.

Finally, these regions were selected for pragmatic and ethical reasons. They were the most easily accessible to the interviewer under time and financial constraints, and relatively safe regions. I was weary of the ethical risks involved when conducting research on anti-corruption, and, consequently, did not feel comfortable conducting independent research in southern regions where organized crime is high. A more complete study should use research teams of at least two people to conduct interviews in these regions. These team scenarios could also permit future research including regions from the north, centre, and south.

All four regions were sent the same letters of information and contacted the same amount of times. In the ideal scenario, I would have had my pick from the four, and selected the two most central regions as my case study examples. However, only two regions responded: Abruzzo and Molise.

²⁷² The categorization of Italian regions always defers according to the source. Many sources categorize Abruzzo as a central region and Molise as a southern region, however the two regions were unified until 1963. Istat (Italy’s national statistical agency), on the other hand, lumps both Abruzzo and Molise as southern regions, and Marche and Umbria as central regions (see <http://www.understandingitaly.com/regions.html> and <http://www.istat.it/en/files/2011/06/Italy2012.pdf>).

Abruzzo and Molise make good comparative cases because they are most similar. Both regions share an intertwined history—in fact, they used to be one region for a number of years.²⁷³ As a result, the two regions share many cultural characteristics, and similar institutional designs. The advantage of selecting these two similar regions is that one can exclude certain variables such as social-capital and institutional difference when looking for factors that affect policy implementation. Nevertheless, Molise is much smaller than Abruzzo. In this circumstance, I thought it would be interesting to see if this fact, in itself, could be a factor influencing implementation.

Disciplinary Approaches

This thesis appeals to the disciplinary frameworks of Law, Political Science, and Public Administration, while briefly using History in its background information.

Semi-Structured Elite Interviews

To better understand the relationship between the national and regional governments when it comes to the policy implementation of anti-corruption legislation, as well as the factors that impact this implementation, I took full advantage of five semi-structures interviews. Interviewees included high-level anti-corruption officials in two regional administrations, an expert from Transparency International's Italian chapter in Milan, and two jurists.

²⁷³ After the unification of Italy in 1861, Abruzzo and Molise formed one unified region. It was not until 1963 that the two regions decided to split up. (See Daniel M. Lynch, "Abruzzo—Regione Abruzzo," accessed March 30, 2013, <http://ditota.com/abruzzo.php>). Also, both regions are generally considered to be part of Central Italy. While Molise has a population of about 313, 145, Abruzzo has 1, 306, 416. (See <http://www.tuttitalia.it/molise/97-province/densita/>).

The recruitment of interviewees were mostly accomplished by calling and E-mailing relevant administrative offices, as well as snowballing. These interviews were crucial in determining how anti-corruption policies were implemented in the regions, in particular: whether or not the implementers received support from other levels of government; whether or not their models were inspired from pre-existing institutions; and of course, what factors affect implementation. Both jurists interviewed were former students of Professor Paola Severino, the Minister of Justice under the Monti government who was one of the actual drafters of Italy's Anti-Corruption Law. Three interviews were conducted in Italian and two were conducted in English.

Participant Observation

Perhaps one of the most important—and unanticipated—research methodologies used in this study was participant observation.²⁷⁴ By living in Italy for ten months, I was able to observe and analyze the Italian political system and society. Over the course of this time, I spoke to countless individuals: students (from Italy and elsewhere), professors, bureaucrats; young adults who are proud to be Italian, and others who have become so disenchanted, they would do anything to leave; individuals appertaining to Italy's wealthiest families and ones barely making ends meet, as well as a few 'homeless' Romans who lost everything as a result of the economic crisis. I also witnessed everything from small, petty corruption, to grand corruption.

I was always open about my research topic, and this provided me with numerous colourful discussions about corruption and anti-corruption in Italy. This observational research, in tandem with my 'North American perspective,' has given me an unexpected,

²⁷⁴ Peter Burnham, Karin Gilland Lutz, Wyn Grant, and Zig Layton-Henry, *Research Methods in Politics (Second Edition)*, Palgrave Macmillan, New York (2008): p. 265.

yet very special understanding of the social situation in contemporary Italy, which has been invaluable for the conduct of my formal interviews and analysis.

Determining which Factors Affect Policy Implementation

The literature explored at the preliminary stage of this research suggested that the main sources used to detect PI are the media, reports, conferences, visits and government statements, as well as programs, procedures, regulations, or practices. As such, this thesis relies on the observation of several of these more tangible resources, particularly the media and government reports. Interviews are used to fill in the information these sources lack.

In order to determine what factors could affect the policy transfer and implementation of Italy's Anti-Corruption Law, I compiled a list of plausible variables that I kept in mind while analyzing primary data and conducting interviews (see Figure 5 below).

Table 4: Factors that Could Affect Implementation of Anti-Corruption Policy	
Factors	Examples to Look For
Culture	- Administrative work culture towards corruption (power distance; collectivism; uncertainty avoidance)
Political Context	- Political Will (Is there a strong, collective will to fight corruption?)
Economic Context and Resources	- Economic conditions (micro and macro); - Human capital (quantity and quality); - Funding and budget; - Experience
Institutional Context	- Legal institutions (existing legal provisions, procedures, functioning justice system, statute of limitations, rule of law); - Civil society (the media, freedom of the press, NGO watchdogs)
Size of Government and Administration	- Are smaller governments more likely to implement anti-corruption legislation?

Coordination and Cooperation	- Relationships with other anti-corruption offices, levels of government, and international organizations.
Timing	- Are there macro-political variables at play? - Is the time ripe for change?
Evaluation and Results	- Performance - Is there an adequate monitoring and evaluation system in place?

Methodological Constraints and Difficulties to Take into Consideration

This thesis is extremely timely and new information is becoming available every day. As a result, this research has been constantly adapting and constrained by many variables including a political crisis after Italy's recent election, extended administrative deadlines for submitting anti-corruption proposals, unavailability of interviewees, and, of course, time constraints. Since the law in question is so new, it will still take time to see the impact it has on Italian society.

A more in-depth study of this topic was not possible due to the ever-changing nature of the subject. To put it simply, conducting this research, it was made clear that not even the Italian 'experts' know precisely what impact this law will have on the future of Italy. Only time can tell, and a more in-depth study should be conducted in some time to evaluate the 'success' of Italy's Anti-Corruption Law. But, for now, it is hoped that this study will serve as an important stepping-stone to future research in the area.

This qualitative, comparative case study provides a deep investigation of anti-corruption efforts in Abruzzo and Molise; however, as is the case similar studies, "the case study cannot be used to generalize about the population as a whole as the case study

is unique and not representative of [all regions].”²⁷⁵ Instead, this study could be used “to generate hypotheses and theories” which will be the foundation for future research, “which then may lead to wider generalizations.”²⁷⁶

²⁷⁵ Burnham *et al.*, *Research Methods in Politics (Second Edition)*, p. 64.

²⁷⁶ Burnham *et al.*, p. 64.

Chapter 4: Anti-Corruption Law and the Regions

Italy's Anti-Corruption Law sets out legal obligations for territorial autonomies. In general, the law states that regions and local governments must prevent corruption in their administrations, as well as within the governance and administration of those companies they control.²⁷⁷ This section will now examine the Anti-Corruption Law through a regional lens by using a comparative case study analysis of two regions and asking two main questions: (1) has the law been implemented in the regions under analysis and (2) what factors affect regional implementation of anti-corruption legislation, in Italy.

The information provided is mostly based off two elite interviews with regional anti-corruption officers in Abruzzo and Molise. Names are not used so as to protect the identity of the respondents.²⁷⁸ For the sake of practicality, female gender pronouns are used to describe both respondents.

In order to address the first question, it is important to first define what conditions need to be met in order for the law to have been 'implemented' at the regional level. The following criteria (reproduced from the previous chapter) were searched for in order to evaluate the theoretical implementation of the law at the regional level:

- Appointment of a regional anti-corruption official (ACO);
- Completion of an anti-corruption plan—this includes (a) completing a final draft plan, (b) passing it in regional parliament, (c) submitting it to the national anti-

²⁷⁷ OECD, "OECD Integrity Review of Italy," p. 42.

²⁷⁸ The respondents did not request confidentiality or anonymity.

corruption agency, and (d) publishing it on the regional website for public access, all by the January 31st deadline;

- The Regional Anti-Corruption Plan (RACP) must have included an analysis of regional sectors at risk of corruption, as well as measures to prevent these risks;
- Adoption and publication of a regional code of conduct (RCC).

Furthermore, it was not enough for me to ask solely if the law has been implemented at the regional level. This would imply a purely theoretical implementation. As has been discussed in earlier chapters of this thesis, oftentimes in Italy, legal provisions are put into place, but in reality, these provisions are not frequently followed. As a result, I also asked the regional representatives if they have witnessed any change since the law has been passed, particularly if there has been a shift in regional administrative culture towards corruption. Another valuable variable to observe implementation would have been statistical data indicating the number of regional court cases invoking the Anti-Corruption Law; however, at this stage, this information is not yet available. Future implementation research should take these variables into consideration.

Abruzzo

In 2009, L'Aquila—the capital of the Abruzzo region—was struck with a disastrous 6.3 magnitude earthquake that killed hundreds of people and “caused severe damage to 100,000 buildings, leaving 67,500 people homeless.”²⁷⁹ Aid to help the victims of the

²⁷⁹ David Alexander, “Civil Protection amid Disasters and Scandals,” in *Italian Politics: Much Ado about Nothing?* edited by Elisabetta Gualmini and Eleonora Pasotti, (New York: Berghahn Books, 2011):

L'Aquila earthquake poured in from all over the world; yet, the allocation and use of this aid has been very polemical and politically significant. The same year, the Italian government passed a law that privatized civil protection in the form a "holding company" in which the "prime minister was named as the only shareholder," and the Department of Civil Protection could appoint an "unspecified number of new employees to permanent posts," without supervision.²⁸⁰ In the case of L'Aquila, this opened the door for unethical reconstruction contracts.

What is more, in January 2014, Abruzzo's Presidents of the junta and council, along with 22 other regional employees, were accused of aggravated fraud.²⁸¹ Under these circumstances, implementation of anti-corruption legislation is desperately needed in Abruzzo. This thesis will now see if the law has been implemented.

p.183; M. Stucchi, C. Meletti, G. Manfredi, and M. Dolce, eds., "L'Aquila, 6 April 2009, 3L32 AM," *Progettazione Sismica* 3 (2009): 1-256.

²⁸⁰ Alexander, "Civil Protection amid Disasters and Scandals," p. 180.

²⁸¹ Il Messaggero, "Le Spese Folli della Regione Abruzzo Indagati Chiodi, Castiglione, Pagano e Altri 22 tra Assessori e Consiglieri," 23 January 2014, accessed May 20, 2014, http://www.ilmessaggero.it/abruzzo/truffa_regione_abruzzo/notizie/470050.shtml.

Has the region implemented the Anti-Corruption Law (in theory and in practice)?

