

2023

## Measuring Corruption as a Threat to International Security: An Emerging Indicator for Enhancement of Global Corruption Governance

Sungyong Kang  
*Korea National Police University*

Follow this and additional works at: <https://repository.law.umich.edu/mjil>



Part of the [International Law Commons](#), and the [National Security Law Commons](#)

---

### Recommended Citation

Sungyong Kang, *Measuring Corruption as a Threat to International Security: An Emerging Indicator for Enhancement of Global Corruption Governance*, 44 MICH. J. INT'L L. 1 (2023).  
Available at: <https://repository.law.umich.edu/mjil/vol44/iss1/2>

<https://doi.org/10.36642/mjil.44.1.measuring>

This Article is brought to you for free and open access by the Michigan Journal of International Law at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Journal of International Law by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact [mLaw.repository@umich.edu](mailto:mLaw.repository@umich.edu).

# MEASURING CORRUPTION AS A THREAT TO INTERNATIONAL SECURITY: AN EMERGING INDICATOR FOR ENHANCEMENT OF GLOBAL CORRUPTION GOVERNANCE

*Sungyong Kang*<sup>\*</sup>

## ABSTRACT

*The conceptual changes to international security after the end of the Cold War, and particularly those following the al-Qaeda attacks of 2001, clarified the symbiotic relationship between corruption and international security: Corruption destroys the social political environment required to create human security and to ensure safety from terrorist attacks, and national borders increasingly fail to restrain its negative consequences.*

*To achieve human security through policy intervention in domestic affairs, global corruption governance relies on numerical indicators that measure corruption. By evaluating states through public comparison, indicators pressure states to improve their domestic institutions and structures to align them with the international legal regime against corruption. However, existing indicators, including the Corruption Perceptions Index and Control of Corruption, have serious deficiencies that precipitate strong criticism from scholars and practitioners.*

*This article suggests that the objective numerical measurement of “Corruption (0703),” one of the statistical measurements under the International Classification of Crime for Statistical Purposes (ICCS) of United Nations Office on Drugs and Crime (UNODC), is an emerging indicator that can enhance global corruption governance by supplementing or substituting existing indicators*

---

<sup>\*</sup> Researcher/Adjunct Professor at the Korea National Police University, Senior Inspector of Korea National Police Agency, and S.J.D, Attorney at Law licensed in New York. This paper was inspired by the research project “2nd Year of Study in Development of ‘Korean Classification of Crime’” in which I participated in 2018. I was in charge of establishing a National Correspondence Table for the Republic of Korea to map the National Crime Statistics into the International Classification of Crime for Statistical Purpose (ICCS), particularly in relation to Acts involving fraud, deception, or corruption (07) of the ICCS. I express my sincere appreciation to Statistics Korea for offering me a meaningful opportunity to join the research project, collaborate with superbly qualified professors and professionals, and gain important food for thought.

which are subjective numerical measurement of corruption. The significance of corruption as a threat to international security, not simply to international business, thus increases the absolute gains of Corruption (0703). Therefore, it is vital that states utilize and comply with Corruption (0703).

For this recommendation to be persuasive, however, the following three questions must be answered. Does Corruption (0703) have the qualities necessary to exert pressure on states by negatively impacting their power in a way that existing indicators cannot? Can states, which are both the subjects and objects of the Corruption (0703) measurement, realistically comply with it, and will they do so? How can the problem of state cheating to achieve a more favorable score be overcome?

To answer these questions, this article contemplates distinct characteristics of corruption between domestic criminal law and international agreements, and ultimately adopts the approach of neo-liberals, who prioritize absolute gain over relative gain and are thus optimistic about the potential for international organization and cooperation in implementing and enforcing this metric. In addition, this article often refers to the Republic of Korea as a case study because it has reached the most advanced stage of ICCS implementation.

## INTRODUCTION

Until the 1980s, international security discourse mainly focused on the use of force between states, particularly great powers, and how this force threatened the sovereignty and territorial integrity of other states.<sup>1</sup> However, the end of the Cold War transformed international security discourse to reflect the changing characteristics of threats and their required responses. In 1994, the Human Development Report introduced the concept of “human security” to the international security discourse in order to justify intervention against states who faced prominent internal conflicts after the Cold War.<sup>2</sup> Governing conflict at the international level has now become essen-

---

1. Joseph S. Nye Jr. & Sean M. Lynn-Jones, *International Security Studies: A Report of a Conference on the State of the Field*, 12 INT'L SEC. 5, 15 (1988).

2. Alexandra Homolar, *Human Security Benchmarks: Governing Human Wellbeing at a Distance*, 41 REV. INT'L STUD. 843, 844, 851 (2015); Shahrbanou Tajbakhsh, *Human Security: Concepts and Implications with an Application to Post-Intervention Challenges in Afghanistan*, LES ÉTUDES DU CERL, Sept. 1, 2005, at 5 (“There is no single definition of human security. In the literature devoted to international relations and to development issues it has

tial,<sup>3</sup> because the negative consequences of states' inability "to provide social political environment to 'human security'" are increasingly unrestrained by national borders.<sup>4</sup> Al-Qaeda attacks, during and after 2001, have intensified the importance of cooperation in the international community in order to eliminate human insecurity.<sup>5</sup>

In order to achieve human security, the international community has created numerical indicators to identify and evaluate threats. By enabling their users to evaluate states through side-by-side comparison, indicators exert pressure on those states to improve their domestic institutions and structures.<sup>6</sup> Thus, the use of these indicators exerts an indirect form of policy intervention in the domestic affairs of states. Indicators are increasingly being produced and utilized by various subjects at the global level to tackle a diverse set of problems that threaten human security,<sup>7</sup> such as stability,<sup>8</sup> poverty,<sup>9</sup> conflicts,<sup>10</sup> freedom,<sup>11</sup> peace,<sup>12</sup> development,<sup>13</sup> and justice<sup>14</sup> with-

---

been referred to in various terms: as a new theory or concept, as a starting point for analysis, a world view, a political agenda, or as a policy framework. Although the definition of human security remains an open question, there is consensus among its advocates that there should be a shift of attention from a state centered to a people centered approach to security, that concern with the security of state borders should give way to concern with the security of the people who live within those borders.”)

3. MARTIN BROOKES & ZAKI WAHHAJ, *GLOBAL PUBLIC GOODS ARGUMENTS FOR COLLECTIVE ACTION* 39 (2001).

4. Homolar, *supra* note 2, at 852.

5. Cf. Sungyong Kang, *In Defense of the Global Regulation of a "Duty to Report Crime"*, 51 *WASHBURN L.J.* 77, 103 (2017) (emphasizing importance of global 'crime' governance). The terrorist attacks in 2001 transformed some formerly domestic criminal concerns into international security concerns, thereby further increasing the importance of global governance to address the concerns. In relation to different rhetoric regarding shock and threat, see Homolar, *supra* note 2, at 860 (“While the focus on a holistic and capabilities-oriented approach to improving human lives and achieving human progress has remained at the centre of the UNDP’s agenda, it is now dominated by the language of shocks and threats to human development, including economic risks, inequality, health risks, environmental and natural disasters, food insecurity, and physical insecurity.”) (citing *Human Development Reports: Frequently Asked Questions*, UNITED NATIONS DEVELOPMENT PROGRAMME, <http://www.undp.org/about-us/faqs> (last visited Dec. 27, 2022)).

6. Kevin E. Davis, Benedict Kingsbury, & Sally E. Merry, *Indicators As a Technology of Global Governance*, 46 *L. & SOC. REV.* 71, 83 (2012).

7. Davis, Kingsbury, & Merry, *supra* note 6; Sally E. Merry, *Measuring the World: Indicators, Human Rights, and Global Governance*, 52 *CURRENT ANTHROPOLOGY* S83, S83 (2011).

8. Examples include the Fragile State Index, Political Stability Index, Index of State Weakness in Developing World, etc.

9. Examples include the Multidimensional Poverty Index, Regional Poverty Index, etc.

10. Examples include the Measuring Progress in Conflict Environments; Minorities at Risk Project; Uppsala Data Conflict Program; Heidelberg Conflict Barometer; and Armed Conflict Location and Event Data Project, etc.

11. Examples include the Freedom in the World, World Press Freedom Index, Index of Economic Freedom, etc.

in each state. In this way, an indicator “facilitates international policy interventions to reduce human vulnerability” and “reinforces dominant understandings of what responsible states do, what they look like, and the criteria on which they should be judged.”<sup>15</sup> Such dominant understandings are, in many cases, though not always, based on the international legal regime adopted to tackle the problem being measured.<sup>16</sup>

Among the problems that threaten human security, state-level corruption poses a critical risk and the increased use of indicators to measure threats to international security have also affected how states perceive and respond to corruption. This trend is expected to intensify under the Biden administration of the United States.<sup>17</sup> Chronologically, this recognition of corruption as a threat to stability, peace, and security emerged after the onset of the global war on terror.<sup>18</sup> Before then, corruption was neither a “security” concern nor even an “international” concern. The recognition of the “international” aspect of corruption emerged in the late 1970s following the American enactment of the Foreign Corrupt Practices Act.<sup>19</sup> However, this perspective was only shared among states in the Global North, as evidenced by the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions in the late 1990s.<sup>20</sup> In response, states in the Global South have grown concerned that the international campaign against corruption serves as a cover for legal imperialism.<sup>21</sup> On the other

---

12. Examples include the Global Peace Index, Globally-Accepted Indicators for Peacebuilding, Everyday Peace Indicator Project; ‘New Deal’ Technical Working Group Common Indicators, etc.

13. Examples include The Human Development Index, The Child Development Index, World Development Indicators, etc.

14. Examples include the Rule of Law Index, U.N. Rule of Law Indicators, Harvard Kennedy School – Indicators in Development: Safety and Justice, etc.

15. Holomar, *supra* note 2, at 862.

16. David McGrogan, *Human Rights Indicators and the Sovereignty of Technique*, 27 EUR. J. INT’L L. 385, 385 (2016) (“[I]ndicators in particular have come to occupy a central role in the agenda of the United Nations (UN) treaty-based mechanisms.”).

17. Anders Aslund, *How Biden Can Fight International Corruption*, THE HILL (Mar. 05, 2021), <http://thehill.com/opinion/international/541824-how-biden-can-fight-international-corruption> (“Biden promised to ‘issue a presidential policy directive that establishes combating corruption as a core national security interest and democratic responsibility.’”).

18. Kimberly Thachuk, *Corruption and International Security*, 25 SAIS REV. INT’L AFF. 143, 143 (2005).

19. Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-1 (1977).

20. OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Dec. 17, 1997, 2802 U.N.T.S. 225.

21. See generally KEVIN E. DAVIS, BETWEEN IMPUNITY AND IMPERIALISM (2019) (suggesting that a small group of global north States imposed their laws and values on the global south States).

hand, the devastating effects of corruption on international “security” have not been sufficiently recognized, even among states in the Global North.<sup>22</sup>

However, after the terrorist attacks of 9/11, the war on terror enabled the international community to recognize corruption as an “international security” concern.<sup>23</sup> In Resolution 58/4 of October 31, 2003, the U.N. adopted the United Nations Convention against Corruption (“UNCAC”), and expressed concern “about the seriousness of problems and threats posed by corruption to the stability and security of societies, [which] undermin[e] the institutions and values of democracy, ethical values and justice and jeopardiz[e] sustainable development and the rule of law.”<sup>24</sup> Afterwards, Secretary General Kofi Annan emphasized, in his Foreword for the UNCAC, that corruption “allows organized crime, terrorism and other threats to human security to flourish.”<sup>25</sup> Many other scholars and practitioners have also identified the symbiotic relationship between corruption and international security.<sup>26</sup>

The increase in the perception of corruption has amplified the role of indicators in the governance of global corruption threats by ensuring that states comply with the international legal regime against corruption without “using sovereignty as a veil behind which to hide malfeasance.”<sup>27</sup> The most widely-recognized corruption indicators by the public include the Corruption Perceptions Index (“CPI”), created by Transparency International

---

22. CARNEGIE ENDOWMENT FOR INT’L PEACE, CORRUPTION: THE UNRECOGNIZED THREAT TO INTERNATIONAL SECURITY 3 (2014), [http://carnegieendowment.org/files/corruption\\_and\\_security.pdf](http://carnegieendowment.org/files/corruption_and_security.pdf).