Table 5: Anti-Corruption Implementation in the Region of Abruzzo			
In Theory		In Practice	
Was a regional anti-corruption official appointed?	Yes	Has there been a shift in the regional administrative culture towards corruption?	Slightly
Did the region complete an anti-corruption plan, including: (a) completing a final draft plan; (b) passing it in regional parliament; (c) submitting it to the national anti-corruption agency; and (d) publishing it on the regional website for public access, all by the January 31 st deadline	Yes No No		
Did the plan include an analysis of regional sectors at risk of corruption, as well as measures to prevent these risks?	Yes		
Did the region adopt and publish a regional code of conduct?	Yes		

The regional anti-corruption official of Abruzzo was appointed on the 3rd of June, 2013 by means of an internal public competition. At the time of my interview in March 2014, the region of Abruzzo had completed a draft copy of its regional anti-corruption plan, but it had still not been passed by the regional parliament, nor submitted to the national anti-corruption agency (ANAC). The respondent claimed that this shortcoming was simply due to a lack of time. According to the respondent, the RACP went above and beyond the obligations imposed by the law. This is because the Abruzzo Anti-Corruption Official (ACO) wanted to create a quality document that would produce results, instead of simply fulfilling basic obligations.²⁸² In order to accomplish such a task, the anti-

²⁸² Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

corruption team consulted with over 80 managers and around 300 executives, for a grand total of about 1,800 regional employees. This data collection was not possible to conclude within the envisioned timeframe.²⁸³

Nevertheless, when asked whether or not the team had any contact with ANAC or the Department of Public Works, the respondent said she notified both offices that their RACP would be late. There were no repercussions for this tardiness. The only sanctions that could result, however, are personal sanctions against the ACO if a crime of corruption occurred between the time the RACP was supposed to be submitted (January 31st), and the time it actually was. Yet, the respondent did not seem concerned about this risk. In her opinion, the ACO did everything she could to fulfill the obligations within the given time period, and she can demonstrate the work she put into the project should it come into question. This, in her opinion, should be enough evidence to clear any legal accusations made against her. The respondent claimed that many ACOs in other regions submitted poorly drafted RACPs just so they could “dump the responsibility” off themselves.²⁸⁴ This, in her view, was not acceptable.

The Abruzzo draft plan included a detailed risk analysis that was accomplished using a national risk assessment model, as well as an elaboration of regional whistleblowing protection.²⁸⁵ Additionally, the region adopted a Regional Code of Conduct (RCC),

²⁸³ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

²⁸⁴ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

²⁸⁵ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

which was visibly displayed in the corridors of the regional office for all to see, however it was only passed in February of 2014.²⁸⁶

With respect to the law being implemented in practice, the respondent claimed that there have been some small initiatives taken within her administration, especially with respect to conflicts of interest. However, she stated that the region “cannot claim an actual change; greater attention, perhaps.”²⁸⁷

Molise

Molise is a small region compared to the others, however it is not excluded from corruption scandals. Perhaps its most famous incident of corruption involves the earthquake that struck the region in 2002. The unexpected disaster caused an elementary school to collapse, trapping small children and teachers under the rubble, and killing 27 children and a teacher.²⁸⁸ It was later revealed that the school’s collapse was due to its inadequate construction, and that the building permit had been awarded through a corrupt granting system.²⁸⁹

More recently (2013), a regional politician from Molise, Marcello Miniscalco, “was barred from running for regional office because he was convicted of abuse of office at the end of the 1990s, while mayor of a small town in the southern Molise region.”²⁹⁰ Mr.

²⁸⁶ See Regione Abruzzo, “Codice di Comportamento,” accessed April 24, 2014, http://www.regione.abruzzo.it/portale/docs/TRAttiGenerali/Codice_comportamento_dipendenti_GR.pdf.

²⁸⁷ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

²⁸⁸ Protezione Civile, “Terremoto in Molise 2002,” accessed October 10, 2014, http://www.protezionecivile.gov.it/jcms/it/terremoto_molise_2002.wp.

²⁸⁹ RAI, “La Storia Siamo Noi: Gli Angeli di San Giuliano—La terra trema,” accessed October 10, 2014, <http://www.lastoriasiamonoi.rai.it/puntate/gli-angeli-di-san-giuliano/469/default.aspx>

²⁹⁰ ANSA, “European Court of Human Rights to Consider Italian Case Against Anti-Corruption Law,” January 21, 2014, *Regional Anti-corruption Initiative*, <http://www.rai-see.org/news/world/4255-european-court-of-human-rights-to-consider-italian-case-against-anti-corruption-law.html>.

Miniscalco claims that “he was unfairly punished by Italy's Anti-Corruption Law, which bars white-collar convicts from running for office.”²⁹¹ In January 2014, the European Court of Human Rights (ECtHR) decided that it would hear the case from the small region.²⁹²

Has the region implemented the Anti-Corruption Law (in theory and in practice)?

Table 6: Anti-Corruption Implementation in the Region of Molise			
In Theory		In Practice	
Was a regional anti-corruption official appointed?	Yes	Has there been a shift in the regional administrative culture towards corruption?	Slightly
Did the region complete an anti-corruption plan, including: (a) completing a final draft plan; (b) passing it in regional parliament; (c) submitting it to the national anti-corruption agency; and (d) publishing it on the regional website for public access, all by the January 31 st deadline	Yes Yes Yes Yes		
Did the plan include an analysis of regional sectors at risk of corruption, as well as measures to prevent these risks?	No		
Did the region adopt and publish a regional code of conduct?	Yes		

On the 30th of September 2013, the Molise Anti-Corruption Official was appointed.²⁹³

The region of Molise completed an anti-corruption plan in advance, and it was passed it

²⁹¹ ANSA, “European Court of Human Rights to Consider Italian Case Against Anti-Corruption Law.”

²⁹² ANSA, “European Court of Human Rights to Consider Italian Case Against Anti-Corruption Law.”

²⁹³ Regione Molise, “Amministrazione Trasparente,” accessed April 24, 2014, <http://www3.regione.molise.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/9897>.

in the regional parliament on January 29th, 2014. The plan was then sent to ANAC, and published on the region's website before the January 31st deadline.²⁹⁴

The Molise anti-corruption team did evaluate the sectors at risk of corruption, yet, in my opinion, the methodology used to conduct the study was not sufficient. The respondent claimed to have written all colleagues, asking them to identify sectors they believe to be at risk of corruption. Regrettably, the respondent stated that no one responded to the request, "apart from a few sketchy responses."²⁹⁵ As a result, the respondent stuck to the examples of macro-areas at risk that is provided by the Anti-Corruption Law and the National Anti-Corruption Plan.²⁹⁶ In addition, the respondent claimed to have reached out to stakeholders in the public, however had never heard of a Molisan anti-corruption commission that I had discovered from online research. This group is the first search engine result that comes up when researching Molise and corruption, and I therefore question the validity of the respondent's assertions regarding public cooperation.

With respect to the codes of conduct, the region adopted the National Code of Conduct as its own, rather than drafting a new one which took regional specificities into consideration. This, in my opinion, was a shortcut for fulfilling this implementation criterion, but could have damaging consequences, as it does not take regional specificities into consideration.

When addressing the question of whether or not there has been a change in the regional administrative culture, the interviewee responded "slightly." The respondent

²⁹⁴ Interview conducted with a high-level anti-corruption representative from Molise, regional March 3, 2014.

²⁹⁵ Interview conducted with a high-level anti-corruption representative from Molise, regional March 3, 2014, (my translation).

²⁹⁶ See article 53 of the Law.

claimed that although there has been some cooperation in drafting the regional plan, most colleagues were not interested in collaborating and did not respond to requests. Overall, the respondent said, “I do not think that my colleagues have realized the breadth and impact of the Law and the Plan.”²⁹⁷ This situation, the respondent claimed, may be remedied with time and through the formal training of employees; yet, the law does not permit the spending of resources that would be necessary to train administrators.

Implementation Differentiation

The regions under analysis took different approaches to how they implemented the law, as they had some leeway and autonomy in the way that they chose to implement the obligations the law imposes, resulting in policy divergence and differentiation. Remember that after the reform of 2001, the principle of differentiation was enshrined in the constitution; this means that territorial autonomies are given autonomy when it comes to the implementation of national norms, so long as they respect the general principles of the republic and the spirit of the constitution.

In Abruzzo and Molise, there are three particular differences in implementation that were observed, and these variances could, in themselves, have an impact on the way the Anti-Corruption Law is implemented: (a) the method of selecting the regional anti-corruption officer; (b) the models used to draft the triennial anti-corruption plan; and (c) the method of identifying sectors at risk of corruption.

²⁹⁷ Interview conducted with a high-level anti-corruption representative from Molise, regional March 3, 2014, (my translation).

a. Method of Selecting Regional Anti-Corruption Officers

In Abruzzo, the regional officer responsible for implementing the Anti-Corruption Law was selected by means of a public competition. The region advertised the position (internally) and welcomed all applicants. This, according to the interview respondent, guaranteed that only those who were fully aware of the responsibilities expected of them—and those who truly wanted to exercise such a role—would apply. The respondent claimed that at least three people applied for the position, and that she was selected based on merit.²⁹⁸

In Molise, on the other hand, the position was not filled via public competition, but through a regional deliberation. The respondent claims that she was approached from a regional councillor, and asked if she would be interested in exercising the role. The respondent was allegedly selected because she has been very vocal about the shady practices going on in the region, and that she has never been afraid to voice these concerns; thus, she seemed like a good candidate for anti-corruption officer. The appointment was, however, approved through government deliberation.²⁹⁹

These differentiations in selecting regional anti-corruption officers can have varied consequences. Without a public competition and selection process based on merit, there is a risk of politicization and corruption in the very selection of regional anti-corruption officials. What is to stop politicians from selecting an anti-corruption official who is part of his/her clientelistic network? In these situations, the anti-corruption official may purposely overlook instances of corruption within the regional administration. This

²⁹⁸ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

²⁹⁹ Interview conducted with a high-level anti-corruption representative from Molise, regional March 3, 2014.

concern coincides with the Italian High Commissioner against Corruption's 2007 report which concludes that corruption is facilitated by an ambiguous and inefficient recruitment and promotion system in public administrations (see Chapter 1). Thus, appointments made without public competition threaten the impartiality and objectivity of the ACO. In the case in question, then, I argue that Abruzzo was more successful in selecting its ACO, as it more closely reflected the spirit of the Anti-Corruption Law.

b. Models Used to Draft the Regional Triennial Anti-Corruption Plans

The regional respondent from Abruzzo claimed that before she commenced preparing for the drafting of the regional anti-corruption plan, she attended a training session on the matter in Rome. There, the attendees were presented with national models that could be used in preparation of the plan, along with techniques to identify risks. Moreover, the respondent from Abruzzo said that although she used this national model as a guideline for her own plan, it became quickly apparent that changes needed to be made to fit regional demands. As a result, she took additional time to develop a unique research methodology tailored to her region.

On the other hand, the regional respondent from Molise claimed to have done a lot of online research to prepare the draft plan. She stated that she was very grateful to those regions who posted early draft anti-corruption plans online—plans not yet formalized or approved in regional parliaments. Therefore, there was an informal and indirect collaboration with other regions. Yet, from what was discussed, it appears that the respondent did not attend the same training session as the officer from Abruzzo, and did not have the same level of anti-corruption training. As a result, the RACP was mostly

modelled off the national one, and did not take many local specificities into consideration.

Neither region consulted international or European models, both respondents citing that there simply was not enough time to do so.

Again, these differentiations may negatively impact implementation. The national anti-corruption plan is not an adequate model to use for RACPs, and thus anti-corruption officers must adapt this model to regional specificities. Without formal training, however, this may prove difficult. Thus, it may be a good idea to make training of regional officers obligatory. What is more, coordination and collaboration between regions may help shed light on best practices. Again, in this case, Abruzzo's approach to implementing the law was more thorough.

c. Method of Identifying Sectors at Risk of Corruption

According to the respondent from Transparency International Italia, the method used for identifying sectors at risk of corruption would be particularly telling of regional implementation. Private companies use independent agencies in order to accurately forecast sectors at risk and to provide a more neutral analysis. However, regional administrations do not have these resources available to them due to the fact that the law cannot impose further financial burdens. As a result, ACOs must evaluate these areas, and often, do not possess the skills necessary to effectively complete such a task.

My interviews with the two regions were telling in this respect. When asked how she analyzed sectors at risk, the regional ACO from Abruzzo produced a detailed questionnaire that was sent out to every administration the region deals with. The

administrations were told to return the questionnaires by a specific date, and these in turn were used to evaluate risk. In total, about 1, 800 public employees were consulted.³⁰⁰

The region of Molise, however, used less empirical techniques to analyze risk. The respondent stated that the law really did not provide any indication of how this task was supposed to be accomplished. She reached out to colleagues and other administrations, asking for their input, but hardly anyone responded. When asked to estimate a normal response rate, the interviewee guessed about 10 out of 60 actually responded. Following this, the ACO made do with the information she had to complete the plan.

These differentiations in implementation are quite worrying. Without an adequate level of expertise required to undertake a risk analysis, this section of the RACP may be useless, as it will not be able to actually predict corruption. In order to address this issue, regional ACOs need to receive additional guidance, training, and funding. Moreover, this developed expertise must be transferred to new regional ACOs upon completion of staff rotation. Still, the analysis of risk requires the cooperation of colleagues and fellow administrators. In order for this to happen, the regional ACO must relay the importance of such collaboration, and enforce deadlines for responses and/or consequences for a lack of collaboration. Abruzzo was more successful in this task, as well.

Following this summarized description of implementation procedures in both regions, the following can be concluded. At the time in question, the region of Abruzzo did not fulfill its legal obligations to implement the Anti-Corruption Law by the established deadlines. The region of Molise, on the other hand, did implement the legal requirements

³⁰⁰ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

of the law by January 31st 2014, however I have doubts that these were implemented in a satisfactory fashion.

In sum, I believe that regional differentiation in policy implementation is generally a good thing, as it can produce varying solutions and approaches to an issue, which can then produce a series of best practices. Nevertheless, the danger of differentiation is that it leaves a window of opportunity for corruption to persist. This is evident in the appointment of the anti-corruption official, the preparation of the anti-corruption plans, and particularly when it comes to analyzing sectors at risk of corruption. These differentiations also illustrate that, overall, Abruzzo was more successful in implementing the Anti-Corruption Law than Molise.

What factors affect the implementation of Italy's Anti-Corruption Law at the regional level?

In order to determine what factors could affect the implementation of Italy's Anti-Corruption Law, a list of plausible variables presented in the literature was compiled (see Table 4). These variables were kept in mind while conducting interviews and analyzing other sources of primary data. Taking into account the factors identified in the literature review, I asked all interviewees (those from Abruzzo, Molise, TII, and the two jurists) to identify key factors they thought would influence regional implementation of the Anti-Corruption Law. This section will now reveal my findings collectively, and conclude with possible new factors revealed in this study. For individual regional responses, please refer to Appendix D.

Findings

Upon completion of the primary research, several factors were found to affect implementation of the Anti-Corruption Law at the regional level, the following being the most prevalent: **(1) economic context and resources, (2) expertise, (3) political context, (4) institutional context, (5) culture, (6) timing, and (7) cooperation and coordination.** Please note that although there were certainly other factors that came into play, these seemed to be the most evident factors revealed in the primary research. Moreover, while these factors are analyzed separately, many were interconnected, as often one variable affects another.

1. Economic Context and Resources

With respect to the economic context of Italian regions, Lorenzo Castellani argued that the constitutional reform of 2001 was not enough, and that more needs to be done to improve the multi-level governance system. In particular, regions should gain fiscal autonomy so that taxation can be used as a form of regional accountability. Currently, regions use redistributed public money to fund their competences. As a result, there is no real fiscal responsibility for regional politicians and administrators, and the money ends up being spent to fuel patron-client relationships. This is especially evident in the healthcare sector.³⁰¹

All respondents mentioned resources—that is both financial and human capital resources—as major obstacles to the effectiveness of the law. Both the regions of Molise and that of Abruzzo had difficulties completing their duties because of a **shortage of staff** linked to budgetary constraints. What is more, since Article 2 of the law states that

³⁰¹ Interview with Lorenzo Castellani, January 18th, 2014, Rome, Italy.

administrations cannot spend extra money in the law's implementation, regions found their hands a bit tied. Either they avoided the clause and invested money in implementation nonetheless, or they did the best they could with the resources they had. In the latter situation, this may result in insufficient risk analysis, lack of expertise, and delayed actualization and implementation of the anti-corruption norms.

The respondent from Abruzzo opted for the first option, and did not take this article for word. According to her, this clause is “a big lie” used by Italian legislators in times of economic crisis. It is impossible to adequately implement the law according to its provisions without investing additional financial resources.³⁰²

In the case of Molise, however, the respondent seemed to agree with the principle of the clause. She stated that in these situations, it is important to cut back on other sectors of administration and redirect these resources into other departments, including anti-corruption. Molise has been recently “simplifying” its administration, but this has also resulted in temporary setbacks.

Nonetheless, both regions were able to convince their superiors to give them additional funds, and both regions hired part-time employees that were contracted until the completion of the RACPs. This was a suitable solution for the short-run, however a more permanent solution needs to be found for the medium-to-long-run, particularly when it comes time to evaluate and monitor the impact of the RACPs.

The lack of financial resources also means that there is no money to educate and train employees on the subject of anti-corruption. The law mentions that public servants should be trained so they may understand the law's provisions and what it means in their

³⁰² Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

sphere of work. However, how can one train the entire public sector if there are no additional resources dedicated to the initiative? The respondent from Transparency International Italia (TII) claims that this is a huge problem that is also linked with what she believes to be the main factor affecting implementation of anti-corruption policy: **expertise**. I had originally grouped this factor under resources, however it was repeated so many times that it deserves its own entry below.

2. Expertise

The respondent from Transparency International Italia—a legal researcher and expert on anti-corruption and whistleblowing—claims that Italian public administrations—and sub-national administrations in particular—do not possess the expertise that is required to effectively implement the Anti-Corruption Law.³⁰³ This is especially apparent when it comes to risk assessment. The respondent stated that many public officials are not qualified to keep up with new public administration, and many cannot even use a computer. Yet, because of the nation’s inflexible labour laws, it is very difficult to fire them. Moreover, the TII respondent stated that when central administrators try to work with local administrations to improve the sector, they “face a lot of resistance.”³⁰⁴

These invariances in skill and expertise are issues for administrations across Italy, for, in the words of the ACO from Abruzzo, “the quality of an administration is directly proportional and related to the quality of the people who work in the administration.”³⁰⁵ Lorenzo Castellani echoed this claim and believes that there are too many public servants

³⁰³ Interview with Transparency International Italia, February 13, 2014, Milan, Italy.

³⁰⁴ Interview with TII.

³⁰⁵ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

employed in the administrations, and the size of bureaucracies should be decreased in order to cut back on public spending and increase productivity.³⁰⁶

With respect to the drafting of regional anti-corruption plans, the TII respondent claimed that lack of expertise would have a big impact on implementation. Especially in smaller regions and municipalities with fewer employees, the interviewee does not see how these plans can be drafted in a competent manner. This concern is particularly alarming when it comes to the analysis of risk. For this task, the respondent believes that regions should hire an external assessor, similar to what is done in private companies; however, because of the economic crisis and the Invariance Clause, the regions cannot hire additional people. When talking about the methodologies used to evaluate areas at risk of corruption, the interviewee was very skeptical:

Of course, most of them were just copied. [...] But you know, of course, it's not based on the real risks this administration is facing. If you want to map the risks of an administration, it takes money. It takes time. It takes expertise.³⁰⁷

Unfortunately, these three variables were largely absent in Italian administrations.

It should be noted, however, that respondents from the two case study regions did have some form of training. The respondent from Abruzzo said she took a course in Rome that ran from October to November 2013 to acquire the specializations needed to draft the regional anti-corruption plan and the regional code of ethics. The respondent from Molise did not mention any form of anti-corruption training, however she was

³⁰⁶ Interview with Lorenzo Castellani. January 18th, 2014.

³⁰⁷ Interview with Transparency International Italia, February 13, 2014.

formally trained in law. In the case in question, the respondent with formal training in Rome did do a more thorough job at implementing the law. Thus, one may wonder whether in the future, formal training should become obligatory for those drafting RACPs.

3. Political Context

When asked what factors influence regional implementation of the Anti-Corruption Law, the respondent from Abruzzo firmly stated, “the most critical of all is politics.”³⁰⁸ According to the respondent, there are many regional (and national) politicians that do not believe in these legal instruments, and simply see them as “pure expressions of the bureaucracy.”³⁰⁹ This would correspond with the literature’s concept of lack of political will. If there is no political will, then there is a risk that the law will not be implemented in practice. This risk is magnified by the fact that many regional bureaucrats are close to regional politicians—particularly in smaller regions, like Molise, where proximity to power is higher. This fact was reiterated in both regional interviews.

To this negative factor, the respondent from Abruzzo had an interesting solution. According to her, the RACP can be used as “the instrument through which directors and managers protect themselves from political pressures.”³¹⁰ By ensuring the proper application of the law and detailed provisions, a public servant can shield him/herself from corrupt political pressures, using the RACP. For example,

³⁰⁸ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

³⁰⁹ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

³¹⁰ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

If a politician says, ‘no, give financing to that person instead of this other one. Do it like this!’ [then the public servant can say] ‘No dear, but I am [bound by] the anti-corruption plan and need to implement the measures. I cannot do otherwise.’ Thus, the plan becomes the instrument that the management body uses to protect itself from political pressures.³¹¹

Again, this factor produces a tautology, however. In order for the RACP to be used as an instrument to protect administrators from political pressures, those working in the public administration need to be independent from the political branch of regional governance. This can only happen when appointments are made based on merit, but many individuals currently working within Italian public administrations are there because they belong—or once belonged—to political clientelistic networks. They may thus owe their positions to politicians in power and be in a “social trap” situation where they feel forced to continually engage in ‘corrupt activities’ as a means of survival. How does this situation resolve itself, then? Well, the answer goes back to other variables, including educating public servants, enforcing codes of conducts, and ensuring that the disciplinary provisions are enacted when an infringement is discovered.

4. Institutional Context

Italy’s institutional structures were critical factors found to influence the Anti-Corruption Law’s regional implementation. Here, I use the term “institutional structures”

³¹¹ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

to refer to a variety of variables including the legal, judicial, and court systems. These variables also correspond with Alan Doig's "governance" and "legal sins" outlined in Chapter 3 of this thesis.

First, Italy has an issue when it comes to leaving room for administrative discretion in legislation. According to the respondent from Molise, this is a big problem. The respondent claims that during her tenure, legislation has become more ambiguous and this has expressly been done to ensure room for manoeuvring. In this situation, the interviewee claims that corrupt agents can find loopholes for their illicit activities. This factor also suggests a lack of 'political will' on the part of the regional legislative organ.

In order for anti-corruption efforts to truly be effective, therefore, regional legislators must ensure that they pass legislation that includes candid and concise objectives, minimizing the room for discretion. There are several mechanisms that can be used to attain these goals. In Abruzzo, for example, there is a "Committee on Legislation" that "is statutorily foreseen and made responsible for controlling the quality of the regulation."³¹² The region of Tuscany envisions "the explicit rejection of legislative proposals that do not meet the regulatory quality standards laid down in the statute."³¹³ These, however, are instruments appertaining to regional legislative competences, and it is thus up to each region to establish such an oversight organ. The national government does provide assistance to regions, should they request it, "in the development of high-quality regulation through specific actions, technical assistance and training, with

³¹² OECD, *Better Regulation in Europe: Italy 2012: Revised edition*, June 2013, (OECD Publishing, 2013): p. 130, <http://dx.doi.org/10.1787/9789264204454-en>.

³¹³ OECD, *Better Regulation in Europe*, p. 130.

particular attention to the *Mezzogiorno*.³¹⁴ Still, when it comes down to it, it is the region's responsibility to pass unambiguous legislation.

The success of an Anti-Corruption Law and policy is also dependent on the credibility of the law and the belief that people will actually be prosecuted. According to the latest EU Commission Report on Anti-Corruption, “only 27% of Italian respondents consider that there are sufficient successful prosecutions to deter people from giving and receiving bribes.”³¹⁵ This is largely due to the inefficient judicial system in Italy and, in particular, its statute of limitations.