23. Thachuk, *supra* note 18, at 144 (“In his opening address to the Anti-Corruption Conference in Prague in 2001, Vaclav Havel said, ‘[F]ighting corruption is fighting terrorism.’”).

24. U.N. Convention Against Corruption, Oct. 13, 2003, 2349 U.N.T.S. 145 (originally published in G.A. Res. 58/4, U.N. Doc. A/RES/58/4 (Oct. 31, 2003)).

25. Kofi Annan, *Foreword* to U.N. Convention Against Corruption, G.A. Res. 58/4, U.N. Doc. A/RES/58/4 (Oct. 31, 2003).

26. Thachuk, *supra* note 18, at 152 (“The continued use of corruption by international villains is no longer an internal State problem but is also a matter of international security.”); *see also* CARNEGIE ENDOWMENT FOR INT’L PEACE, *supra* note 22, at 1; KAYLA IZENMAN & TOM KEATINGE, ROYAL UNITED SERV. INST. FOR DEFENSE AND SECURITY STUDIES, EXPLORING CONNECTIONS: CORRUPTION, TERRORISM AND TERRORIST FINANCING (2020), [http://static.rusi.org/20200402\\_izenman\\_and\\_keatinge\\_final.pdf](http://static.rusi.org/20200402_izenman_and_keatinge_final.pdf); Mark V. Vlasic & Jenae N. Noell, *Fighting Corruption to Improve Global Security*, 5 YALE J. INT’L AFF. 1, 2 (2010); JONAS LINDBERG & CAMILLA ORJUELA, CORRUPTION IN THE AFTERMATH OF WAR (2017); FRED SCHREIER, GENEVA CTR. FOR DEMOCRATIC CONTROL ARMED FORCES, PAPER NO. 19, TRENDS AND CHALLENGES IN INTERNATIONAL SECURITY 57 (2010), [http://www.dcaf.ch/sites/default/files/publications/documents/OP19\\_schreier\\_trendsandchallenges.pdf](http://www.dcaf.ch/sites/default/files/publications/documents/OP19_schreier_trendsandchallenges.pdf); MARK PYMAN, TOBIAS BOCK, ELÉONORE VIDAL DE LA BLANCHE, SAAD MUSTAFA, & DOMINIK ZAUM, TRANSPARENCY INT’L, CORRUPTION AS A THREAT TO STABILITY AND PEACE 9 (2014), [http://ti-defence.org/wp-content/uploads/2016/03/2014-01\\_CorruptionThreatStabilityPeace.pdf](http://ti-defence.org/wp-content/uploads/2016/03/2014-01_CorruptionThreatStabilityPeace.pdf).

27. Thachuk, *supra* note 18, at 152.

(“TI”), and the Control of Corruption (“CC”), created under the auspices of the World Bank.<sup>28</sup>

Both the CPI and the CC evaluate states by comparing subjective numerical data on corruption from surveys of experts or business executives. Statistical and anecdotal evidence show that these indicators pressure states by negatively impacting their resources of power,<sup>29</sup> such as GDP and foreign investment, which are often regarded as the “motor of world politics.”<sup>30</sup> However, scholars and legal practitioners have identified and strongly criticized deficiencies in existing indicators intensifying the need for a more usable alternative indicator for corruption.<sup>31</sup>

In response, this paper offers the Corruption (0703) code under the ICCS as an alternative indicator. It presents data on corruption incidents sourced from objective numerical records, unlike the subjective survey results that inform other indicators. This objective feature could enhance the global governance of corruption by supplementing, if not substituting, the above-mentioned existing indicators. The ICCS, which is endorsed by the United Nations Statistical Commission and managed by the United Nations Office on Drugs and Crime as a guardian, provides states with its own classification of criminal offenses based on “internationally agreed concepts” aimed at improving the comparability of crime statistics between states.<sup>32</sup> By following the ICCS as a standard, states can produce objective numerical data for each type of crime, including corruption.

For this recommendation to be persuasive, the following questions must be answered. Does Corruption (0703) under the ICCS retain the required characteristics and qualities to work as an indicator, and does it perform better than other indicators? Can states implement the changes necessary to comply with the ICCS? More importantly, if they are able to implement these changes, would they do so without cheating? This is a serious concern given the fact that states play a pivotal role in Corruption (0703) as both

---

28. Debora V. Malito, *Measuring Corruption Indicators and Indices* 10 (Eur. Univ. Inst., Working Paper No. RSCAS 2014/13, 2014).

29. *See infra* Part III.B.1.

30. Michael Beckley, *The Power of Nations*, 43 INT’L SEC. 7, 7, 11–15 (2018) (“The most common approach . . . measures power by tallying the wealth and military assets of each country. . . . Most scholars and analysts measure power using gross indicators, including various measures of economic input (e.g., on research and development [R&D] spending, capital investment, and energy consumption); economic output (e.g., GDP, manufacturing, and industrial output); trade and financial flows; and “bean counts” of military spending, platforms, and personnel.”).

31. *See infra* Part III.B.1.

32. U.N. OFFICE ON DRUGS AND CRIME, INTERNATIONAL CLASSIFICATION OF CRIME FOR STATISTICAL PURPOSES (ICCS): VERSION 1.0 7 (2015), <http://unstats.un.org/unsd/statcom/doc15/BG-ICCS-UNODC.pdf>. Implementation of ICCS is a voluntary decision to be made by each state. As ICCS is still pretty new, to assist member states in implementing the ICCS, UNODC organized international and regional meetings both in-person and virtual. ICCS-Technical Advisory Group (TAG) virtual platform (VP) currently has 77 members from 48 countries on five continents.

subjects and objects of the measurement, unlike the CPI and the CC measurements in which states operate only as objects. Accordingly, we must query whether the problems of cheating and non-compliance can be overcome.

This article answers the questions above by referring to the international relations theory of neo-liberalism and to the role of corruption's distinct characteristics as hidden crimes located between domestic criminal law and international agreements.<sup>33</sup> In doing so, this article often refers to the Republic of Korea as a case study.<sup>34</sup>

Part II of this article sets the scope and premises of analysis by studying the definition and essential features of an indicator. Part III examines the shortcomings of existing indicators (*i.e.*, the CPI and the CC) that prevent them from successfully measuring corruption, and demonstrates that Corruption (0703) can address the deficiencies of the existing indicators. Part III achieves this by employing a microscopic comparative analysis between the candidate indicators, examining how they define corruption, how they facilitate comparisons between states, and, ultimately, how they exert pressure on states to improve their ability to combat corruption. Part IV examines the potential obstacles that may prevent Corruption (0703) from fulfilling its expected role as a strong indicator. Chief among these obstacles are the difficulties in implementing the ICCS and the lack of political will among states to comply with the ICCS. Finally, Part V suggests various reforms to Corruption (0703) designed to overcome these limitations.

## I. SCOPE AND PREMISES OF THE ANALYSIS

Numerical indicators have been increasingly utilized to measure and improve diverse aspects of state functions (*e.g.*, rule of law, democracy, media freedom, etc.). In addition to the CPI and the CC, other known indicators include the Rule of Law Indicators compiled by the UN, the Human Development Index of the UN Development Program, the Country Policy

---

33. See *infra* Part IV.B. Hidden crimes here indicate the crimes which are not readily identifiable with no obvious victims to report the crime.

34. This paper was inspired by the research project "2nd Year of Study in Development of 'Korean Classification of Crime'" establishing a National Correspondence Table for the ROK to map the National Crime Statistics into the International Classification of Crime for Statistical Purpose (ICCS), particularly in relation to Acts involving fraud, deception, or corruption (07) of the ICCS. ROK has made consistent efforts to implement the ICCS, and it is generally regarded as the State which is at the most advanced stage of its implementation. Expertise of ROK in this area is evidenced by the fact that the KOSTAT-UNODC Centre of Excellence for Statistics on Crime and Criminal Justice in Asia and the Pacific is to be located in the ROK to provide technical assistance and training activities to the countries in the region. See Rep. of the U.N. Office on Drugs and Crime on Crime and Criminal Justice Statistics, ¶ 19, U.N. Doc. E/CN.3/2019/19 (Dec. 19, 2018) [hereinafter Report on Crime Statistics]. Although each State might have a different structure and classification for its crime statistics, the challenges States encounter in implementing the ICCS could be categorized in a similar manner. This paper therefore aims to analyze the possibilities and limitations of Corruption (0703) as an indicator based on the experiences of the ROK.



and Institutional Assessment of the World Bank, the Fragile State Index of the Fund for Peace, the Global Multidimensional Poverty Index of the Oxford Poverty & Human Development Initiative, and the Democracy Index of the Economist Intelligence Unit.<sup>35</sup> By measuring and quantifying positive or negative phenomena, the indicators rank different states and compare them against one another.<sup>36</sup> Through such ranking and comparison, the indicators motivate states to improve their performance, thereby raising their rankings<sup>37</sup> as demonstrated by Galtung and Schueth.<sup>38</sup>

Among many indicators, this article focuses on the indicators measuring corruption: the CPI, the CC, and Corruption (0703). Although the existing indicators measuring corruption are also numerous, this article compares the CPI and the CC to Corruption (0703). This article suggests that Corruption (0703), although flawed, should serve as the primary indicator for global corruption, and thus replace the two most widely used existing indicators: the CPI and the CC.

The analysis of this article is premised on the definition and essential features of an indicator as suggested by Davis, Kingsbury, and Merry.<sup>39</sup> Although no consensus has yet been reached, the suggestion by Davis, Kingsbury, and Merry has been widely adopted in academia,<sup>40</sup> and defines an indicator as:

A named collection of rank-ordered data that purports to represent the past or projected performance of different units. The data are generated through a process that simplifies raw data about a complex social phenomenon. The data, in this simplified and processed form, are capable of being used to compare particular units of analysis (such as countries, institutions, or corporations), synchronically or over time, and to evaluate their performance by reference to one or more standards.<sup>41</sup>

---

35. Davis, Kingsbury, & Merry, *supra* note 6, at 71–72.

36. *Id.* at 76.

37. Kevin E. Davis, *Legal Indicators: The Power of Quantitative Measures of Law*, 10 ANN. REV. L. & SOC. SCI. 37, 38 (2014).

38. See Fredrik Galtung, *Measuring the Immeasurable: Boundaries and Functions of (Macro) Corruption Indices*, in MEASURING CORRUPTION (Charles Sampford, Arthur Shacklock, Carmel Connors, & Fredrik Galtung eds., 2006); Sam Schueth, *Assembling International Competitiveness: The Republic of Georgia, USAID, and the Doing Business Project*, 87 J. ECO. GEOGRAPHY 51 (2011).

39. Davis, Kingsbury, & Merry, *supra* note 6.

40. David Nelken, *The Changing Roles of Social Indicators: From Explanation to Governance*, in GLOBALISATION, CRIMINAL LAW AND CRIMINAL JUSTICE: THEORETICAL, COMPARATIVE AND TRANSNATIONAL PERSPECTIVES 25, 25 (Peter Alldridge & Leonidas Cheliotis eds., 2015).

41. Davis, Kingsbury, & Merry, *supra* note 6, at 73–74.

The CPI, the CC, and Corruption (0703) all fit this definition. They define the aggregation of raw data as “corruption.”<sup>42</sup> The aggregated data on corruption for each state is collected and compared to other data sets across time and between states in order to monitor their responses to corruption and to evaluate their policies.<sup>43</sup>

However, beyond these general commonalities between the CPI, the CC, and Corruption (0703), they differ greatly. This article analyzes the substantive distinctions amongst the CPI, the CC, and Corruption (0703), demonstrating the weaknesses of the CPI and the CC, and the strengths of Corruption (0703) in their performance indicators.

To do so, this article refers to the essential features common to the indicators that are highlighted by the previous study. According to Davis, Kingsbury, and Merry, those features include: “(1) The significance of the name of the indicator and the associated assertion of its power to define and represent a phenomenon...; (2) the ordinal structure enabling comparison and ranking and exerting pressure for ‘improvement’ as measured by the indicator.”<sup>44</sup>

Although Davis, Kingsbury, and Merry identified four features, this article considers only the first and second. The third feature (“the simplification of complex social phenomena”) is not discussed because it closely relates to the first feature. The fourth feature (“the potential to be used for evaluative purposes”) is not discussed, because it is intimately connected with the second feature.<sup>45</sup> Therefore, in explaining the extent to which each indicator satisfies the first and the second features in the following part, this article inherently addresses the third and the fourth features.