Italy has a system that follows the principle of mandatory criminal prosecution,³¹⁶ along with the judicial systems in Germany and Spain.³¹⁷ This essentially means that every single case that has sufficient evidence and “no legal hindrances” must be brought to court. In these systems, prosecutors and/or judges have no discretion in deciding which cases merit being heard.³¹⁸ The alternative to the mandatory principle of prosecution is the opportunity principle, which is present in common law systems.³¹⁹ Following this system, “enforcement agencies [have] almost unfettered discretion over whether or not to prosecute, which allows prosecutors to take account of factors other than evidence in making their decisions.”³²⁰

³¹⁴ OECD, *Better Regulation in Europe*, p. 130.

³¹⁵ European Commission, “Annex: Italy to the EU Anti-Corruption Report,” p. 5.

³¹⁶ European Commission, “Annex: Italy to the EU Anti-Corruption Report,” p. 9.

³¹⁷ Despina Kyprianou, “Comparative Analysis of Prosecution Systems (Part II): The Role of Prosecution Services in Investigation and Prosecution Principles and Policies,” (Springer, 2009): p. 14, https://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=0CGsQFjAJ&url=http%3A%2F%2Fwww.beck-shop.de%2Ffachbuch%2FInhaltsverzeichnis%2F9783642019203_TOC_001.pdf&ei=4dA2U5qAMsuAywPM84CQDg&usg=AFQjCNGQtr-XMbwf2QG0i1Xebjy1mapbsg&sig2=SN6ggRjPYpxlQD2NwN97hQ&bvm=bv.63808443,d.bGE.

³¹⁸ Kyprianou, “Comparative Analysis of Prosecution Systems (Part II),” p. 14.

³¹⁹ Kyprianou, “Comparative Analysis of Prosecution Systems (Part II),” p. 15.

³²⁰ Andre Sanders, ‘Introduction’ in *Prosecution in Common Law Jurisdictions*, edited by Andrew Sanders, (Dartmouth: Aldershot and Brookfield, Dartmouth, 1996): p. xi.

One could make a convincing argument that Italy's limited discretion in deciding which cases get prosecuted is a positive attribute, since less discretion means less room for corruption; however, the mandatory principle has resulted in a clogged and inefficient judicial system. The courts simply do not have enough time or resources to hear all the cases. In consequence, the statute of limitations takes effect.

In general, “statutes of limitations set the maximum period within which a criminal or civil action can be brought against an alleged offender. While promoting fairness and efficiency in investigative and judicial proceedings, they can also hamper effective prosecution of offences if they are overly short or do not provide for sufficient flexibility.”³²¹ In Italy, the statute of limitations is tied to the maximum sentence of a crime; the longer the maximum sentence, the longer the statute of limitations.³²² Usually, the time window allowed to pursue most cases of corruption is 7 ½ years; however, the time that it usually takes to prosecute a case of corruption averages at 8 ½ years.³²³ What is more, the time prescription commences at the moment the crime was committed—not the moment it was discovered.³²⁴ As was described by the respondent at Transparency International Italia, this situation is especially troubling:

[...] for the corruption charges, they try to keep it secret, so maybe you discover a crime 5 years after it was committed. It means that you have 2 ½ years to reach the third degree sentence. It is impossible!³²⁵

³²¹ Transparency International, “Timed-out: Statues of Limitations and Prosecuting Corruption in EU Countries,” *Archive Site*, http://archive.transparency.org/regional_pages/europe_central_asia/projects_and_activities/statutes_limitations#sthash.1Bj2gkW5.dpuf.

³²² Interview with Transparency International Italia, February 13, 2014.

³²³ Interview with Transparency International Italia, February 13, 2014.

³²⁴ Fraschini *et al.*, p. 10.

³²⁵ Interview with Transparency International Italia, February 13, 2014.

As a result, often prosecutors will pursue a case of corruption that they know will not reach the final degree of sentencing because there is simply not enough time to pursue the case; however, because of the mandatory principle, the case must be pursued regardless. This causes a dual and cyclical problem: (1) people who are reasonably guilty remain unconvicted,³²⁶ and (2) hopeless cases that just further clog the system and erode the time prescriptions and statute of limitations for other cases. In sum, and using Meagher's words, "a weak judicial system is cause and consequence of corruption."³²⁷ This results in another cause-and-effect dilemma.

What is more, the country still lacks legal protections for whistleblowers. The respondent from TII reinforced the concerns of the EU Anti-Corruption Report³²⁸ and stated that there was only one provision in the national law dedicated to whistleblowing, which remains ambiguous. As stated by the interviewee, a whistleblower has three bodies it can disclose information to: (1) the judicial authority, (2) the auditing court, or (3) their administrative supervisor. However, there is no envisioned coordination between these entities. So, how does one know who to disclose this information to? What is more, the identity of the whistleblower can be revealed in two circumstances: (1) if one cannot act against the divulged person without compromising the identity of the whistleblower, or (2) if the knowledge of the whistleblower's identity is necessary for the defendant to defend him/herself.³²⁹

According to the respondent from TII, the whistleblowing provision is not satisfactory and its ambiguity actually *discourages* whistleblowing:

³²⁶ Interview with Transparency International Italia, February 13, 2014.

³²⁷ Meagher, "Anti-corruption Agencies," p. 78.

³²⁸ Please refer to the discussion "Critiques and Lacunas of Italy's Anti-Corruption Law" in Chapter 1.

³²⁹ Interview with Transparency International Italia, February 13, 2014.

[w]hen I'm blowing the whistle, I don't know if I am being protected or not. I mean, I will be protected, but my identity might not be. Especially in Italy, we have this crazy culture where we don't talk about other people. [...] I think this provision discourages whistleblowing, instead of encouraging it. Nobody was blowing the whistle earlier, and nobody is blowing the whistle now. But now they [the government] can say, 'Okay, but we already introduced whistleblowing [provisions].'³³⁰

Thus, in order for anti-corruption reform to be effective in all levels of Italian governance, there needs to be greater institutional reform. All interviewees echoed this sentiment. In particular, Italian jurist, Lorenzo Castellani,³³¹ stated the need to acknowledge that the problem of corruption in Italy is not only linked to legislative shortcomings, but also to the very nature of Italian institutions and power structures. Lorenzo claims that the “dysfunction of the Italian system” is mostly due to the poor criminal justice system.

5. Culture

Italy's administrative culture was another factor that was cited in every interview. According to Transparency International Italia, “[Italians] don't have a culture for anti-corruption. [Italians] don't have a culture for legality actually; we don't report things.”³³² This is extremely important when it comes to the actual practical implications of the law

³³⁰ Interview with Transparency International Italia, February 13, 2014.

³³¹ Lorenzo wrote a thesis entitled “The Influence Peddling” at LUISS Guido Carli, and has written widely on the subject of anti-corruption. He is currently a Phd student at IMT Lucca Institute for Advanced Studies, where he conducts research concerning constitutional and public law, specializing on commonwealth countries.

³³² Interview with Transparency International Italia, February 13, 2014.

at the regional level. Without a change in the culture towards legality, the law will not produce a great change in society.

To understand the cultural impact, the respondent from Transparency International cited an example the organization uses in training sessions:

When we do conferences, we always say, in Italy, when you grew up, you grew up with this saying: *'chi fa la spia non e' figlio di Maria.'* Who is a spy, is not son of Mary. In a religious, Catholic country like Italy, you are not even son of Mary if you do the spy! And spying [encompasses] everything!³³³

As a result of this mind frame, most public servants tend to mind their own business and work to fulfill their own interests and those of their respective collectives. They do not see their jobs as a public service,³³⁴ and when possible, they avoid putting their jobs at risk for the public interest. These findings lead me to categorize Italy's work culture as Hofstede's collectivism culture, discussed in an earlier section of this thesis. According to this theory, individuals in the collective will apply rules differently, depending on whether or not one appertains to their collective. In the case of corruption, an example of this could be when an official turns a blind eye to the corrupt awarding of a public procurement project when he/she knows the subject it is being awarded to. Had the subject been a stranger, the official's actions may have been different. Thus, because of the corrupt administrative culture, two parallel administrations have come into existence: the theoretical administration that is governed by laws and regulations, and the practical administration that is governed by the ruling administrative culture and self-interested

³³³ Interview with Transparency International Italia, February 13, 2014.

³³⁴ Interview with Transparency International Italia, February 13, 2014.

elites. The sad reality is that rules and regulations are only applied for those who cannot afford to get around them.

Husted argues that collectivism, in particular, is a hindrance to whistleblowing and transparency norms, because these two anti-corruption norms may go against personal obligations to the collective. In addition, public servants are more likely to be hired through nepotism in collectivist societies, as opposed to meritocracy. This, again, may result in a public workforce that is based on clientelistic patronage networks.

Rothstein's critique of corruption and culture should also be repeated—that is, corruption is not always culturally determined, but the result of a “social trap” situation. Public servants may realize that their practices are not morally sound, but engage in them anyways because the existing system, in a sense, forces corruption upon them. This social trap situation was certainly confirmed through my anthropological research in Italy, and it is deeply rooted in Italian society.

How, then, can these cultural impediments to anti-corruption norms be pacified? According to Transparency International, education is the key. The respondent from TII believes that anti-corruption movements should be viewed as long-term processes that aim to change society through the education of its citizens on the subjects of legality, good governance, and whistleblowing. Only through education can people truly understand the social repercussions of corruption and learn to view their public service as a job serving the interests of the public at large, rather than their individual in-groups. The respondent concluded by affirming that without changing the Italian administrative

culture, “you are not curing the causes of the illness [...]; you are just preventing the illness [from] spread[ing].”³³⁵

Lorenzo Castellani supported this claim and argued that the constitutionally entrenched principles of good governance and administration need to be reinforced in the regions, in order to have greater transparency, accountability, and responsibility.³³⁶

6. Timing

Next, all respondents stated that timing was a factor that affected implementation of the law, but in a different meaning than I had originally envisioned. When looking for evidence of “timing’s” influence on implementation, I assumed respondents would mention something about the macro-political changes that were taking place in Europe, particularly with respect to the European economic crises. In addition, I hypothesized that the political instability in Italy, following the 2013 elections, would have had some impact on the law’s implementation. Instead, these points were mentioned only in passing.

According to Lorenzo Castellani, the passing of the Anti-Corruption Law is “not connected with the crisis, but the crisis of politics in Italy:”

Italian people were very angry with politicians during that period so there were a lot of episodes of corruption by politicians, so it was necessary to give a signal to the people. This is why they put

³³⁵ Interview with Transparency International Italia, February 13, 2014.

³³⁶ Interview with Lorenzo Castellani. January 18th, 2014.

confidence in the parliament and this is why the law was passed in a short term.³³⁷

The real issue with timing had to do with the unrealistic deadlines made by the national anti-corruption authority. Originally, regions were supposed to have submitted their plans by March 2013, but this deadline was pushed back to January 31, 2014 after a unified conference with participants from all regions. Nevertheless, regional plans were supposed to be based off the National Anti-Corruption Plan (*Piano Nazionale di Anticorruzione*, also known as the PNA); however, the Department of Public Works did not approve the National Anti-Corruption Plan until the 11th of September, 2013.³³⁸ How then, was a region supposed to carry out a thorough and complete study in this time frame? Abruzzo's ACO found this particularly frustrating and emphasized that "it was a method used, Italian-style, to fulfill the European Union's requirements;" however, if one wanted to truly implement the law in the spirit intended, it would require a lot more time—which is why, in effect, the respondent decided to take more time.³³⁹

7. Cooperation and Coordination

The review of the literature in Chapter 3 revealed that coordination and cooperation amongst multi-levels of governance, non-governmental organizations, and civil society is a key factor to the success of the anti-corruption initiatives. Despite this, coordination and cooperation in the regions of Abruzzo and Molise were minimal.