## II. CORRUPTION (0703) COMPLEMENTS THE DEFICIENCIES OF THE CPI AND THE CC

While the CPI and CC are widely known and well researched, Corruption (0703) is quite new not only to the general public, but also to many scholars and practitioners, as it was recently developed by the United Nations Office on Drugs and Crime (“UNODC”) in 2015.<sup>46</sup> Because Corruption (0703) is currently in its initial stage of implementation, this article uses the Republic of Korea as a case study when comparing Corruption (0703) to the CPI and the CC in order to provide a general description and analysis of Corruption (0703), as the Republic of Korea is at the most advanced stage

---

42. See TRANSPARENCY INT’L, CORRUPTION PERCEPTIONS INDEX 2018, at 2 (2019); *DataBank Worldwide Governance Indicators*, WORLD BANK, [http://databank.worldbank.org/source/worldwide-governance-indicators#selectedDimension\\_DBList](http://databank.worldbank.org/source/worldwide-governance-indicators#selectedDimension_DBList) (last visited Oct. 10, 2022); U.N. OFFICE ON DRUGS AND CRIME, *supra* note 32.

43. U.N. OFFICE ON DRUGS AND CRIME, *supra* note 32.

44. Davis, Kingsbury, & Merry, *supra* note 6, at 75.

45. *Id.*

46. U.N. OFFICE ON DRUGS AND CRIME, *supra* note 32, at 9–10.

of implementation.<sup>47</sup> The explanations of the CPI and the CC focus specifically on their deficiencies as noted by prior researchers: conceptual ambiguity, interdependence and inconsistency of sources, and elite bias, etc.<sup>48</sup>

### A. Naming and Defining Corruption<sup>49</sup>

This section explains the first feature, naming and defining, from the four essential features common to the indicators. This section compares the definition of corruption under the emerging indicator of Corruption (0703) with the definitions under the existing indicators of the CPI and the CC.

#### 1. Existing Indicators: the CPI and the CC

The CPI and the CC both rank states based on their corruption scores using a definition of corruption provided by the producer of the indicator, namely TI for the CPI and the World Bank for the CC. The proliferation of diverse definitions of corruption at the international level poses a challenge, as it impedes the creation of a comprehensive framework of analysis that would allow the international community to compare states according to a single standard.<sup>50</sup> However, other than small differences in detail, such as the inclusion of active bribery in the definitions provided by the World Bank and TI, generally coincide.<sup>51</sup>

47. The ROK has made consistent efforts to implement the ICCS. Its expertise in this area is evidenced by the fact that the KOSTAT-UNODC Centre of Excellence for Statistics on Crime and Criminal Justice in Asia and the Pacific is to be located in the ROK to provide technical assistance and training activities to the countries in the region. See Report on Crime Statistics, *supra* note 34. Although each State might have a different structure and classification for its crime statistics, the challenges states encounter in implementing the ICCS could be categorized in a similar manner. This paper therefore aims to analyze the possibilities and limitations of Corruption (0703) as an indicator based on the experiences of the ROK.

48. Ritva Reinikk & Jakob Svensson, *Survey Techniques to Measure and Explain Corruption* (World Bank Pol'y Rsch., Working Paper No. 3071, 2003); Jens C. Andvig, *Alternative Perspectives: Perspective Paper 6.1*, in GLOBAL CRISES, GLOBAL SOLUTIONS 345 (Bjørn Lomborg ed., 2004); Susan Rose-Ackerman, *Governance and Corruption*, in GLOBAL CRISES, GLOBAL SOLUTIONS 301, 301 (Bjørn Lomborg ed., 2004); Tina Søreide, *Business Corruption: Incidence, Mechanisms, and Consequences* (Feb. 9, 2006) (Ph.D. dissertation, Norwegian School of Economics and Business Administration) (on file with author); Malito, *supra* note 28; Galtung, *supra* note 38.

49. Davis, Kingsbury, and Merry describe naming and defining as the first essential feature of indicators but distinguish naming from defining. Davis, Kingsbury, & Merry, *supra* note 6, at 75 (“The significance of the name of the indicator and the associated assertion of its power to define and represent a phenomenon.”).

50. Leo Huberts, Karin Lasthuizen & Carel Peeters, *Measuring Corruption: Exploring the Iceberg*, in MEASURING CORRUPTION, *supra* note 38, at 256; Malito, *supra* note 28, at 5.

51. Malito, *supra* note 28, at 6, 20. (“TI conceptualizes the ‘active bribery’, as a separate form of corruption . . . while the WB and other providers apply the term corruption to both the activities of ‘accepting or giving a bribe.’”).

TI defines corruption as “the abuse of entrusted power for private gain.”<sup>52</sup> Based on this definition, TI creates distinct categories of corruption: grand, petty, and political. They are defined as follows:

Grand corruption consists of acts committed at a high level of government that distort policies or the central functioning of the [S]tate, enabling leaders to benefit at the expense of the public good. Petty corruption refers to everyday abuse of entrusted power by low- and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies. Political corruption is a manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth.<sup>53</sup>

Under the World Bank definition, corruption occurs when: “Public power is exercised for private gain, including both petty and grand forms of corruption, as well as ‘capture’ of the [S]tate by elites and private interests.”<sup>54</sup>

Accordingly, at least between two of the most widely used corruption indicators, the diversity of definitions does not seem to pose a challenge. Instead, the ambiguity in the definitions under the CPI and the CC, rather than the differences between them, is a weakness that prevents the CPI and the CC from working effectively as indicators.

This ambiguity is the antithesis of one of the five essential qualities of indicators: specificity. Together with the other four, these qualities are referred to by the acronym SMART: Specific, Measurable, Attainable (or, Appropriate or Attributable), Relevant (or, Realistic or Reliable), and Time-bound (or, Trackable).<sup>55</sup> Specificity requires that an indicator be defined in a clear, precise, and narrow manner without ambiguity.<sup>56</sup> In addition, specificity of indicators is a necessary condition that must be met to

---

52. *What is Corruption?*, TRANSPARENCY INT’L, <http://www.transparency.org/en/what-is-corruption> (last visited Sept. 19, 2018).

53. *Id.*

54. WORLD BANK, CONTROL OF CORRUPTION: ESTIMATE (2019).

55. *A Good Start with S.M.A.R.T. (Indicators)*, U.S. DEPT. OF STATE, [http://eca.state.gov/files/bureau/a\\_good\\_start\\_with\\_smart.pdf](http://eca.state.gov/files/bureau/a_good_start_with_smart.pdf) (last visited 19 July 2022) [hereinafter *A Good Start*]; George T. Doran, *There’s a S.M.A.R.T. Way to Write Management’s Goals and Objectives*, 70 MGMT. REV. 35, 35–36 (1981); see KEN BLANCHARD, PATRICIA ZIGARMI, & DREA ZIGARMI, *LEADERSHIP AND THE ONE MINUTE MANAGER* (1985); PAUL HERSEY, KEN BLANCHARD, & DEWEY JOHNSON, *MANAGEMENT OF ORGANIZATIONAL BEHAVIOR* (5th ed. 1988).

56. Jon Selvik, Surbhi Bansal, & Eirik Abrahamsen, *On the Use of Criteria Based on the SMART Acronym to Assess Quality of Performance Indicators for Safety Management in Process Industries*, 70 J. LOSS PREVENTION PROCESS INDUS. 1, 2 (2021); *A Good Start*, *supra* note 55.

achieve measurability, another essential quality.<sup>57</sup> In other words, without a specific definition, an indicator cannot be quantified, let alone compared.

Corruption, however, as ambiguously defined by TI and the World Bank, can only be measured in a subjective manner.<sup>58</sup> Such ambiguity arises from the very capaciousness of the term “corruption.” Although TI and the World Bank’s definitions of corruption are similar, the term “corruption” has been defined in various ways. Prominent scholars have suggested that divergent definitions of corruption existed long before indicators emerged.<sup>59</sup> Some of the major differences between definitions stem from the inclusion of only activities that violate express laws, while others include activities that are not strictly prohibited by law.<sup>60</sup>

In the midst of this lack of international consensus on the activities that constitute corruption, TI and the World Bank have chosen to regard corruption as a more abstract aspect of society—like governance, democracy, and rule of law—to be measured only in a subjective manner, rather than as a precise legal term to be measured in an objective manner. Thus, the CPI and the CC measure corruption in the public sector of a given state by aggregating assessments from limited sources consisting of expert opinions and surveys of business executives: thirteen sources for the CPI and thirty-two sources for the CC.<sup>61</sup> Such subjective measurement of corruption inappropriately transforms personal judgments into impersonal data points and weakens the reliability of the CPI and the CC, as illustrated more deeply later in this article.<sup>62</sup>

## B. *Corruption (0703) under the International Classification of Crime for Statistical Purpose*

### 1. A General Introduction to the ICCS

To improve the comparability of crime statistics between states, the ICCS provides states with a “classification of criminal offences which is

---

57. *A Good Start*, *supra* note 55 (“Once an indicator is clear and specific, they can be measured in numerous ways.”).

58. See Fredrik Galtung, *Criteria for Sustainable Corruption Control*, 10 EUR. J. DEV. RSCH. 105, 107 (1998); Daniel Treisman, *What Have we Learned About the Causes of Corruption From Ten Years of Cross-National Empirical Research?*, 10 ANN. REV. POL. SCI. 211, 213 (2007).

59. Søreide, *supra* note 48, at 17.

60. *Id.*

61. TRANSPARENCY INT’L, *supra* note 42, at 1 (for CPI); *Worldwide Governance Indicators: Documentation*, WORLD BANK, <http://info.worldbank.org/governance/wgi/Home/Documents> (scroll down to “WGI Data Sources”; then click on “Download source data”) (last visited Sept. 19, 2022) (for CC).

62. See *infra* Part III.B.1.

based on internationally agreed [upon] concepts [and] definitions.”<sup>63</sup> However, states often use different definitions to refer to a single crime with the same name. It has been recognized that this lack of a standardized definitional framework with which to organize crime statistics hampers the consistency and international comparability of these statistics.<sup>64</sup>

Instead of taking on the difficult, if not impossible, task of harmonizing criminal laws among states, the international community has sought to overcome this limitation by taking an event-based approach to classification of criminal offenses through the ICCS. It provided states with “behavioral descriptions rather than strictly legal specifications derived from criminal laws,” for statistical purposes.<sup>65</sup> In doing so, the ICCS had no choice but to use specific terms, such as “bribery” and “embezzlement,” which are widely recognized as criminal offenses in the laws of states. However, the ICCS provided its own specific act or event descriptions of such as a standard definition.

The ICCS classification of a crime is composed of four levels of subsets. Level 1 is the broadest superset category, with eleven different acts, each of which has a two-digit code. Level 2 has a four-digit code; Level 3 a five-digit code; and Level 4, representing the narrowest subset category of many criminal acts, a six-digit code.<sup>66</sup>

Corruption (0703) is a Level 2 category classified under the Level 1 category of “Acts involving fraud, deception or corruption (07).” As illustrated in Table 1 below, Corruption (0703) is further classified into 6 sub-categories: “Bribery (07031),” “Embezzlement (07032),” “Abuse of Functions (07033),” “Trading in Influence (07034),” “Illicit Enrichment (07035),” and “Other Acts of Corruption (07039)”<sup>67</sup> Each of the 6 sub-categories is defined by its own specific act or event descriptions.

---

63. U.N. OFFICE ON DRUGS AND CRIME, *supra* note 32, at 7.

64. *Id.*; CAROL B. KALISH, U.S. DEP’T OF JUST., BUREAU OF JUST. STATISTICS, INTERNATIONAL CRIME RATES (1988).

65. U.N. OFFICE ON DRUGS AND CRIME, *supra* note 32, at 8.

66. *Id.* at 14.

67. *Id.* at 28.

TABLE 1: CATEGORIES OF CORRUPTION (0703) UNDER THE ICCS (UNODC 2015)<sup>68</sup>

ICCS		
Corruption (0703)	Bribery (07031)	Active bribery (070311)
		Passive bribery (070312)
	Embezzlement (07032)	
	Abuse of functions (07033)	
	Trading in influence (07034)	
	Illicit enrichment (07035)	
	Other acts of corruption (07039)	

## 2. Corruption (0703)

The ICCS provides a standardized definitional framework for each of the sub-categories of Corruption (0703), which are specific enough, as illustrated below in Table 2, to be measured in an objective manner through crime statistics. This allows the international community to overcome the confusion stemming from the diversity of definitions at the state level, which is even more varied than the diversity at the international level illustrated above in relation to the definition of corruption by existing indicators.