³³⁷ Interview with Lorenzo Castellani, January 18th, 2014.

³³⁸ Governo Italiano, "Approvato dalla CIVIT il Piano Nazionale Anticorruzione elaborato dal Dipartimento della Funzione Pubblica," September 11, 2013, accessed September 15, 2013, <http://www.funzionepubblica.gov.it/comunicazione/notizie/2013/settembre/11092013---approvato-dalla-civit-il-pna.aspx>.

³³⁹ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

The region of Molise claimed that there was “informal contact” with other regions. Although she did not formally reach out and consult with other regions, she did look up their efforts at implementing the Anti-Corruption Law online. In particular, the respondent stated that the region of Emilia-Romagna posted a draft copy of its anti-corruption plan before it was passed in the regional government. The respondent said she consulted this draft in preparation of Molise’s plan.³⁴⁰

The respondent from Abruzzo said she did confront some other regional officers in the context of the crash course in Rome, however the law must be implemented uniquely for each region, thus methods were not applicable in a generalized way. The real meeting, she stated, would be later in March when the regions organized an informal anti-corruption working group.

To this end, the regional anti-corruption officials across the country created “an E-mail network.” In addition, the respondent informed that, upon the initiative of the region of Friuli-Giulia, an informal “technical working group” on regional anti-corruption was created, and their first meeting would be on March 19th, 2014.³⁴¹

When asked if the regions consulted other organizations, including the European Union, the answer was negative. With respect to cooperation between regional and local autonomies (provinces and municipalities), both regions seemed to be unclear of their role. According to the respondent from Abruzzo, her interpretation of the law is that the Prefect office is supposed to be the reference point and guide for local levels of government. Regions, in her opinion, are not envisioned to have much cooperation with

³⁴⁰ Interview conducted with a high-level anti-corruption representative from Molise, regional March 3, 2014.

³⁴¹ Interview conducted with a high-level anti-corruption representative from Molise, regional March 3, 2014.

the localities. She did, nevertheless, receive telephone calls from municipalities, asking for advice on how to draft the anti-corruption plan; however, the regional officer realized upon speaking to the municipalities, that their approach was quite different. In particular, she stated that many of them did not perform risk analyses.

The respondent from Molise, on the other hand, claimed to have cooperated a bit with its healthcare administration, as this sector is problematic, however there was no real cooperation and coordination with local entities. The interviewee “was amazed” that some local autonomies submitted their anti-corruption plans to her regional office. Yes, she understands that the law envisioned this process, but “regions do not have a function of monitoring.” Therefore, the official just “put them into an electronic folder.”³⁴²

From these findings, one can conclude that presently, there is a serious lack of cooperation and coordination among governance levels. Why is this? According to the interviewee from TII, local administrations have not been helped by the regions because these latter are concerned with the drafting and implementation of their own anti-corruption plans.³⁴³ Moreover, there are no future regional–local anti-corruption strategies. TII believes that regions could play a role in helping smaller administrations implement their plans. However, as was previously indicated, this sentiment was not echoed by the respondents from Abruzzo and Molise.

The respondents from Abruzzo and Molise very much reflected the autonomist principles enshrined in the constitution after the 2001 reform. As was explained in Chapter 2, this principle erased the governance hierarchy and put all territorial autonomies at the same level. Thus, an organizational structure that gives regions the

³⁴² Interview conducted with a high-level anti-corruption representative from Molise, regional March 3, 2014, (my translation).

³⁴³ Interview with Transparency International Italia, February 13, 2014.

power to monitor implementation of local anti-corruption reforms could be an infringement of the autonomist principle. In fact, the respondent from Molise asserted that a monitoring relationship between regions and local autonomies would violate the autonomist principle, and thus be a constitutional violation.³⁴⁴

Personally, I think this argument may be an excuse used by the regions to not increase their workload, and that there are ways to get around this issue. If, for example, local governments were to willingly seek advice from regions, then this would not violate the autonomist principle. In addition, regions could create informal research networks within their territories to develop best-practices and improve outcomes. Even still, regions could simply monitor the implementation of local autonomies, and report results back to ANAC, leaving the decision of how to respond to the national authorities.

In sum, coordination and cooperation will prove to be extremely important in the monitoring and evaluation of anti-corruption efforts. To put it into context, there are over 12, 000 public administrations in Italy that have to submit anti-corruption plans to the Department of Public Works;³⁴⁵ ANAC has a staff of about 300 people, and not all are tasked with the job of monitoring. How can they effectively evaluate every single anti-corruption plan sent to them? To use the theoretical language outlined in previous chapters of this thesis, there seems to be a real “design-reality” gap between what ANAC is tasked to do, and what it can actually accomplish. Thus, there must be collaboration from all levels of governance, civil society, and NGOs, otherwise, implementation will be impossible.

³⁴⁴ Interview conducted with a high-level anti-corruption representative from Molise, regional, March 3, 2014.

³⁴⁵ Dipartimento della Funzione Pubblica, “PRPC Comunicati al Dipartimento della Funzione Pubblica al 15 luglio 2014,” accessed September 5th, 2014, <http://www.funzionepubblica.gov.it/media/1182844/report%20ptpc%20al%2015%20luglio%202014.pdf>.

Additional Observations and Conclusions

To recap, the primary interviews revealed that when it came to regional implementation of anti-corruption legislation, several factors influence its implementation. The most prevalent of these factors include: (1) economic context and resources, (2) expertise, (3) political context, (4) institutional context, (5) culture, (6) timing, and (7) cooperation and coordination.

Other factors discussed in the methodological section and greater literature were not significant in the eyes of the respondents. There was no significant evidence to support the argument that macro-political instabilities (such as the economic crisis or revolving governments) would influence implementation. On the contrary, the regional respondents said that national political instability should not influence their work since, constitutionally speaking, they are autonomous bodies. “If regions have certain obligations to fulfill, they have to fulfill them period.”³⁴⁶

In addition, the primary data does not support the argument that smaller governments/administrations are more likely to implement anti-corruption efforts. Although Molise is much smaller than Abruzzo, the primary evidence has illustrated that it was neither more efficient nor less corrupt. On the contrary, the lack of anti-corruption expertise and proximate connections to the political elite is worrying.

Lorenzo Castellani, however, also claimed that smaller bureaucracies lead to lesser levels of corruption, and that bloated administrations in Italy need to be trimmed down:

I think of multilevel government and high public spending which is one of the most important things to know because the corruption is linked to

³⁴⁶ Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014, (my translation).

public spending; if you have a lot of bureaucracy, you'll have a lot of corruption and this is one of the biggest problems of corruption in Italy as a political system.³⁴⁷

For now, it is important to state that the examples of Molise and Abruzzo do not provide enough evidence to refute the claim that smaller governments/administrations in Italy are less corrupt. More research needs to be done on this matter.

In addition, I was not able to determine whether or not the presence of pre-existing anti-corruption institutions increases the chances of policy implementation (see Chapter 3) because the respondents claimed that neither of the regions under analysis had anti-corruption measures in place before the 2012 law. This fact in and of itself is revealing, as regions are constitutionally, and thus legally, bound by international and European norms. The fact that they had the autonomy to legislate on anti-corruption norms, and on top of that, were legally bound to enforce such norms, but still did not, is concerning. One could make the deduction that although regions have been afforded greater levels of autonomy, until this point, they have still followed the central government's lead on policy innovation in anti-corruption measures. However, such a generalization cannot be made without consulting with all the regions.

Although other factors discussed in the literature may certainly play a role in influencing regional implementation, they did not come up in the primary data. The issue of gender, for example, was not mentioned at all.

Finally, my findings coincide with Davis' claim that law is epiphenomenal and its implementation is shaped by other fundamental factors.³⁴⁸ The legal incentives that were

³⁴⁷ Interview with Lorenzo Castellani, January 18th, 2014.

³⁴⁸ Davis, "The Prospects of Anti-Corruption Law: Optimists versus Skeptics;" See Chapter 2.

created in the Anti-Corruption Law are not sufficient enough to evoke change on their own. As a result, the principle-agent framework does not adequately reflect the implementation dynamic of anti-corruption legislation in this case study. Instead, the social trap and collective action problem framework seems to be the winning framework to explain the implementation of anti-corruption in Italy. In other words, the law and anti-corruption mechanisms are there and have been implemented in theory, however other dynamics (the independent variables analyzed) hinder actual implementation of anti-corruption policy. This confirms the common theme in the anti-corruption literature regarding a gap between theory and practice. Therefore, in this case study, the skeptical approach to Anti-Corruption Law trumps the optimist approach.

Recommendations and Final Remarks

The subject of this research thesis was to determine what factors affect the policy implementation of anti-corruption legislation at the regional level of Italian governance. Using a comparative case study analysis of the regions of Abruzzo and Molise and primary data in the form of semi-structured interviews, the previous chapter revealed a series of most prevalent factors affecting implementation. While these findings may not be generalizable, they can certainly offer a forewarning to policy challenges in the law's implementation. The following is a series of recommendations that can be made to increase the likelihood of an effective implementation of Anti-Corruption Law in Italian regions—many of which can be also applicable to other administrations.

Recommendations

- 1. Administrative culture must be changed. To this end, there should be greater awareness raising, education, and training of employees so that they can understand not only what the law means, what obligations it puts upon them, and what rights they have, but also what corruption *means* in their specific field of work.**

In Chapter 2, various examples of what constitute administrative corruption were outlined. These included giving false reports about the organization's performance; using nepotism and personal relationships as a means of recruitment; "using influence" to employ or promote those who may not deserve it; pressuring a company to hire someone; granting "discounts or wavering fees" that are obligatory for certain procedures; and

using state property for personal use.³⁴⁹ During my time in Italy, I have personally witnessed and/or heard stories about all these forms of administrative corruption. These lead me to two conclusions: (1) either public employees genuinely do not know what constitutes administrative corruption, and thus may plea ignorance to their acts; or (2) they do know they are committing corrupt actions but commit them anyways because they are in a social trap situation. These conclusions were confirmed after the primary interviews. Either way, training, education, and awareness—as well as the use of repercussions—should help decrease the frequency of administrative corruption.

2. More resources need to be invested in the fight against corruption.

Sufficient financial and human capital resources must be invested in order to ensure an effective implementation of anti-corruption policy. These resources are especially needed when it comes to evaluating sectors at risk of corruption. Should the region not have an expert who can properly appraise these sectors, it should invest money to train an ACO in the subject, or hire an external professional to complete the analysis. Regions should also invest money in promoting anti-corruption norms within their territory, so as to increase awareness and change the corruption culture.

3. When political will is lacking, regional public servants (and public servants more generally) should use anti-corruption plans as instruments to shield themselves from political pressures.

The political will to fight corruption has been low in Italy, since the political elite has been benefiting from the existing corrupt system. What hope is there, then, that the anti-

³⁴⁹ Mousavi and Pourkiani, “Administrative Corruption,” p. 184.

corruption momentum will continue? Public administrations must maintain the momentum. In cases when political organs challenge regional administrators, these latter can use the RACP as a shield. This also means, however, that the RACPs must be effectively drafted and executed.

4. Italian institutions need to be reformed and strengthened. In particular:

a. The court system must be reformed to increase efficiency

I have argued that Italy's judicial system of mandatory prosecution has resulted in a clogged and inefficient court system. Changing this system, however, would increase judicial discretion. In a system where corruption is already systemic and protracted, this scenario would not be a good solution. Instead, the country needs to increase the productivity of the court system, perhaps by increasing the number of courts and judges available to hear cases, and/or reorganising court jurisdictions.

b. The statute of limitations needs to be improved

The statute of limitations should be increased in incidences of corruption, so as to allow a sufficient timeframe to prosecute criminals.

c. Regional legislation should have quality and clarity standards

As was brought up by the region of Molise, many legislators purposely draft new legislation in an ambiguous manner to allow room for interpretation and discretion. However, with discretion also comes room for corruption. As a result, regional legislation should be subject to quality and clarity standards to avoid creating new areas at risk of corruption.

d. Whistleblowing protection should be expanded

The Anti-Corruption Law is revolutionary in the sense that, for the first time, it introduces whistleblowing legislation, however the subject is not disciplined. This void in the law acts as a deterrent to potential whistleblowers. Regions should fill this lacuna in the law as soon as possible so as to protect people who blow the whistle on corruption.