National crime statistics are organized and categorized according to criminal offenses, as defined by each state's criminal law system.<sup>69</sup> A crime with the same name in a different state could include a different scope of acts, whether wider or narrower.<sup>70</sup> The same act could be criminalized with a different name in a different country, or the same act could be considered a crime in one country but not in another.<sup>71</sup>

In the case of corruption, the diversity of definitions is even more complicated than in other types of crime, which are concretely defined activities violating the criminal law. As explained above, in the absence of consensus at the international level, the definition of corruption varies, including some definitions that cover only activities violating laws and others encompassing additional activities.<sup>72</sup> Moreover, corruption itself is generally not concretely or specifically defined, even under the domestic criminal law of states.<sup>73</sup>

68. *Id.*

69. U.N. OFFICE ON DRUGS AND CRIME & U.N. ECONOMIC COMMISSION FOR EUROPE, PRINCIPLES AND FRAMEWORK FOR AN INTERNATIONAL CLASSIFICATION OF CRIMES FOR STATISTICAL PURPOSES 14 (2012).

70. *Id.* at 15.

71. *Id.* at 16.

72. Søreide, *supra* note 48, at 17.

73. *Id.* at 8, 17.

Instead, it is made up of a compilation of criminal offenses, each of which has a specific definition under that state's law, which may then differ from other state definitions in the ways described above. These offenses may, however, share contexts. Those shared contexts are, in many cases, not defined under the laws of states.

Thus, even among the groups that consider corruption to be comprised of only those activities that violate the law, discrepancies may exist between states with respect to the type and definition of activities included under the umbrella of corruption. In other words, even when states define corruption in their criminal law or other laws, the scope of criminal offenses regarded as corruption may differ by states or even by the laws within the same state.

In the case of the Republic of Korea, Article 2.4 of the Act on the Prevention of Corruption and the Establishment and Management of the Anti-Corruption and Civil Rights Commission ("Act on the Prevention of Corruption") defines an act of corruption as follows:

- (a) The act of any public official's abus[e of] his/her position or authority or violat[ion of] statutes in connection with his/her duties to seek gains for himself/herself or any third party;
- (b) The act of inflicting damages on the property of any public institution in violation of statutes, in the process of executing the budget of the relevant public institution, acquiring, managing, or disposing of the property of the relevant public institution, or entering into and executing a contract to which the relevant public institution is a party;
- (c) The act of coercing, urging, proposing and inducing any act referred to in items (a) and (b) or the act of covering it up.<sup>74</sup>

According to Article 2.4 (a) of the Act on the Prevention of Corruption, corruption consists of a compilation of criminal offenses, including acceptance of bribes, abuse of authority, or abandonment of duties committed *by public officials* for private gain.<sup>75</sup> The same acts, committed by a person who directs or works in a private sector entity, would thus not be regarded as corruption. On the other hand, according to Article 2.4(b) of the Act on the Prevention of Corruption, embezzlement or misappropriation of *public property* are regarded as corruption regardless of the identity of the actor, thus applying whether the act is committed by a public official or a person who directs or works in a private sector entity.<sup>76</sup>

However, the definition of corruption is dissimilar in another Republic of Korea law: the Act of Special Cases Concerning the Confiscation and Return of Property Acquired through Corrupt Practices (Act on the Confisca-

---

74. [Act on the Prevention of Corruption and the Establishment and Management of the Anti-Corruption and Civil Rights Commission] art. 2(4) item (a) (S. Kor.), [http://elaw.klri.re.kr/eng\\_service/main.do](http://elaw.klri.re.kr/eng_service/main.do) (search required).

75. *Id.*

76. *Id.* item (b).



tion and Return of Corrupted Property).<sup>77</sup> According to Article 2.1 of the Act on the Confiscation and Return of Corrupted Property, the offense of corruption is:

Any of the predicate offenses prescribed in the attached Table committed with the purpose of obtaining by unlawful or unjust means any corporeal or social gains, or to aid or abet another in obtaining the same.<sup>78</sup>

The table attached to the Act contains some crimes that overlap with the criminal offenses that are regarded as corruption under Article 2.4 of the Act on the Prevention of Corruption, while others do not overlap.<sup>79</sup> For instance, the definition of corruption under the Act on the Confiscation and Return of Corrupted Property includes acceptance of a bribe, but not abuse of authority or abandonment of duties committed by public officials for private gain.<sup>80</sup> In addition, the definition covers the embezzlement or misappropriation not only of public property, but also of private property, regardless of the identity of the actor and whether they are a public official or a person who directs or works in a private sector entity.<sup>81</sup>

As can be seen from the example of the Republic of Korea, the definition of corruption is not even harmonized throughout a single state. Although the discrepancy can be understood as a result of the different purposes of the Act on the Prevention of Corruption and the Act on the Confiscation and Return of Corrupted Property, it cannot be justified if the word “corruption” is used to describe two different things. The degree of discrepancy between definitions of corruption is even more serious between states than it is within the same state, as there is no central authority to ensure consistency between laws in the international community.

To overcome the lack of an accepted definition of corruption at the international and state levels, the ICCS has suggested a definition that labels several criminalized acts as sub-categories of Corruption (0703), as shown in Table 2 below. The minimum core of corruption is defined through its sub-categorization into Bribery (07031), Embezzlement (07032), Abuse of Functions (07033), Trading in Influence (07034), and Illicit Enrichment (07035), and descriptions for each are illustrated in detail by the ICCS.<sup>82</sup> At the same time, to respect the individuality of each state, the ICCS renders an

---

77. [Act of Special Cases Concerning the Confiscation and Return of Property Acquired through Corrupt Practices] art. 2(1) (S. Kor.), [http://elaw.klri.re.kr/eng\\_service/main.do](http://elaw.klri.re.kr/eng_service/main.do) (search required).

78. *Id.*

79. *Id.* app.; see Act on the Prevention of Corruption, art. 2(4).

80. Act of Special Cases Concerning the Confiscation, app.

81. *Id.*

82. U.N. OFFICE ON DRUGS AND CRIME, *supra* note 32, at 70–72.

open definition of Corruption (0703) by including Other Acts of Corruption (07039) as one of its subcategories.<sup>83</sup>

TABLE 2: DEFINITION OF CORRUPTION (0703) UNDER THE ICCS (UNODC 2015)<sup>84</sup>

ICCS			
Corruption (0703)	Bribery (07031)	Active bribery (070311)	Promising, offering or giving, to a public official or a person who directs or works in a private sector entity, directly or indirectly, an undue advantage in order that the official act or refrain from acting in the exercise of his or her official duties.
		Passive bribery (070312)	Solicitation or acceptance by a public official or a person who directs or works in a private sector entity, directly or indirectly, of an undue advantage in order that the official act or refrain from acting in the exercise of his or her official duties.
	Embezzlement (07032)		Embezzlement, misappropriation or diversion by a public official or a person who directs or works in a private sector entity of any property, public or private funds or securities or any other thing of value entrusted to the public official or person by virtue of his or her position.
	Abuse of functions (07033)		Performance of or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

83. *Id.* at 70 (citing to the ICCS definition of corruption as “[u]nlawful acts as defined in the United Nations Convention against Corruption and other national and international legal instruments against corruption”).

84. *Id.* at 70–72.

	Trading in influence (07034)	Promising, offering or giving to a public official, or solicitation or acceptance by a public official, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining an undue advantage.
	Illicit enrichment (07035)	Procuring a significant increase in the assets of a public or private official which cannot be reasonably explained in relation to their lawful income.
	Other acts of corruption (07039)	Acts of corruption not described or classified in categories 07031 - 07035. Corruption (0703) defines this as "Unlawful acts as defined in the United Nations Convention against Corruption and other national and international legal instruments against corruption."

The specific definitions for each of the sub-categories of Corruption (0703) increase the ability of ICCS to measure corruption in an objective manner. The above definitions are specific enough to be utilized as a standard for domestic crime statistics in place of the definitions of the corresponding crimes under domestic laws. Thus, states can measure and quantify the actual domestic incidence of the criminal acts sub-categorized under Corruption (0703) with the confidence that Corruption (0703) compares apples to apples in conducting inter-state comparisons, unlike with the imprecise quantification of subjective perceptions of corruption under the CPI and the CC. The sum of the number of each sub-category of criminal acts provides the Corruption (0703) tally in each jurisdiction.

### *C. Enabling Comparisons and Exerting Pressure to Bring about Improvements*

This section explains the second feature, enabling comparisons between and exerting pressure on states to bring about improvements, among the four essential features common to the indicators. This section compares the reliability of the Corruption (0703) with the reliability of the CPI and the CC, which affects their second feature as an indicator.

#### 1. Existing Indicators: the CPI and the CC

The CPI and the CC both label a given state as more or less corrupt based on its measurement of the subjective perception of experts on corrup-

tion. Such labeling carries a serious negative significance for the state, thereby fulfilling the second feature of an indicator: enabling comparisons and exerting pressure to bring about improvements.

The power of a state is generally measured according to two metrics: its wealth (as reflected in its level of economic input and output) and its military assets.<sup>85</sup> There is evidence of a direct proportional relationship between foreign investment, which illustrates the level of economic input, and lower CPI scores.<sup>86</sup> Furthermore, GDP, which illustrates the level of economic output of a state, increases by 1.7% with one unit of increase in the CPI.<sup>87</sup> In contrast, a decline in the CPI curtails foreign investment and eventually GDP.<sup>88</sup>

Foreign Corrupt Practices Act (“FCPA”) enforcement by US authorities tends to concentrate on states that are known for corruption.<sup>89</sup> This tendency is sometimes evidenced by corruption indicators; that is, a reduced score on the CPI by TI or a low score on the CC by the World Bank.<sup>90</sup> This, in turn, results in a reduction of investment by foreign entities who seek to avoid the risk of being targeted by FCPA enforcement.<sup>91</sup> For instance, the Swiss logistics giant, Panalpina, withdrew its operations from Nigeria due to compliance concerns of US authorities regarding FCPA enforcement.<sup>92</sup>

---

85. Michael Beckley, *The Power of Nations: Measuring What Matters*, 43(2) INT’L SEC. 7, 11–12 (2018) (“The most common approach . . . measures power by tallying the wealth and military assets of each country.”); *id.* at 15 (“Most scholars and analysts measure power using gross indicators, including various measures of economic input (e.g., on research and development [R&D] spending, capital investment, and energy consumption); economic output (e.g., GDP, manufacturing, and industrial output); trade and financial flows; and “bean counts” of military spending, platforms, and personnel.”).

86. Shang-Jin Wei, *How Taxing Is Corruption on International Investors?*, 8 REV. ECO. & STAT. 1, 7–8 (2000).

87. Boris Podobnik, Jia Shao, Djuro Njavro, Plamen Ivanov, & Eugene Stanley, *Influence of Corruption on Economic Growth Rate and Foreign Investment*, 63 EUR. PHYSICAL J. 547, 547 (2008).

88. Klaus Gründler & Niklas Potrafke, *Corruption and Economic Growth: New Empirical Evidence* 16 (Ctr. for Econ. Stud. & ifo Inst., Working Paper No. 7816, 2019).

89. Nicholas McLean, *Cross-National Patterns in FCPA Enforcement*, 121 YALE L.J. 1970 (2012).

90. Hans B. Christensen, Mark Maffett, & Thomas Rauter, *Policeman for the World: The Rise in Extraterritorial FCPA Enforcement and Foreign Investment Competition*, 97 ACCT. REV. 189, 196 (2022) (for CPI); Stephen Choi & Kevin Davis, *Foreign Affairs and Enforcement of the Foreign Corrupt Practices Act*, 11 J. EMPIRICAL L. STUD. 409, 412 (2014) (for CC).

91. James Hines, *Forbidden Payment: Foreign Bribery and American Business after 1977*, at 5, 19 (Nat’l Bureau of Econ. Rsch., Working Paper No. 5266, 1995); Alvaro Cuervo-Cazurra, *The Effectiveness of Laws Against Bribery Abroad*, 39 J. INT’L BUS. STUD. 634, 634–39, 646 (2008).