5. There should be increased cooperation and coordination among the regions and (a) other regions, (b) local entities within the region, and (c) administrations within the region.

The need for cooperation and coordination has already been explained in great depth. I echo the sentiments of TII and believe that without collaboration among all these actors (in addition to civil society and NGOs), implementation of anti-corruption legislation at the regional level, and in more general, will be impossible. In addition, there needs to be a balance between the principle of territorial autonomy and cooperation.

6. There should be a greater focus on monitoring and evaluating the implementation of anti-corruption reforms.

The role of monitoring and evaluation should be conducted not only by the relevant national anti-corruption agency (in this case, ANAC), but also the judiciary and the courts, non-governmental organizations, scholars, private auditing companies, and the public.

An important word of caution should be articulated here, however. It would seem as if the role of civil society and NGOs in monitoring and evaluation is over-estimated.

Oftentimes, governments will pass-off the important roles of evaluation, training, and educating to organizations such as Transparency International. Yet, the size and capabilities of these organizations are overestimated. I was shocked to learn that Transparency International Italia only has six permanent staff members. For such a small staff, this is a large burden to carry. Therefore, governments need to invest in their own resources and expertise to fulfill these important functions, or at least provide adequate funding to external evaluators.

7. Anti-corruption should be approached with cautious optimism.

Corruption in Italy has been a long-standing issue that will not resolve itself overnight. New laws and policies, such as the Anti-Corruption Law, “cannot cure thoroughly unsound governance environments in the near term.”³⁵⁰ Likewise, this case study has demonstrated that in the debate between legal skeptics and optimists, skepticism triumphs. Yet, it is my opinion that approaching anti-corruption reforms with such pessimism does more harm than good. Yes, it is important to acknowledge the gross difficulties and influential factors involved with invoking such drastic changes in society, however accepting these difficulties as inevitabilities that will doom any anti-corruption effort from becoming successful, will not resolve anything. We cannot approach anti-corruption reform with such fatalism.

In the words of Meagher, “[t]here is no free lunch, no magic by which disciplined corruption-fighting machinery can materialize in a deeply corrupt environment.”³⁵¹ Instead, anti-corruption should be looked at with cautious optimism. Policymakers, civil

³⁵⁰ Meagher, “Anti-corruption Agencies,” p. 78.

³⁵¹ Meagher, “Anti-corruption Agencies,” p. 78.

servants, anti-corruption leaders, and the public alike should focus on the long-run goals of counter-corruption efforts and put short-term failures into the bigger picture. They should strive to attain, at the bare minimum, an “overall improvement in the performance of anti-corruption functions.”³⁵² If too much attention is given to the pessimists, to these inefficiencies and dilemmas, I am afraid that anti-corruption will lose its momentum in Italy—like it did after the Mani Pulite era. If this happens, the people may forever lose trust in such policy.

Final Remarks

Corruption is a serious problem that has always existed—and it will continue to exist—but its costs have become too high. In a world of integrated markets, corruption in one country can affect the economic security of many others. This is particularly true in the case of the European Union. Corruption remains one of the most challenging issues of Italy and the European Union and can no longer avoid effective policy solutions. In this context, Italian regions can be good test tube experiments to determine factors that affect the implementation of anti-corruption initiatives more generally.

It is still too early to assess the full implementation and impact of anti-corruption legislation in Italy. As of July 15th, 2014, all twenty regions submitted anti-corruption plans to the national department of public works.³⁵³ It will be interesting to read ANAC’s

³⁵² Meagher, “Anti-corruption Agencies,” p. 89.

³⁵³ Dipartimento della Funzione Pubblica, “PRPC Comunicati al Dipartimento della Funzione Pubblica al 15 luglio 2014,” accessed September 5th, 2014, <http://www.funzionepubblica.gov.it/media/1182844/report%20ptpc%20al%2015%20luglio%202014.pdf>.

end of year report on anti-corruption reform and see if it discusses any of the factors this thesis found to influence regional implementation.

Furthermore, emerging court rulings will reveal much about the future of Italy's Anti-Corruption Law. The January 2014 case brought before the European Court of Human Rights, for example, will set a precedent for similar lawsuits, especially "for former three-time premier Silvio Berlusconi, who was ejected from parliament on the basis of the Anti-Corruption Law last year after the supreme court upheld a tax-fraud conviction against him, making it definitive."³⁵⁴

Despite its prematurity, it is my hope that this thesis can offer insight for a good starting point for evaluators of Anti-Corruption Law. Future research should compare and contrast quantitative indicators such as statistical data relating to corruption cases, the number of judicial rulings and convictions, the number of reported incidences of corruption, the number of cases of whistleblowing, and public perceptions of corruption. Further study should also look at the perceptions of the Anti-Corruption Law itself; does the Italian public see it as a genuine political signal that the Italian government considers corruption a serious issue? Or, more likely, do they see it as just another 'Italian way' to answer public pressures?

³⁵⁴ ANSA, "European Court of Human Rights to consider Italian case against Anti-Corruption Law," January 21, 2014, *Regional Anti-corruption Initiative*, <http://www.rai-see.org/news/world/4255-european-court-of-human-rights-to-consider-italian-case-against-anti-corruption-law.html>.

Bibliography

- Abbink, Klaus. "Staff Rotation as an Anti-corruption Policy: An Experimental Study." *European Journal of Political Economy*, 20 (2004): 887-906.
- Alexander, David. "Civil Protection amid Disasters and Scandals." In *Italian Politics: Much Ado about Nothing?* Edited by Elisabetta Gualmini and Eleonora Pasotti. New York: Berghahn Books, 2011.
- ANSA. "European Court of Human Rights to Consider Italian Case Against Anti-corruption Law." January 21, 2014. *Regional Anti-corruption Initiative*. <http://www.rai-see.org/news/world/4255-european-court-of-human-rights-to-consider-italian-case-against-anti-corruption-law.html>.
- Amato, Paola, Giorgio Armielli, and Marina Bruschini. "Local Development and Role of Cities in the Italian Multilevel Governance System." *Meeting with Representatives of the Government of Georgia in the Frame of EU ENP Technical Assistance - DG Regio and Urban Policies*. May 14, 2013. Accessed July 29, 2014. <http://www.comune.terni.it/portaldata/UserFiles/File/2013/europe-direct/Multilevel-Governance-AMATO.pdf>.
- Anechiarico, Frank. "Protecting Integrity at the Local Level: The Role of Anticorruption and Public Management Networks." *Crime Law Soc Change* 53 (2010): 79-95.
- Aumann, Robert J., and Jacques H. Dreze. "Rational Expectations in Games." *American Economic Review*, 98, no.1 (2008): 72-86.
- Barker, Paul. *Public Administration in Canada*. Nelson Thomson Canada, 2008.
- BBC News. "Italy Profile." *BBC News*. February 26, 2013. Accessed March 29, 2013. <http://www.bbc.co.uk/news/world-europe-17433142>.
- Berman, Paul. "The Study of Macro- and Micro-Implementation." *Public Policy*, 26, no. 2 (1978): 155-184.
- Bukovansky, Mlada. "The Hallowness of Anti-Corruption Discourse." *Review of International Political Economy*, 13, no. 2 (2006): 181-209.
- Bull, Martin J. and James Newell. *Italian Politics: Adjustment Under Duress*. Polity Press, 2005.
- Burnham, Peter, Karin Gilland Lutz, Wyn Grant, and Zig Layton-Henry. *Research Methods in Politics (Second Edition)*. New York: Palgrave Macmillan, 2008.

Camera dei Deputati. “Disposizioni per la Prevenzione e la Repressione della Corruzione e dell’Illegalità nella Pubblica Amministrazione.” Legge n. 190 del 6 novembre 2012. *Gazzetta Ufficiale* del 13 novembre 2012 n. 265.

Camera dei Deputati. *Legge costituzionale 18 ottobre 2001, n. 3*, “Modifiche al titolo V della parte seconda della Costituzione.” Published in the Official Gazette, n. 248. October 24, 2001. Accessed October 5, 2013. <http://www.parlamento.it/parlam/leggi/01003lc.htm>.

Chêne, Marie. “The Impact of Corruption on Growth and Inequality.” *Transparency International, Anti-Corruption Helpdesk*. March 15, 2014. Accessed August 17, 2014. http://www.transparency.org/files/content/corruptionqas/Impact_of_corruption_on_growth_and_inequality_2014.pdf.

The Constitution of the Italian Republic (*Costituzione della Repubblica Italiana*). The Italian Chamber of Deputies, May 8 2012.

Cotta, Maurizio and Luca Verzichelli. *Political Institutions in Italy*. Oxford University Press, 2007.

Council of Europe. “Council of Europe Group of States against Corruption calls on Italy to Improve Transparency in Political Party Funding and to Sanction Corruption Vigorously.” *Group of States against Corruption*. 11 April 2012. Accessed November 14, 2013. [http://www.coe.int/t/dghl/monitoring/greco/news/news\(20120411\)eval3italy_EN.asp](http://www.coe.int/t/dghl/monitoring/greco/news/news(20120411)eval3italy_EN.asp).

Council of Europe. “Italy becomes 45th Member of the Group of States against Corruption (GRECO).” Group of States Against Corruption, July 2, 2007. Retrieved October 2013, [http://www.coe.int/t/dghl/monitoring/greco/news/News2007/News\(20070702\)PressReleaseItalia45thmember_en.asp](http://www.coe.int/t/dghl/monitoring/greco/news/News2007/News(20070702)PressReleaseItalia45thmember_en.asp).

Council of Europe. “Drago KOS, the President of the Group of States against Corruption (GRECO) Expresses Great Concern at the Elimination of the Office of the Anti-Corruption Commissioner in Italy.” Group of States Against Corruption, 8 July, 2008. [http://www.coe.int/t/dghl/monitoring/greco/news/News2008/News\(20080708\)EliminationOfficeHighCommissionerItaly_en.asp](http://www.coe.int/t/dghl/monitoring/greco/news/News2008/News(20080708)EliminationOfficeHighCommissionerItaly_en.asp).

D’Atena, Antonio. *Diritto Regionale*. Torino: G. Giappichelli Editore, 2010.

David, Daniele and Valentina Lepore. “La Legge Anticorruzione: Novità, e Limiti Applicativi Negli Enti Locali.” *Amministrazione in Cammino* (2013): 1-27.

Davis, Kevin E. “The Prospects of Anti-Corruption Law: Optimists versus Skeptics.” *Hague Journal on the Rule of Law*, 4, no. 2 (2012): 319–336.