92. NICK KOCHAN & ROBERT GOODYEAR, CORRUPTION: THE NEW CORPORATE CHALLENGE 119 (2011); Brandon Garret, *Collaborative Organizational Prosecution*, in PROSECUTORS IN THE BOARDROOM: USING CRIMINAL LAW TO REGULATE CORPORATE CONDUCT 154, 168 (Anthony Barkow & Rachel Barkow eds., 2011).

Accordingly, states with low or relatively low CPIs are compelled to improve their anti-corruption laws and policies in order to prevent negative impacts to their economic power. As an example, a decline in the CPI caused by the UK's lack of enforcement against corruption in the *BAE* case led to the UK to adopt its Bribery Act, which is regarded as an even more expansive and stronger tool than the Foreign Corrupt Practices Act of the US.<sup>93</sup>

However, the ability of the CPI and the CC to facilitate effective interstate comparisons and exert pressure to bring about improvements in anti-corruption legal regimes is expected to decrease, if it has not done so already, because of its tenuous reliability.<sup>94</sup> Reliability, one of the five SMART qualities of an indicator, requires that the results of measurement be the same regardless of who collects the data and when the measurement is repeated.<sup>95</sup>

Scholars have criticized the deficiencies in reliability of the CPI and the CC.<sup>96</sup> The criticisms mainly address two aspects of these metrics: what they measure and how.

With regard to what the CPI and the CC measure, they determine the level of corruption in each state by measuring subjective perceptions of corruption. Some have criticized these indicators for ignoring the "absolute amount of corruption" or "frequency of corruption" (which is exactly what Corruption (0703) measures) and inappropriately transforming personal judgments into impersonal data.<sup>97</sup> There is also the risk of perception compromise by elite bias or reliance on the scores from a previous period.<sup>98</sup> For these reasons, the basic premise of the CPI and the CC that the subjective

---

93. TRANSPARENCY INT'L, CITY OF LONDON CORP., AVOIDING CORRUPTION RISKS IN THE CITY: THE BRIBERY ACT 2010, at 11 (2010).

94. Malito, *supra* note 28, at 9–10.

95. BERNARD BEINS, RESEARCH METHODS: A TOOL FOR LIFE 128, 140 (2013).

96. See *infra* notes 100–108.

97. See Søreide, *supra* note 48, at 17 (for discussion of "absolute amount of corruption"); Treisman, *supra* note 58, at 213 (for discussion of "frequency of corruption").

98. See Anja Rohwer, *Measuring Corruption: A Comparison Between the Transparency International's Corruption Perceptions Index and the World Bank's Worldwide Governance Indicators*, 7 CESIFO DICE REP., no. 3, 2009, at 42, 50 (for discussion of elite bias) ("The problem which occurs is that the different indicators used in the CPI and WGI are gathered from surveys based on questions to business people and very often the elite among business people. These business people are most likely representatives of multinational companies and represent views of only a small number of people. However, a good score for corruption on the company level does not result in a good score for corruption on the private level. This means that most influential factors like the experience of poor and disenfranchised people are ignored."); JENS ANDVIG, ODD-HELGE FJELDSTAD, INGE AMUNDSEN, TONE SISSNER, & TINA SØREIDE, NORWEGIAN AGENCY FOR DEVELOPMENT COOPERATION, RESEARCH ON CORRUPTION: A POLICY ORIENTED SURVEY 130 (2000) (for discussion of elite bias); Stephen Knack, *Measuring Corruption: A Critique of Indicators in Eastern Europe and Central Asia*, 27 J. PUB. POL. 255 (2007) (for discussion of reliance of prior scores).

perception reflects the actual level of corruption has become a source of contention.<sup>99</sup>

With regard to how the CPI and the CC measure corruption, these indicators aggregate the different sources from surveys of experts or business executives on corruption, which are unavailable to the public and use obscure criteria in their assessments, exacerbating the “conceptual ambiguity” of corruption.<sup>100</sup> The aggregation methodology of the CPI and the CC fails to secure the independence of various sources, resulting in a lack of “conceptual precision.”<sup>101</sup> Furthermore, due to possible absence of relevant sources or changes in the composition of sources, the CPI and the CC suffer from difficulties maintaining consistency in their measurements over time and across states.<sup>102</sup> The data gathering and analytical methods used to cope with the missing or changed sources further intensify the concern over the lack of transparency of the CPI and the CC.<sup>103</sup>

Despite these criticisms regarding their reliability, the CPI and the CC appear to have maintained their status as the most widely known and utilized corruption indicators thus far.<sup>104</sup> The admission by the creators of the indicators, such as TI, that the indicators do not reflect the actual extent of corruption, has only increased their credibility.<sup>105</sup> As long as “people come to accept [the CPI and the CC]... as the ‘standard’ or ‘appropriate’ way to measure the extent of the problem,”<sup>106</sup> the CPI and the CC will enable comparisons between and exert pressure on states to bring about improvements.

However, regardless of the public perception of the CPI and the CC, their unreliability remains, resulting in a “ranking paradox,”<sup>107</sup> due to which “countries are perceived as less or more corrupt than they actually are.”<sup>108</sup> The emergence of Corruption (0703) as an indicator to compensate for the deficiencies of the CPI and the CC can help the public better understand and recognize the weaker reliability of the CPI and the CC, which create space for significant inefficiencies in global corruption governance.

---

99. CHRISTIANE ARNDT & CHARLES OMAN, ORG. FOR ECON. COOP. & DEV., *USES AND ABUSES OF GOVERNANCE INDICATORS* 30–31 (2006).

100. Malito, *supra* note 28, at 10; see Knack, *supra* note 98, at 263; Jan Van Dijk & Fanny Mierlo, *Indicators of Corruption: Further Explorations of the Link Between Corruption and Implementation Failure in Anti-Trafficking Policies* (Int’l Victimology Inst., Working Paper, 2011).

101. Knack, *supra* note 98, at 264.

102. Malito, *supra* note 28, at 10.

103. Rohwer, *supra* note 98, at 49.

104. Malito, *supra* note 28.

105. Søreide, *supra* note 48, at 21.

106. KEVIN DAVIS & BENEDICT KINGSBURY, *INDICATORS AS INTERVENTIONS: PITFALLS AND PROSPECTS IN SUPPORTING DEVELOPMENT INITIATIVES*, at vi (2011).

107. Malito, *supra* note 28, at 18.

108. Søreide, *supra* note 48, at 21.

## 2. Corruption (0703) under the ICCS

Corruption (0703) labels a certain state as more or less corrupt based on its measurement of the “objective” number of incidents of corruption committed in each jurisdiction, thereby enabling more consistent inter-state comparisons and establishing its reliability as an indicator. States measure and quantify each incident of the criminal acts that constitute and standardize Corruption (0703) under the ICCS, including Bribery (07031), Embezzlement (07032), Abuse of functions (07033), Trading in influence (07034), Illicit enrichment (07035), and Other acts of corruption (07039).<sup>109</sup> The aggregate number of incidents of each criminal act produces the Corruption (0703) tally in each jurisdiction.<sup>110</sup> In other words, the same criteria for objective measurement is maintained across time and regions. Furthermore, the source data is later publicized by the UNODC, the guardian of the ICCS, so that states can be compared, ranked, and evaluated by the public. Thus, Corruption (0703) does not suffer from the obfuscation, interdependence, inconsistency of sources, and elite bias that plague both the CPI and the CC and diminish their reliability as indicators.

A more detailed analysis is provided below on the reliability of Corruption (0703) in comparison with the CPI and the CC from a unique vantage point: namely, how the indicator is established, by whom, and its content (*i.e.*, what, and how it measures).

Procedural legitimacy is an important component of the reliability of an indicator and considers how the indicator is established and by whom. Corruption (0703) has greater procedural legitimacy compared to the CPI and the CC because, unlike Corruption (0703), the CPI and the CC measure corruption by aggregating diverse sources, each of which is designed, produced, and controlled by actors other than TI or the World Bank.<sup>111</sup> The legitimacy of some, if not all, of those actors is not recognized through international consensus, and the criteria used in their assessments are obscure.<sup>112</sup>

On the other hand, the ICCS was established and is promulgated by the UN, whose legitimacy is secured through international consensus.<sup>113</sup> The legitimacy of the ICCS is further strengthened by the transparency of its standard-setting procedure, which is created with the active participation of the states, the eventual subjects of evaluation by the ICCS. From the plan-

---

109. U.N. OFFICE ON DRUGS AND CRIME, *supra* note 32, at 70–72.

110. *Id.* at 14.

111. *Id.* at 70–72.

112. *Supra* notes 100–103.

113. As explained above, the United Nations Statistical Commission and the Commission on Crime Prevention and Criminal Justice proposed the plan to develop the ICCS in 2012 and approved it in 2013. In 2015, both commissions endorsed the ICCS as an international statistical standard for data collection and designated UNODC as the guardian of the ICCS. The standard is designed, produced and controlled by the UNODC. U.N. OFFICE ON DRUGS AND CRIME, *supra* note 32, at 9–10.

ning to the implementation phase of the ICCS, states have enjoyed the opportunity to participate. Before the official endorsement of the ICCS in 2015, three consultation meetings were held so that statisticians and experts from states, as well as those from regional and international organizations, could discuss and share their views.<sup>114</sup> In addition, during the implementation phase, a group of national experts participated as members of the Technical Advisory Group to provide technical advice to UNODC regarding the development of methodological guidance.<sup>115</sup> By hosting a forum for reasoned debate and review, the ICCS improved its transparency and legitimacy, satisfying two demands that are important for the effective design and use of indicators.<sup>116</sup>

In addition, the content of the indicator (*i.e.*, what and how the indicator measures), Corruption (0703), but not the CPI and the CC, secures its reliability as an indicator through its substantive legitimacy. This is chiefly due to the fact that the CPI and the CC, unlike Corruption (0703), measure subjective perception on corruption by aggregating diverse sources of surveys of experts or business executives on corruption.<sup>117</sup>

Corruption (0703) measures the objective number of corruption incidents in accordance with the uniform methodology designed, produced, and controlled by the UNODC. In contrast to the subjective perception, which could be compromised by elite bias or reliance on the scores from a previous period,<sup>118</sup> objective numbers have no such risk of compromise. In addition, Corruption (0703) does not suffer from risks of interdependency between sources, and inconsistency in measurement over time and across states. This is because its methodology does not rely on various sources that are designed, produced, and controlled by other actors. Thus, the results of measurement will be the same regardless of who collects the data or when the measurement is repeated.

Overall, thanks to its robust reliability, Corruption (0703), under the ICCS, should be expected to have at least the same level of impact as the CPI and the CC. However, its impact would be limited to the extent to which it is accepted, as only those indicators that “people come to accept...as the ‘standard’ or ‘appropriate’ [*i.e.*, reliable] way to measure the extent of the problem” are utilized.<sup>119</sup> However, recognition of Corruption

---

114. *Id.* at 9–10.

115. *Id.* at 10.

116. Benedict Kingsbury, Nico Krisch, & Richard Stewart, *The Emergence of Global Administrative Law*, 68 L. & CONTEMP. PROB. 15, 16–17 (2005); see Davis, Kingsbury, & Merry, *supra* note 6, at 86.

117. See *supra* Part III.B.1.

118. Regarding elite bias, see ANDVIG ET AL., *supra* note 98, at 28 and ARNDT & OMAN, *supra* note 99, at 46. Regarding reliance on the scores from a previous period, see Knack, *supra* note 98.

119. DAVIS & KINGSBURY, *supra* note 106, at vi.



(0703) as a reliable method to measure corruption by the public can be obtained in either an indirect or direct manner.

The indirect impact would be made by Corruption (0703)'s support of the CPI and the CC metrics. As mentioned above, TI and the World Bank accumulate data on the perception of the level of corruption in each state from various sources. Each of those sources relies on a survey of experts and executives, whose perception is formed through both quantitative and qualitative research. As the only quantitative research on corruption itself that encompasses the UN member states,<sup>120</sup> the Corruption (0703) tally estimated by the ICCS will significantly influence how these experts and executives perceive corruption, thus affecting the CPI and the CC.