- DeGroff, Amy, and Margaret Cargo. "Policy Implementation: Implications for Evaluation." In *Knowledge Utilization, Diffusion, Implementation, Transfer, and Translation: Implications for Evaluation*, edited by Judith M. Ottoson and Penelope Hawe, 47–60. *New Directions for Evaluation*, no. 124 (December 2009).
- Del Monte, Alfredo and Erasmo Papagni. "The Determinants of Corruption in Italy: Regional Panel Data Analysis." *European Journal of Political Economy*, 23 (2007): 379–396.
- Delaney, Sarah. "Italy Lawmakers Approve Anti-corruption Legislation." *Los Angeles Times*. October 31, 2012. Accessed November 14, 2013, <http://articles.latimes.com/2012/oct/31/world/la-fg-italy-corruption-20121101>.
- Della Porta, Donatella, and Alberto Vannucci. *Un Paese Anormale: Come la Classe Politica ha Perso l'Occasione di Mani Pulite*. Roma-Bari, Laterza. 1999.
- Dipartimento della Funzione Pubblica. "PRPC Comunicati al Dipartimento della Funzione Pubblica al 15 luglio 2014." July 15, 2014. Accessed September 5th, 2014. <http://www.funzionepubblica.gov.it/media/1182844/report%20ptpc%20al%2015%20luglio%202014.pdf>.
- Diritto delle Autonomie Territoriali. Lecture LUISS-Guido Carli. 2013.
- Diritto delle Autonomie Territoriali. Lecture LUISS-Guido Carli. October 15, 2013.
- Diritto delle Autonomie Territoriali. Lecture LUISS-Guido Carli. October 21, 2013.
- Di Vita, Giuseppe. "Curbing Corruption in Public Administration: A Case Study from Italy." *International Journal of Public Administration*, 34, no. 10 (2011): 631-645.
- Doig, Alan. "A Good Idea Gone Wrong? Anti-Corruption Commissions in the Twenty First Century." EGPA 2004 Annual Conference, Ljubljana.
- Economist Intelligence Unit. *Country Report: Italy*. New York: Economist Intelligence Unit, lmted., December 2012.
- Erez, Miriam and P. Christopher Earley. *Culture, Self-Identity, and Work*. Oxford University Press, 1993.
- Europa. "United Nations Convention against Corruption." *Summaries of EU Legislation*. 12 December 2008. [http://europa.eu/legislation_summaries/fight _ against_fraud/fight_against_corruption/133300_en.html](http://europa.eu/legislation_summaries/fight_against_fraud/fight_against_corruption/133300_en.html).
- European Commission. "Annex: Italy to the EU Anti-Corruption Report." February 3, 2014.

- European Commission. "Home Affairs: Corruption." October 26, 2012. Accessed March 25, 2013. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/index_en.htm.
- European Commission. "Report From The Commission to the Council and the European Parliament: Eu Anti-Corruption Report." February 3rd, 2014. Accessed February 3, 2014. http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf.
- European Commission. "Special Eurobarometer 397 Report on Corruption." February 2014. Accessed April 23, 2014. http://ec.europa.eu/public_opinion/archives/ebs/ebs_397_en.pdf.
- European Union. "White Paper on Multi-Level Governance." *Committee of the Regions*. June 16, 2009. Accessed July 29, 2013. <http://cor.europa.eu/en/activities/governance/Pages/white-pape-on-multilevel-governance.aspx>.
- European Union. "Summary of Treaty: United Nations Convention against Corruption." *European Union External Action Service*. December 3, 2008. Accessed December 10, 2013. <http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=2781>.
- Evans, Mark and Jonathan Davies. "Understanding Policy Transfer: A Multi-Level, Multi-Disciplinary Perspective." *Public Administration* 77, no. 2 (1999): 361-385.
- Fiorino, Nadia and Emma Galli. "An Analysis of the Determinants of Corruption: Evidence from the Italian Regions." *Department of Public Policy and Public Choice – POLIS, Working paper n. 171* (September 2010).
- Fraschini, Giorgio, Davide del Monte, and Giuseppe Imbrogno. *Conto alla Rovescia verso l'Impunità: Termini di Prescrizione per I Reati di Corruzione in Italia e nell'Unione Europea*. Transparency International Italia, 2010.
- Freedom House. "Freedom of the Press 2014, Press Freedom Rankings." 2014. Accessed May 20, 2014. http://freedomhouse.org/report/freedom-press-2014/press-freedom-rankings#.U4Eiz_msjTo
- Fritzen, Scott. "Beyond 'Political Will': How Institutional Context Shapes the Implementation of Anti-Corruption Policies." *Policy and Society*, 24, no. 3 (2005): 79-96.
- Gardini, Gianluca. "Political and Administrative Organizations of the Italian Regions." *IUS Publicum* (March 2011).

Goetz, Anne Marie. "Political Cleaners: Women as the New Anti-Corruption Force?" *Development and Change*, 38, no. 1 (2007): 87-105.

Governo Italiano. "Approvato dalla CIVIT il Piano Nazionale Anticorruzione elaborato dal Dipartimento della Funzione Pubblica." September 11, 2013. Accessed September 15, 2013. <http://www.funzionepubblica.gov.it/comunicazione/notizie/2013/settembre/11092013---approvato-dalla-civit-il-pna.aspx>.

GRECO Secretariat. "Joint First and Second Evaluation Round. Evaluation Report on Italy." *Council of Europe*. Strasbourg, 2 July 2009.

GRECO Secretariat, "Evaluation Report on Italy." *Council of Europe*. March 23, 2012. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2011\)7_Italy_One_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2011)7_Italy_One_EN.pdf).

Heeks, Richard and Harald Mathisen. "Understanding Success and Failure of Anti-Corruption Initiatives." *Crim Law Soc Change* 58 (2010): 533-549.

Héritier, Adrienne and Martin Rhodes, eds. *New Modes of Governance in Europe: Governing in the Shadow of Hierarchy*. Palgrave Studies in European Union Politics, 2010.

Hodess, Robin, Jessie Banfield, and Toby Wolfe. *Global Corruption Report 2001*. Berlin: Transparency International, 2001.

Hofstede, Geert. *Cultures and Organizations: Software of the Mind*. New York, NY: McGraw Hill, 1997.

Hofstede, Geert. *Culture's Consequences: International Differences in Work-Related Values*. Beverly Hills, CA: Sage Publications, 1980.

Hough, Dan. *Corruption, Anti-corruption, and Governance*. Palgrave Macmillan, 2013.

Houston, Douglas A. "Can Corruption Ever Improve an Economy?" *Cato Journal*, 27, no. 3 (2007): 325-342.

Husted, Bryan W. Culture and International Anti-Corruption Agreements in Latin America. *Journal of Business Ethics*, 37 (2002): 413-422.

Istat. "Italy in Figures." 2012. Accessed February 23, 2014. <http://www.istat.it/en/files/2011/06/Italy2012.pdf>.

Istituto di Ricerca sulla Pubblica Amministrazione. "Il Fenomeno della Corruzione in Italia." 1°Mappa dell'Alto Commissario Anticorruzione. December 2007. Accessed November 5, 2013. <http://www.irpa.eu/wp-content/uploads/2012/03/Mappa-corruzione-Italia.pdf>.

- Ielo, Domenico. "Tecniche e Metodologie di Redazione dei Piani Anticorruzione." January 25, 2013. Accessed November 14, 2013. <http://www.legautonomie.it/content/download/9264/48635/file/DOMENICO%20IELO%20Relazione%20anticorruzione.pdf>.
- Il Messaggero. "Le Spese Folli della Regione Abruzzo Indagati Chiodi, Castiglione, Pagano e Altri 22 tra Assessori e Consiglieri." 23 January 2014. Accessed May 20, 2014. http://www.ilmessaggero.it/abruzzo/truffa_regione_abruzzo/notizie/470050.shtml.
- Interview with an academic specialized in Italian criminal law. January 11, 2014. Rome, Italy.
- Interview with Lorenzo Castellani. January 18th, 2014. Rome, Italy.
- Interview with Transparency International Italia. February 13, 2014. Milan, Italy.
- Interview conducted with a high-level anti-corruption representative from Molise, March 3, 2014. Campobasso, Italy.
- Interview conducted with a high-level anti-corruption representative in Abruzzo, March 11, 2014. L'Aquila, Italy.
- Jones, Gavin. "Beppe Grillo And The 5 Star Movement: An In-Depth Look At Italy's New Kingmaker." *Reuters*. March 7, 2013. Accessed April 15 2013. http://www.huffingtonpost.com/2013/03/07/beppe-grillo-5-star-movement_n_2826213.html.
- Karklins, Rasma. *The System Made Me Do It: Corruption in Post-communist Societies*. Armonk, NY: M.E. Sharpe, 2005.
- Kaufmann, Daniel. "Aid Effectiveness and Governance: the Good, the Bad and the Ugly." *Development Outreach*. Washington D.C.: World Bank Institute, 2009.
- Kyprianou, Despina. "Comparative Analysis of Prosecution Systems (Part II): The Role of Prosecution Services in Investigation and Prosecution Principles and Policies." Springer, 2009. https://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=0CGsQFjAJ&url=http%3A%2F%2Fwww.beck-shop.de%2Ffachbuch%2Finhaltsverzeichnis%2F9783642019203_TOC_001.pdf&ei=4dA2U5qAMsuAywPM84CQDg&usg=AFQjCNGQtr-XMbwf2QG0i1Xebjy1mapbsg&sig2=SN6ggRjPYpxlQD2NwN97hQ&bvm=bv.6380_8443,d.bGE.
- Levy, Carl (ed.). *Italian Regionalism: History, Identity and Politics*. Washington: Palgrave, 1996.

- Lichbach, Mark. *The Co-operator's Dilemma*. Ann Arbor, MI: University of Michigan Press, 1997.
- Mackenzie, James. "Analysis: Italy's Grillo Surfs Anti-Establishment Wave." *Reuters*. July 1, 2012. Accessed April 15, 2013. <http://www.reuters.com/article/2012/07/01/us-italy-grillo-idUSBRE86003920120701>.
- Marchetti, Gloria. "Italian Regions and Local Authorities within the Framework of a New Autonomist System." *Perspectives on Federalism*. Centro di Studi sul Federalismo, 2, no.1 (2010).
- Marks, Gary. "Structural Policy in the European Community." In *Euro-politics: Institutions and Policymaking in the New European Community*, edited by Alberta Sbragia, 191-225. Washington DC: Brookings Institution Press, 1992.
- Martini, Maira. "Examples of National Anti-Corruption Strategies." *Transparency International Anti-Corruption Helpdesk*. August 25, 2013. Accessed September 5, 2014. http://www.transparency.org/whatwedo/answer/examples_of_national_anti_corruption_strategies.
- Meagher, Patrick. "Anti-corruption Agencies: Rhetoric Versus Reality." *The Journal of Policy Reform*, 1 (2005): 69-103.
- Méndez, Fabio and Facundo Sepulveda. "Corruption, Growth and Political Regimes: Cross Country Evidence." *European Journal of Political Economy*, 22 (2006): 82-98.
- Méon, Pierre-Guillaume and Khalid Sekkat. "Does Corruption Grease or Sand the Wheels of Growth?" *Public Choice*, 122 (2005): 69-97.
- Méon Pierre-Guillaume, and Laurent Weill. "Is Corruption an Efficient Grease?" *World Development*, 38, no. 3 (2010): 244-259.
- Mingione, Enzo. "Italy: The Resurgence of Regionalism." *International Affairs*, 69, no. 2 (1993): 305-318.
- Mousavi, Parvaneh and Masoud Pourkiani. "Administrative Corruption: Ways of Tackling the Problem." *European Online Journal of Natural and Social Sciences*, 2, no. 3 (2013): 178-187.
- "Multilevel Governance." 2011. EU Wiki: Democratising Knowledge of the EU. University of Surrey. <http://testpolitics.pbworks.com/w/page/25794792/Multilevel%20Governance>.
- Newell, James L. "Corruption-mitigating Policies: the Case of Italy." *Modern Italy*, 10, no. 2 (2005): 163-183.