More importantly, Corruption (0703) under the ICCS is expected to have a direct effect on states by compelling them to improve their anti-corruption laws and policies without relying on other indicators such as the CPI and the CC and with more precision. Once Corruption (0703) under the ICCS is publicized, anyone will be able to refer to Corruption (0703) to evaluate the level of corruption in a specific states before, for example, making an investment or providing aid, not just experts who are the subjects of surveys for other corruption indicators. The evaluation and decision-making by persons or institutions based on Corruption (0703) will put pressure on states to improve their anti-corruption laws and policies. A state with a high Corruption (0703) tally will be pressured to improve its anti-corruption laws and enforcement, because labeling a state as high in corruption could have a serious negative impact on resource allocation efficiency, foreign investment, and GDP. On the other hand, reducing a Corruption (0703) tally will create positive effects in the form of increased resource allocation efficiency, international credit standing, foreign investment, export and import, and GDP. The improvement of anti-corruption laws and policies, together with the laws and policies that serve other types of crimes classified by the ICCS, is the purpose of the ICCS, as explicitly manifested by the UNODC in many parts of its official documents.<sup>121</sup>

#### IV. SUGGESTED REFORMS OF CORRUPTION (0703) UNDER THE ICCS

The robust reliability of Corruption (0703), illustrated above, is predicated on the assumption that states will fully comply with the ICCS. The reliability of Corruption (0703) under the ICCS is directly related to the level of uniformity in the object and methods of measurement among states. To facilitate the most accurate comparison when measuring Active bribery (070311), states should estimate the number of instances of the act based on a shared definition of active bribery. In addition, states should measure these acts at identical stages in the sequence of the criminal justice system—

---

120. See U.N. OFFICE ON DRUGS AND CRIME, *supra* note 32, at 7.

121. *Id.* at 8, 13.

occurrence, indictment, or judgment—so that the comparison and ranking of the Active bribery (070311) tally between states can be made fairly. Without such compliance by states, the reliability of Corruption (0703) wanes and thereby fails to operate effectively as an indicator with the power to enable comparisons and to exert pressure on states to make improvements.

Considering that many states, including the Republic of Korea, have already structured their own crime statistics according to their own unique legal codes and principles, national crime statistics tend not to coincide with those of the ICCS, whose structure is based on a behavioral description. A potential solution to this discrepancy would be for states to customize their national crime statistics to comply with the ICCS.

If states were willing to do this, it would be important that they do so without cheating. States play a pivotal role in Corruption (0703) as subjects as well as objects of the measurement, unlike the CPI and the CC, under which states are only objects of the measurement. Accordingly, we must be mindful of the incentive structure that Corruption (0703) might create. If the relative gains of a state in cheating other states overwhelm the absolute gains achievable by all other states, states may choose to cheat, and vice versa.

Considering that a low score from Corruption (0703) could negatively affect the power of states, as the CPI and the CC have done, states may cheat others to maximize their relative gains by not complying with Corruption (0703) at all.<sup>122</sup> States may manipulate their measurement of Corruption (0703). This possibility precipitates the important question: how can we avoid such a problem of cheating?

This article proposes solutions to the questions above based on the theory of neo-liberalism in international relations and the distinct characteristics of corruption as a hidden crime that arises from its locus between domestic criminal law and international agreement. In doing so, this article often refers to the author's experience in establishing a National Correspondence Table (NCT) for the Republic of Korea to map the national crime statistics into the ICCS, particularly in relation to Corruption (0703).

#### D. *Feasibility of State Compliance with the ICCS*

To obtain crime statistics from a state that correspond with the ICCS metrics, the state must customize its existing organization and structure of national crime statistics so that the basic units of national crime statistics classified by the state match those of the ICCS. For example, inconsistencies between the ICCS and the Korean crime classification (“KCS”) have caused difficulties in the development of the NCT for the Republic of Korea.<sup>123</sup>

---

122. See *infra* Part IV.B.1.

123. SUNGYONG KANG ET AL., 2ND YEAR OF STUDY IN DEVELOPMENT OF ‘KOREAN CLASSIFICATION OF CRIME’ 39–45 (Statistics Korea Research Project 2018).

Overall, the relationship between the basic unit of crime statistics under the ICCS and KCS can be described in five categories. In comparison to the ICCS basic unit, the KCS basic unit could be identical or disparate, narrower or wider, or overlapping.

Among those five categories of relationship, three categories – identical, disparate, and narrower – do not generate serious hurdles in establishing the NCT. The identical relationship would require only simple matching without any further customization. However, no basic unit of KCS was found to be identical to any of the basic units of ICCS classified under Corruption (0703). All the basic units of the KCS were somewhat narrower or wider in their scope than the basic units of the ICCS.<sup>124</sup>

Concerning the disparate relationship between KCS and ICCS, two types of disparities exist, neither of which produces serious barriers in establishing the NCT. One is that some basic units exist only under the ICCS but not under the KCS. An example is the Illicit Enrichment (07035) category under the ICCS. The KCS has no statistical code assigned to this behavior, as no such behavior described in this way under the ICCS is criminalized under Korean law.<sup>125</sup> However, the inconsistency is simply resolved by stating that there are no instances of Illicit enrichment (07035) in the NCT.

The other disparity is the reverse: the basic units that exist only under the KCS, but not under the ICCS. The best example is the basic KCS unit of Violation of Improper Solicitation and Graft Act (“Anti-Graft Act”), which criminalizes any act not covered by any of the basic units, except for Other Acts of Corruption (07039) under Corruption (0703) of the ICCS.<sup>126</sup>

The Anti-Graft Act was enacted to expand upon existing criminalized acts by eliminating the quid pro quo element traditionally required under the bribery provisions of the Republic of Korea Criminal Law. The Anti-Graft Act prohibits public officials and their spouses from:<sup>127</sup>

Accept[ing], request[ing], or promis[ing] to receive any money, goods, etc. exceeding one million won at a time or three million won in a fiscal year from the same person, regardless of whether it

124. *Id.* at 76–80.

125. *Id.* at 79.

126. *Id.* at 112.

127. [Violation of Improper Solicitation and Graft Act] (S. Kor.), *translated in* Korea Legislation Research Institute’s online database, [http://elaw.klri.re.kr/eng\\_service/main.do](http://elaw.klri.re.kr/eng_service/main.do) (search required). The Violation of Improper Solicitation and Graft Act Article 2 defines “public servant, etc.” as “any of the following public servants or persons engaging in public duties: (a) Public officials specified by the State Public Officials Act or the Local Public Officials Act and persons recognized by other Acts as public officials in their qualification, appointment, educational training, service, remuneration, guarantee of status, etc.; (b) Heads of organizations related to public service and institutions described in subparagraphs 1 (b) and (c), and executive officers and employees thereof; (c) Heads and faculty members of schools of each level described in subparagraph 1 (d), and executive officers and employees of educational foundations described in subparagraph 1 (d); (d) Representatives, executive officers, and employees of the press organizations described in subparagraph 1 (e).” *Id.* art. 2.

is connected to his/her duties and regardless of any pretext such as donation, sponsorship, gift, etc. ... [or] ... in connection with his /her duties, accept[ing], request[ing], or promis[ing] to receive any money, goods, etc. not exceeding one million won at a time or three million won in a fiscal year from the same person, regardless of whether the money, goods, etc. are given in exchange for any favors.<sup>128</sup>

The act of “offer[ing], promis[ing] to offer, or express[ing] any intention to offer” such “money, goods, etc.” is also criminalized.<sup>129</sup>

In contrast, under the ICCS, Active bribery (070311) or Passive bribery (070312) require a quid pro quo exchange for the act to be recognized as a crime.<sup>130</sup> However, by corresponding this second type of disparity with the catch-all minimum unit of Other Acts of Corruption (07039) under the ICCS, the inconsistency is easily overcome.

The majority of the basic units of the KCS belong to the third category, the “narrower” relationship. Each of the specific criminal acts is treated as a basic unit that is assigned its own crime statistics code under the KCS. These criminal acts include: offering, giving, or promising a bribe to a public official; offering, giving, or promising a bribe to a third person; offering, giving, or promising a bribe to a person who is to become a public official; or subsequent offering, giving, or promising a bribe after a public official takes an improper action. In contrast, each of these acts are covered by the basic unit of the ICCS on Active bribery (070311), as it is broad enough to embrace many of the basic units of the KCS.<sup>131</sup>

The basic units of the KCS under this category easily correspond to that of the ICCS, as they fit under the more capacious definition prescribed by this unit of the ICCS. For instance, Active bribery (070311) under the ICCS corresponds with about fifty-six basic units of the KCS, as do many other basic units classified under Corruption (0703) of the ICCS, as illustrated in Table 2.<sup>132</sup>

---

128. *Id.* art. 8(1)–(2).

129. *Id.* art. 8(5).

130. U.N. OFFICE ON DRUGS AND CRIME, *supra* note 32, at 71. The ICCS defines “Active Bribery (070311)” as “Promising, offering or giving, to a public official or a person who directs or works in a private sector entity, directly or indirectly, an undue advantage in order that the official act or refrain from acting in the exercise of his or her official duties.” Passive Bribery (070312) is defined as “Solicitation or acceptance by a public official or a person who directs or works in a private sector entity, directly or indirectly, of an undue advantage in order that the official act or refrain from acting in the exercise of his or her official duties.” *Id.*

131. KANG ET AL., *supra* note 123, at 76–77.

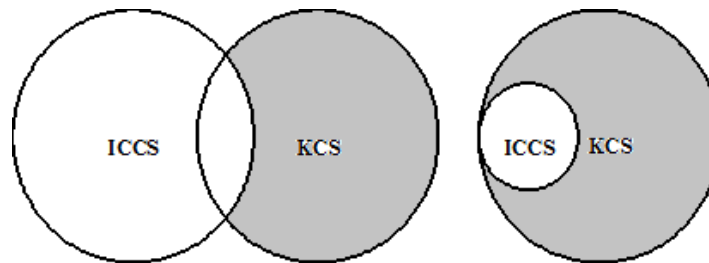
132. For the data from Table 2, see *id.* at 80–86.

TABLE 2: APPROXIMATE NUMBER OF CORRESPONDING BASIC KCS UNITS FOR EACH BASIC ICCS UNIT OF CORRUPTION (0703)

Basic ICCS units			Approximate number of corresponding basic KCS units
Corruption (0703)	Bribery (07031)	Active bribery (070311)	56
		Passive bribery (070312)	56
	Embezzlement (07032)		25
	Abuse of functions (07033)		38
	Trading in influence (07034)		17
	Illicit enrichment (07035)		0
	Other acts of corruption (07039)		70

In contrast, the fourth and fifth categories of relationship, “wider” and “overlapping,” present serious obstacles to the development of the NCT. Considering that the NCT fits the KCS into ICCS, and not vice versa, the “wider” and “overlapping” conditions could be regarded as causing the types of obstacles illustrated in Figure 1. Overcoming the barriers will require further minimization of the basic unit of the KCS, to make it identical to the ICCS one if it is in the broader category, or narrower than the ICCS one if it is in the “overlapping” category.

FIGURE 1: LEFT - OVERLAPPING CATEGORY / RIGHT - WIDER CATEGORY



For instance, although bribery without quid pro quo under the Anti-Graft Act in the Republic of Korea could correspond with the catch-all basic unit of Other acts of corruption (07039) under the ICCS, such correspondence is appropriate only when further minimization of the basic unit of the KCS, Violation of the Anti-Graft Act, is achieved. This is because violation of the Anti-Graft Act encompasses not only bribery without quid pro quo,<sup>133</sup>

133. Violation of Improper Solicitation and Graft Act art. 22(1).

but also other criminal acts that do not correspond with any of the basic units of acts classified as Corruption (0703) under the ICCS. The examples of such criminal acts include obstruction of filing reports, coercion to withdraw reports,<sup>134</sup> or taking any disadvantageous measure against the reporting person.<sup>135</sup> Accordingly, violation of the Anti-Graft Act should not be considered as a basic unit, but bribery without quid pro quo should become a separate basic unit from the other criminal acts of the Anti-Graft Act.

In addition, the same barriers are observed in many other *lex specialis* governing special subject matter in the Republic of Korea, such as the Framework Act on the Construction Industry, the Act on External Audit of Stock Companies, the Commercial Act, the Insurance Business Act, and the Banking Act, whose violation as a whole is a basic unit of the KCS.<sup>136</sup> Thus, no distinction can be made between the various types of violations criminalized under the above *lex specialis*; that is, the violations that correspond with the basic units of acts classified as Corruption (0703) and the violations that cannot correspond with those units. For the KCS to properly correspond with ICCS, minimization of the basic unit of the KCS to a specific violation under the *lex specialis* is required, as in violation of the Anti-Graft Act.

Finally, the same barriers are present in the various acts criminalized under the Criminal Law as *lex generalis* in the Republic of Korea. For instance, Article 335(2), Breach of trust of the Criminal Law criminalizes the act of “a person who, administering another’s business, obtains pecuniary advantage or causes a third person to do so from another in violation of one’s duty, thereby causing loss to such person.”<sup>137</sup> As a basic unit of KCS, Breach of trust partly overlaps with the basic unit of Embezzlement (07032) of the ICCS, which covers the “[e]mbezzlement, misappropriation or diversion by a public official or a person who directs or works in a private sector entity of any property, public or private funds or securities or any other thing of value entrusted to the public official or person by virtue of his or her position.”<sup>138</sup> The overlapping criminal acts between Breach of trust under the KCS and Embezzlement (07032) under the ICCS include diversion, misappropriation, or dishonest conversion.

However, in addition to the overlapping acts, Breach of trust encompasses broader acts and even omissions, because it focuses on the result of pecuniary gain being obtained by the person administering another’s business and causing loss to the other, rather than on the manner of behavior. For instance, Breach of trust under the KCS includes even the negligence of metro station staff who ignore free-riders or the negligence of a person au-

---

134. *Id.* art. 22(3), item 1.

135. *Id.* arts. 22(2) item 2, 22(3) item 2.

136. KANG ET AL., *supra* note 123, at 77.

137. [Criminal Act] art. 335(2) (S. Kor.), translated in Korea Legislation Research Institute’s online database, [http://elaw.klri.re.kr/eng\\_service/main.do](http://elaw.klri.re.kr/eng_service/main.do) (search required).

138. U.N. OFFICE ON DRUGS AND CRIME, *supra* note 32, at 71.

thorized to collect a debt on behalf of another, which triggers the statute of limitations.<sup>139</sup> Neither act which would be classified as Embezzlement (07032), and thus neither would fall under Corruption (0703). Accordingly, for the KCS to properly correspond to the ICCS, minimization of the basic unit to certain specific acts of Breach of trust is required.

As illustrated above, minimization of the basic units of the KCS located in the wider and overlapping relationships with the basic units of the ICCS is required to overcome the barriers in establishing an NCT and to eventually provide reliable statistics on corruption. Attaining such a minimization of the basic units of the KCS for the *lex specialis* is more straightforward than for the *lex generalis*. In relation to the *lex specialis*, it is necessary to assign a statistical code as a basic unit to each of its provisions or sections criminalizing various criminal acts. On the other hand, concerning the *lex generalis* represented by the Criminal Law, statistical codes are already assigned to each provision or section as a basic unit. Therefore, further minimization could only be attained by adding “tags” for specific characteristics, reflecting the differences between the criminal acts under the same provision or section. For instance, to distinguish the various acts criminalized as Breach of trust under Article 335(2) of the Criminal Law, the “tags” illustrating the behavioral characteristics, such as diversion, misappropriation, dishonest conversion, or omission, of each Breach of trust could be utilized.<sup>140</sup> These “tags” allow the acts sharing the same behavioral characteristics to be categorized and counted separately from other acts.

#### E. *Willingness of States to Comply with the ICCS*

As demonstrated above, states can establish an NCT in compliance with the ICCS, as long as they reform the basic units of the national crime statistics located in the categories of “wider” or “overlapping.” However, whether they will make such reforms to comply with the ICCS is uncertain.

Again, without such compliance, reliability of the numbers and rankings of Corruption (0703) under the ICCS will not be robust enough for it to operate as an indicator with the power to enable comparisons and exert pressure for improvements. Accordingly, this section examines the limitations of Corruption (0703) and the ways in which they might be overcome to ensure compliance with Corruption (0703).

In examining the limitations, this article illustrates the considerations that motivate states to cheat others rather than comply with Corruption (0703), thereby sacrificing the gains of strengthening the international anti-corruption regime and even international security. In the context of international community, in which no central global government exists to com-

---

139. In regard to negligence of metro station staff, see Daebeobwon [S. Ct.], Sept. 28, 1990, 90Do602 (S. Kor.). In regard to negligence of debt collector, see HOI-CHANG LEE, COMMENT ON CRIMINAL LAW (V) [SPECIFIC ARTICLES (3)] 514 (1997).

140. Criminal Act art. 335(2) (S. Kor.).

pel states to follow international standards, neo-realists who emphasize relative gains are pessimistic about the achievability of international cooperation through international organization, while neo-liberalists who prioritize absolute gains are optimistic.<sup>141</sup> However, both neo-liberalism and neo-realism in international relation theory admit the possibility of cheating by states, while still recognizing the necessity of international cooperation.<sup>142</sup>

For Corruption (0703), cheating could be motivated not only by relative gains but also by relative losses. Unlike cheating to obtain gains relative to others, as illustrated in detail below, states are likely to cheat to prevent relative losses caused by vigorous enforcement of the law against corruption due to the special characteristics of corruption as a hidden crime and paradoxical effect of the Corruption (0703) tally. If the relative gains or losses of a state overwhelm absolute gains shared by states, states may choose to cheat, and vice versa.

To overcome the above limitations, this article suggests a solution that aligns with the neo-liberal approach. Unlike the limitations of states' cheating, which are shared by both theories of neo-liberalism and neo-realism, solutions may differ depending on which theory is applied. This is particularly true with regard to Corruption (0703), as neo-realists are pessimistic about international cooperation and institutions, while neo-liberalists are op-

---

141. See Duncan Snidal, *Relative Gains and the Pattern of International Cooperation*, 85 AM. POL. SCI. REV. 701, 701 (1991) ("Recent international theorizing continues the long-standing contest between realists who argue that prospects for international cooperation are quite limited and institutionalists who argue that cooperation is possible among states."); Joseph Grieco, Robert Powell, & Duncan Snidal, *The Relative-Gains Problem for International Cooperation*, 87 AM. POL. SCI. REV. 727, 729 (1993) ("Neoliberals argue that in the context of international anarchy, states that face mixed interests often fail to cooperate because they are tempted to cheat and fear being cheated. They argue further that this problem of cheating can be resolved if states create international institutions that help them to work with one another on the basis of tit-for-tat strategies of conditional cooperation... While emphasizing that international cooperation is possible, realists have argued that it is harder to achieve and more difficult to maintain than the institutionalist tradition suggests."). For neo-realists' view, see KENNETH WALTZ, *MAN, THE STATE, AND WAR: A THEORETICAL ANALYSIS* 198 (1959) ("[R]elative gain is more important than absolute gain."). For neo-liberalists' view, see Robert Keohane & Lisa Martin, *The Promise of Institutional Theory*, 20 INT'L SEC. 39, 39 (1995) ("But in a world politics constrained by state power and divergent interests, and unlikely to experience effective hierarchical governance, international institutions operating on the basis of reciprocity will be components of any lasting peace."). See also ROBERT KEOHANE & JOSEPH NYE, *POWER AND INTERDEPENDENCE: WORLD POLITICS IN TRANSITION* (1977).

142. Grieco, Powell, & Snidal, *supra* note 141, at 729 ("Two contemporary approaches to international relations—modern realism and neoliberal institutionalism—compete in seeking to understand how the anarchical context of the international system inhibits joint action among states that otherwise share common interests and how states sometimes overcome those inhibitions and achieve cooperation."); Keohane & Martin, *supra* note 141, at 39 ("Like realism, institutionalist theory is utilitarian and rationalistic."); Feina Cai, *Absolute and Relative Gains in the Real World*, E-INTERNATIONAL RELATIONS (Apr. 28, 2011), <http://www.e-ir.info/pdf/8447> ("Obviously, both 'absolute gain' and 'relative gain' theories are derived from the context of international anarchy, in which states have incentive to cheat and fear being cheated. They both agree with the importance and necessity of international cooperation.").



timistic “on the basis of tit-for-tat strategies of conditional cooperation.”<sup>143</sup> Leaving aside the interesting question of which theory better explains current international society, this article suggests the required reforms of Corruption (0703) with an optimistic view of the potential of international cooperation and institutions to govern the behavior of states.

Because international integration increases the significance of the absolute gain obtainable through Corruption (0703), this article follows the analysis of Duncan Snidal in adopting the approach of neo-liberalists.<sup>144</sup> In this regard, this article emphasizes the role of UNODC as a guardian of ICCS. This article recommends that: 1) UNODC implement monitoring measures to minimize the potential relative gains from cheating and that 2) UNODC implement informing measures to minimize the relative losses of compliance, both of which are essential features of institutions,<sup>145</sup> thereby increasing the cost of cheating and increasing compliance by states.

#### 1. Relative Gains: The Advantage of Cheating and Non-compliance as a Limitation to the Use of Corruption (0703) as an Indicator

By not making the suggested reforms that are required for full compliance with the ICCS, states maintain discretion to exclude the specific acts that are supposed to correspond with Corruption (0703). By excluding these acts, states would aim to misrepresent their Corruption (0703) tally as below its actual number and, accordingly, to decrease the possible negative impact of Corruption (0703) on the states' power as a resource. In other words, states may cheat to achieve relative gains in GDP and foreign investment.<sup>146</sup>

For instance, without adopting the suggested reform, the Republic of Korea would have to make its own decision regarding which part of the ICCS a violation of the Anti-Graft Act under the KCS should correspond. As illustrated above, the violation of the Anti-Graft Act can correspond not only to Other acts of corruption (07039), as suggested above, but also to Obstruction of justice (08061), or Other acts against public administration (08049) under the ICCS.<sup>147</sup>

143. Grieco, Powell, & Snidal, *supra* note 141, at 129.

144. Snidal, *supra* note 141, at 701–02 (“Only in the very special case of the two-state interaction, with high concern for relative gains and near disregard for absolute gains, is the realist case compelling. For a broad range of more realistic problems, where there are more than two states or where states care about a mixture of absolute and relative gains, the institutional case for the possibility of decentralized cooperation remains strong.”).

145. See, e.g., Avner Greif, Paul Milgrom, & Barry R. Weingast, *Coordination, Commitment, and Enforcement: The Case of the Merchant Guild*, 102 J. POL. ECON. 745, 747 (1994); Randall Calvert, *Rational Actors, Equilibrium, and Social Institutions*, in EXPLAINING SOCIAL INSTITUTIONS 57, 58 (Jack Knight & Itai Sened eds., 1995).

146. See, e.g., Mclean, *supra* note 90; see also James Hines, *supra* note 92; TRANSPARENCY INT'L, *supra* note 94.

147. See *supra* Part IV.A.

In light of the above and considering the main purpose of the Anti-Graft Act, making violations of the Anti-Graft Act under the KCS correspond with the Other acts of corruption (07039) under the ICCS seems most appropriate. However, doing so increases the Corruption (0703) tally to more than it would be otherwise by including criminal acts, like obstruction of filing reports, coercion to withdraw reports, and taking any disadvantageous measures against the reporting person, which are not classified as Corruption (0703) under the more specific ICCS categories. On the other hand, by deciding not to make a violation of the Anti-Graft Act correspond with Other acts of corruption (07039), the Republic of Korea can reduce the Corruption (0703) tally below its actual number by excluding the criminal act of bribery without quid pro quo, which is supposed to be classified as Corruption (0703). In such circumstances, states are likely to choose the latter option to minimize the negative impact of Corruption (0703) as an indicator.

The same rationale applies to the *lex specialis* and *lex generalis* provisions and sections of the Criminal Law, both of which are mentioned as examples of the basic units of the KCS located in the wider or overlapping categories in relation to the ICCS. Without the reform suggested, states will necessarily have the discretion to determine whether to make the *lex specialis* or the provisions/sections of the Criminal Law correspond to the acts classified as Corruption (0703) under the ICCS. Regardless of which of these decisions would produce unreliable statistics on Corruption (0703), states are likely to exercise their discretion to minimize Corruption (0703) tally by making the *lex specialis* or the provisions/sections of the Criminal Law correspond not to the acts classified as Corruption (0703), but to some other classification under the ICCS.

Accordingly, to maintain discretionary authority, which can be utilized for their own interest, states are motivated not to make such reforms. Such arbitrary exercise of discretion by states limits the reliability of Corruption (0703) and, in turn, the strength of Corruption (0703) as an indicator.