- O'Leary, Naomi. "Graft Scandal Forces out Head of Italy's Lazio Region." *Reuters*. September 24, 2012. Accessed September 15, 2013. <http://www.reuters.com/article/2012/09/24/us-italy-corruption-idUSBRE88N0XO20120924>.
- OECD. "OECD Economic Surveys: Italy: 2005." OECD Publishing, 2005.
- OECD. "OECD Economic Surveys: Italy: 2013." OECD Publishing, 2013.
- OECD. "Specialised Anti-Corruption Institutions: Review of Models." *OECD Publishing*, 2008.
- OECD. *Better Regulation in Europe: Italy 2012: Revised edition*. June 2013. OECD Publishing, 2013. <http://dx.doi.org/10.1787/9789264204454-en>.
- OECD. "OECD Integrity Review of Italy: Reinforcing Public Sector Integrity, Restoring Trust for Sustainable Growth." *OECD Public Governance Reviews*, 2013.
- Ostrom, Elinor. "A Framework to Analyze the Robustness of Social-ecological Systems from an Institutional Perspective." *Ecology and Society* 9 no. 1 (2004).
- Paasi, Anssi. 2009. "The Resurgence of the 'Region' and 'Regional Identity': Theoretical Perspectives and Empirical Observations on Regional Dynamics in Europe." *Review of International Studies* 35: 121–146.
- Pierson, Paul. *Politics in Time: History, Institutions, and Social Analysis*. Princeton, N.J.: Princeton University Press, 2004.
- Passas, Nikos. "Anti-corruption Agencies and the Need for Strategic Approaches: A Preface to this Special Issue." *Crime Law Soc Change* 53 (2010): 1-3.
- Pasquali, Valentina. "Mob Rule." *Foreign Policy*, May/June 2009.
- Pacuit, Eric. "Foundations of Game Theory: Interactive Rationality." Accessed August 17, 2014. <http://pacuit.org/research/gametheory>.
- PBS. "Corruption in the Crosshairs: A Brief History of International Anti-Bribery Legislation." *Frontline World*, April 7, 2009. <http://www.pbs.org/frontlineworld/stories/bribe/2009/04/timeline.html>.
- Piattoni, Simona. "Multi-level governance in the EU: does it work?" Globalization and Politics Conference, MIT, 2009.
- Piattoni, Simona. 2009. "Multi-level Governance: a Historical and Conceptual Analysis." *European Integration*, 31 no. 2 (2009): 163–80.

- Pope, Jeremy. "The Need for, and Role of, and Independent Anti-Corruption Agency." Prepared for *Transparency International*, August 13, 1999.
- President Barack Obama. Speech entitled "Our Past, Our Future & Vision for America." University of Nairobi, Nairobi, Kenya, August 28, 2006. <http://obamaspeeches.com/088-An-Honest-Government-A-Hopeful-Future-Obama-Speech.htm>.
- Pritchett, Lant, Michael Woolcock, and Matt Andrews. "Capability Traps? The Mechanisms of Persistent Implementation Failure." *Working Paper* no. 234. Washington: Center for Global Development, 2010.
- Protezione Civile. "Terremoto in Molise 2002." Accessed October 10, 2014. http://www.protezionecivile.gov.it/jcms/it/terremoto_molise_2002.wp.
- Pullella, Philip. "New Italy Law Tackles Rampant Corruption." *Reuters*. October 30, 2012. Accessed February 2, 2013. <http://www.reuters.com/article/2012/10/30/us-italy-corruption-idUSBRE89T1MT20121030>.
- Putnam, Robert. *Making Democracy Work: Civic Traditions in Modern Italy*. Princeton: Princeton University Press, 1993.
- Quah, Jon S. T. "Comparing Anti-corruption Measures in Asian Countries: Lessons to be Learnt." *Asian Review of Public Administration* 11 no. 2 (1999): 71-90.
- RAI. "La Storia Siamo Noi: Gli Angeli di San Giuliano—La terra trema." Accessed October 10, 2014. <http://www.lastoriasiamonoi.rai.it/puntate/gli-angeli-di-san-giuliano/469/default.aspx>
- RAI Storia. "Eco della Storia: Corruzione." Accessed November 10, 2014. <http://www.raistoria.rai.it/articoli-programma/eco-della-storia-corruzione/22811/default.aspx>.
- Rawls, John. *A Theory of Justice*. Oxford: Oxford University Press, 1971.
- Regione Abruzzo. "Piano Triennale della Prevenzione della Corruzione 2013-2016." *Giunta Regionale*.
- Regione Abruzzo. "Codice di Comportamento." Accessed April 24, 2014. http://www.regione.abruzzo.it/portale/docs/TRAttiGenerali/Codice_comportamento_dipendenti_GR.pdf.
- Regione Molise. "Amministrazione Trasparente." Accessed April 24, 2014. <http://www3.regione.molise.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/9897>.

- Rolla, Giancarlo. "L'autonomia dei Comuni e delle Province." In *La Repubblica delle autonomie. Regioni ed enti locali nel nuovo Titolo V*. Edited by Groppi, Tania and Marco Olivetti. Giappichelli, Torino, 2001.
- Rotella, Salvatore G. "Federalism in Italy: Past, Present and Future." In *Fratelli d'Italia. 150 anni di cultura, lavoro, emigrazione*, Edited by Luigi Troiani. Stony Brook, NY: Forum Italicum Publishing, 2012.
- Rothstein, Bo. "Trust, Social Dilemmas and Collective Memories." *Journal of Theoretical Politics*, 12, no. 4 (2000): 477-503.
- Rothstein, Bo. "Anti-Corruption: the Indirect 'Big Bang' Approach." *Review of International Political Economy* 18 no. 2 (2011): 228-250.
- Sanders, Andrew (ed.). *Prosecution in Common Law Jurisdictions*. Dartmouth: Aldershot and Brookfield, 1996.
- Scalfari, Eugenio. "La Triste Storia dell'Italia Corrotta." *La Repubblica*. December 28, 2008. Accessed September 4, 2014. <http://www.repubblica.it/2008/12/sezioni/politica/giustizia-5/storia-italia-corrotta/storia-italia-corrotta.html>.
- Smith, Brian C. *Good Governance and Development*. New York: Palgrave MacMillan, 2007.
- Stefanue, Raluca. "Corruption, or How to Tame the Shrew with the European Union Stick: the New Anti-Corruption Initiative of the European Commission." *ERA Forum* 12 (2011): 427-443.
- Stucchi, M., C. Meletti, G. Manfredi, and M. Dolce, eds., "L'Aquila, 6 April 2009, 3L32 AM." *Progettazione Sismica* 3 (2009): 1-256.
- Teorell, Jan. "Corruption as an Institution: Rethinking the Nature and Origins of the Grabbing Hand." Working Paper. Gotenburg: The Quality of Government Institute, University of Gothenburg, 2007.
- Transparency International. "Timed-out: Statutes of Limitations and Prosecuting Corruption in EU Countries." *Archive Site*. http://archive.transparency.org/regional_pages/europe_central_asia/projects_and_activities/statutes_limitations#sthash.1Bj2gkW5.dpuf.
- Transparency International. *The Anti-Corruption Plain Language Guide*. July 28, 2009. Accessed March 5th, 2014. http://www.transparency.org/whatwedo/pub/the_anti_corruption_plain_language_guide.

- Transparency International Italia. "Corruption is not an Inevitable Fate but a Cultural Dress." October 31, 2012. Accessed February 6, 2013.
http://blog.transparency.org/wp-content/uploads/2012/10/CS_approvazione_ING.pdf.
- Trubek David M. and Marc Galanter. "Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States." *Wisconsin Law Review* (1974): 1062-1103.
- United Nations Office on Drugs and Crime. "United Nations Convention against Corruption." 2014. Accessed April 12, 2014.
<https://www.unodc.org/unodc/en/treaties/CAC/>.
- Vannucci, Alberto. "La Corruzione in Italia: Cause, Dimensioni, Effetti." In, *La Legge Anticorruzione: Prevenzione e Repressione della Corruzione*. G. Giappichelli Editore. 2013.
- Varese, Federico. "Principal-Agent Problem." In *The Concise Oxford Dictionary of Politics (3 ed.)*, edited by Iain McLean and Alistair McMillan. Oxford University Press, 2009. <http://www.oxfordreference.com.proxy>.
- Weaver, Catherine. *Hypocrisy Trap: The World Bank and the Poverty of Reform*. Princeton University Press, 2008.
- Widmalm, Sten. *Decentralisation, Corruption and Social Capital: From India to the West*. Thousand Oaks, CA: Sage Publications, 2008.
- World Bank. *World Development Report 2002: Building Institutions for Development*. New York. NY: Oxford University Press, 2002.
- Zagaris Bruce and Shaila Lakhani Ohri. "The Emergence of an International Enforcement Regime on Transnational Corruption in the Americas." *Law and Policy in International Business*, 53 (1999): 53-93.

Appendix

Appendix A: National and Regional Legislative Competences in Italy

(Reproduced from OECD, “Better Regulation in Europe: Italy 2012: Revised edition,” June 2013, OECD, pp. 143-144).

Exclusive legislative power of the State	Concurrent legislative power between the State and the regions
Foreign policy and international relations of the State; relations of the State with the European Union; right of asylum and legal status of the citizens of states not belonging to the European Union	International and European Union relations of the regions
Immigration	Foreign trade
Relations between the republic and religious denominations	Protection and safety of labour
Defense and armed forces; State security; weapons, ammunitions and explosives	Education, without infringement of the autonomy of schools and other institutions, and with exception of vocational training
Money, protection of savings, financial markets; protection of competition; currency system; state taxation system and accounting; equalisation of regional financial resources	Professions
State organs and their electoral laws; state referenda; election of the European Parliament	Scientific and technological research and support for innovation in the productive sectors
Organisation and administration of the State and of national public bodies	Health protection
Law, order and security, aside from the local administrative police	Food
Citizenship, registry of personal status and registry of residence	Sports regulations
Jurisdiction and procedural laws; civil and criminal laws; administrative tribunals	Disaster relief service
Determination of the basic standards of welfare related to those civil and social rights that must be guaranteed in the entire national territory	Land-use regulation and planning
General rules on education	Harbours and civil airports
Social security	Major transportation and navigation networks
Electoral legislation, local government and fundamental functions of municipalities, provinces and metropolitan cities	Regulation of media and communication

Exclusive legislative power of the State	Concurrent legislative power between the State and the regions
Customs, protection of national boundaries and international prophylactic measures	Production, transportation and national distribution of energy
Weights, units of measurement and time standards; co-ordination of the information, statistical and information-technology aspects of the data of the state, regional and local administrations; intellectual property	Complementary and integrative pension systems
Protection of the environment, of the ecosystem and of the cultural heritage	Harmonisation of budgetary rules of the public sector and co-ordination of the public finance and the taxation system
	Promotion of the environmental and cultural heritage, and promotion and organisation of cultural activities
	Saving banks, rural co-operative banks, regional banks
	Regional institutions for credit to agriculture and land development

Source: OECD (2007).

Appendix B: Chronology of Important Dates in Italian Anti-Corruption Efforts

2007 June	Italy becomes the 45th member of the Council of Europe's Group of States against Corruption (GRECO)
2012 November	The Anti-Corruption Law is passed
2013 March	The original deadline for all administrations to submit anti-corruption plans
2013 June	Italy ratified the Council of Europe Criminal Law and Civil Law Conventions on Corruption
2013 July	Regional Council met to discuss Anti-corruption plans
2013 September	National Anti-Corruption Authority (<i>Commissione indipendente per la Valutazione, la Trasparenza e l'Integrità</i> , otherwise known as CIVIT) approved the three-year national anti-corruption report published by the Italian Ministry of Public Works
2013 December	"National Anti-Corruption Report" is published by the Italian Ministry of Public Works and the National Anti-Corruption Agency (ANAC)
2014 January	January 31 st – Extended deadline for all administrations to submit anti-corruption plans to the national ministry
2014 February	European Commission publishes anti-corruption report with a relevant chapter on Italy

Appendix C: Elite Interviewees

Position	Number of Interviewees
Transparency International <i>Italia</i> representatives	1
High-level, regional anti-corruption representatives	2
Italian jurists	2

Appendix D: Factors that Affect Implementation of Anti-Corruption Policy—Regional Findings

Abruzzo	Molise
Politics (lack of political will)	Resources: human capital and experience
Resources: funding and human capital	Culture
Time constraints	Administrative/political will
Culture and individual behaviour	