## 2. Monitoring to Overcome the Relative Gains of Cheating and Non-compliance

Based on the theory of neo-liberalism, which emphasizes monitoring by an impartial international organization as a tool to decrease the incentive of cheating,<sup>148</sup> this article argues that monitoring would be an essential part of the adoption of Corruption (0703) as the dominant indicator in order to prevent states from behaving in a way that causes a discrepancy between the Corruption (0703) tally produced by states for the ICCS and the “actual”

---

148. Robert Keohane, who is regarded as a founder of neo-liberalism together with Joseph Nye, in defining formal intergovernmental organization emphasized their monitoring capability. See ROBERT KEOHANE, INTERNATIONAL INSTITUTIONS AND STATE POWER 3 (1989) (emphasizing that intergovernmental organizations are “capable of monitoring activity and of reacting to it, and are deliberately set up and designed by states”).

number in the Corruption (0703) tally.<sup>149</sup> Unlike the other corruption indicators, whose numbering and ranking of states are based on qualitative surveys of third-party experts, the numbering and ranking of states according to the Corruption (0703) tally under the ICCS are produced by states who are themselves the subject of the analysis. This ensures Corruption (0703) is more reliable than other corruption indicators. However, it also creates a conflict of interest between producing the “actual” number versus a lower number in the Corruption (0703) tally that will likely minimize the negative impact on states’ foreign investments and GDPs.

If states are not given discretion, then no such conflict of interest can materialize. In contrast, if discretion is rendered to the states, then it is likely to be exercised for the state’s own benefit and not for that of the ICCS. As illustrated above by the example of the KCS, at this initial implementation stage of the ICCS, states possess discretion originating from the lack of reform by states to minimize the basic unit of national crime statistics located in the “wider” or “overlapping” categories.<sup>150</sup>

Accordingly, it is essential that the UNODC, as the guardian of the ICCS, monitor whether states have actually implemented the suggested reforms, thus requiring that states give up their discretion and fully comply with the ICCS. Until now the focus of the UNODC has been on providing states with guidance on how the ICCS should be implemented, rather than on monitoring whether states have implemented the ICCS as directed. While states have monitored the ICCS by participating in designing and implementing the ICCS to secure legitimacy of the methods used to produce the indicator,<sup>151</sup> UNODC monitoring of states has not yet been suggested. Voluntary peer reviews have been carried out by some states, but their purpose has been to refine the guidance on states’ implementation of the ICCS.<sup>152</sup>

Even in the initial stage of implementation of the ICCS by states, monitoring followed by sanctions for non-compliance, whether soft or hard, needs to be established to promote compliance during the implementation process. The negative consequences of non-compliance will be calculated by states in order to offset the advantage of non-compliance. As a result,

---

149. The word *actual* is in quotes here to emphasize that, without monitoring, states are free to abuse their discretion to lower the Corruption (0703) tally below its actual number. In addition, the *actual* number in the Corruption (0703) tally needs to be distinguished from the actual number of Corruption (0703) incidents. Due to characteristics of corruption as a hidden crime, even the tally appropriately produced without any abuse of discretion by states may not be able to reflect all of the Corruption (0703) incidents committed—in other words, the actual number of Corruption (0703) incidents. See *infra* Part IV.B.3.

150. See *supra* Part IV.A.

151. See *supra* Part III.B.2.

152. U.N. Office on Drugs and Crime, Rep. of the First Meeting of the Technical Advisory Group (TAG) on the International Classification of Crime for Statistical Purposes (ICCS), at 12–15 (2016).

non-compliant states will be compelled to comply with the ICCS, thus leveling the playing field for all states.

### 3. Relative Losses: The Disadvantages of Compliance as a Hindrance to the Use of Corruption (0703) as an Indicator

In addition to the advantage of non-compliance, the disadvantage of compliance, which this article refers to as relative losses, prevents states from reforming their national crime statistics, as suggested above, to fully comply with the ICCS. The disadvantage of compliance here does not indicate the comparative disadvantage of certain states fully complying with the ICCS, which is just the reflexive effect of the advantage enjoyed by non-compliant states illustrated above. Rather, the disadvantage referred to in this section presupposes that all the states being monitored by the UNODC fully comply with the ICCS and submit the “actual” number in the Corruption (0703) tally to the UNODC for the ICCS. Under such circumstances, the states vigorously enforcing the law against corruption are expected to be disadvantaged rather than advantaged, thereby eroding the motivation of states to fully comply with the ICCS.

The disadvantage of compliance stems from the special characteristics of corruption as a hidden crime. Bribery, abuse of functions, embezzlement, trading in influence, and illicit enrichment, as classified in Corruption (0703) under the ICCS are criminal acts whose harms are not readily identifiable, unlike crimes such as murder, assault, and robbery. In many cases, there are no obvious victims to report the crime, thus lowering the rate of detection by law enforcement.<sup>153</sup> Even when obvious victims exist, they may fail to recognize the occurrence of the crime immediately or at all.<sup>154</sup>

Accordingly, there is a risk that states with strict anti-corruption laws and enforcement will generate high numbers in the Corruption (0703) tally, while states with weak anti-corruption laws and enforcement will produce low numbers. For instance, states with strict whistleblower protection and reward programs are likely better able to detect corruption than states without such provisions. Moreover, states with strong anti-corruption laws criminalize acts such as bribery without quid pro quo or illicit enrichment, which may not be criminalized in many other states. As a result, those states will

---

153. See Sungyong Kang, *Rethinking the Global Anti-Money Laundering Regulations to Deter Corruption*, 67 INT'L & COMP. L.Q. 695, 700–01 (2018) (“[M]ost acts of bribery, which is one of the most common criminal acts of corruption and is many times referred to interchangeably with corruption, have no identifiable victim. For instance, a car driver paying a bribe to a police officer to avoid a traffic infringement does not generate any direct victim.”).

154. See *id.* (“Even in those cases where potential or actual individual victims of bribery exist, the victims might fail to recognize the harm caused to them by the bribery. For instance, if a company has paid a bribe to a government official to win a government contract, it is difficult for other bidding competitors to know about the chain of causation between the bribe and the awarding of the contract.”).

have higher numbers in the Corruption (0703) tally than will states without such laws or programs.

This will, in turn, cause a paradoxical effect of the Corruption (0703) tally. Corruption (0703), in order to serve as an effective indicator, necessarily carries serious negative consequences affecting resource allocation efficiency, foreign investment, and GDP for states with high scores in order to pressure them to improve their anti-corruption laws and enforcement. However, the states with higher numbers in the Corruption (0703) tally may not need improvement because they have already established strong anti-corruption laws and enforcement measures.<sup>155</sup> Thus, it may be that the states with lower numbers in the Corruption (0703) tally are in need of improvement due to their weaker anti-corruption laws and enforcement.

#### 4. Educating Users of Corruption (0703) to Overcome the Hinderance of Relative Loss

As Corruption (0703) is mainly composed of criminal acts that tend to be hidden from law enforcement, the actual number in the Corruption (0703) tally almost certainly fails to properly reflect the actual number of Corruption (0703) “incidents,”<sup>156</sup> instead merely reflecting the number of Corruption (0703) incidents that are detected by law enforcement agencies. This creates a paradoxical effect in the Corruption (0703) tally by discouraging states from complying with ICCS due to concerns about the disadvantages of compliance and the resulting relative losses. Essentially, the more they discover and report, the more they would be harmed.

To alleviate such concerns and strengthen compliance with ICCS, the Corruption (0703) tally must reflect the actual number of Corruption (0703) incidents. To achieve this, the UNODC needs to provide the users of Corruption (0703) with qualitative information about the strength of anti-corruption laws and enforcement by states. Such information may include whether states criminalize bribery without quid pro quo, or whether states establish an independent corruption investigation agency with enough human and financial resources. The information can help users to understand that the stronger the anti-corruption laws and enforcement are, the less the discrepancy between the Corruption (0703) tally and the actual number of Corruption (0703) “incidents” will be, and vice versa.

However, how should users be informed? The users of Corruption (0703) vary and aim to achieve different purposes. Law enforcement officials may use it to evaluate their anti-corruption laws and policies, while private and public actors may utilize it in deciding whether to make invest-

---

155. See Johann Graf Lambsdorff, *Measuring Corruption – The Validity and Precision of Subjective Indicators (CPI)*, in MEASURING CORRUPTION, *supra* note 38, at 81, 81–82.

156. The word ‘incidents’ is in quotes here to distinguish the actual number of Corruption (0703) incidents from the actual number in the Corruption (0703) tally.

ments or to provide financial aid to certain states.<sup>157</sup> The proper measures to provide the requisite qualitative information may therefore differ depending on the users.

It may be that, for expert public officials and private actors, the explanatory notes of the ICCS providing qualifying information regarding the strength of anti-corruption laws and enforcement of states in addition to the Corruption (0703) tally are sufficient. They can access and analyze the requisite information provided in these explanatory notes to properly convert the Corruption (0703) tally into the actual number of Corruption (0703) “incidents.”

Nevertheless, most private actors do not possess such expertise and would simply rely on the Corruption (0703) tally publicized by the UNODC. Thus, the requisite qualitative information needs to be provided to them in a readily understandable form. The Hidden Crime Indicator (HCI) could meet this need, as it reveals the level of hidden crime in a numerical figure. The HCI would need to be estimated for each of the corresponding basic units of criminal acts classified as Corruption (0703). As an example, the numerical figure for the HCI value could be settled in the range of 0-100. The HCI value for Illicit enrichment (07035) of the Republic of Korea, which does not criminalize the act defined as Illicit enrichment (07035), will be 100.<sup>158</sup> This indicates that all acts of Illicit enrichment (07035) in the Republic of Korea are hidden, while the Illicit enrichment (07035) tally reported by the Republic of Korea would be zero. This will help users avoid confusing the absence of law criminalizing a culpable act with the absence of the culpable act.

On the other hand, the HCI value of zero theoretically demonstrates a situation in which all crimes are reported and detected by the law enforcement agencies. In practice, it is difficult, if not impossible, to imagine such a situation. However, considering that the purpose of the ICCS is to evaluate the criminal justice policies of each state through comparison with others, the HCI value of zero can be used for Other acts of corruption (07039), which covers acts criminalized as corruption in a certain states but not in many other states. In relation to the Republic of Korea, the act corresponding with Other acts of corruption (07039) would be bribery without quid pro quo. Thus, the Other acts of corruption (07039) tally reflecting the number of bribery incidents without quid pro quo in Republic of Korea will be corroborated by the HCI value of 0. This informs users that the Corruption (0703) tally of Republic of Korea could be higher than that of many other states, not due to more rampant corruption, but rather because of its stronger anti-corruption law.

Accordingly, the HCI eliminates states’ concerns for a relative loss derived from any paradoxical effect in the Corruption (0703) tally by assisting

---

157. See, e.g., Mclean, *supra* note 90; see also James Hines, *supra* note 92; TRANSPARENCY INT’L, *supra* note 94.

158. See *supra* Part IV.A.

users to properly convert the Corruption (0703) tally into the actual number of Corruption (0703) “incidents.” This eventually encourages states to comply with ICCS. Studies have been conducted on the rate of hidden crimes and suggest various methods for estimation.<sup>159</sup> Although adopting an appropriate method is a crucial task in strengthening the reliability of Corruption (0703), and thereby reinforcing its authority as an indicator, that task falls outside the scope of the present research.

## V. CONCLUSION

The conceptual changes to corruption that now recognize corruption as a threat to international security have increased the role of corruption indicators in international efforts to ensure human security. Corruption (0703), an emerging indicator under the ICCS, due to the way in which it utilizes numerical data, can measure corruption better than existing indicators such as the CPI and the CC. However, if a state’s expected non-compliance with this metric has not been overcome if they cheat others for relative gains or losses in their power as measured by their GDP plus foreign investment, the Corruption (0703) tally produced by states for the ICCS will be unreliable and further erode the international corruption governance. If the Corruption (0703) tally is not reliable, then the public, as the users of Corruption (0703), will not “come to accept [Corruption (0703)] as the standard or appropriate way to measure the extent of the problem.”<sup>160</sup> This will cause Corruption (0703) to lose its authority as an indicator that can enable comparisons between states and exert pressure on states, which is necessary in order for Corruption (0703) to achieve the absolute gains of strengthening domestic anti-corruption regimes and thereby fortifying international security.

Accordingly, for Corruption (0703) under the ICCS to properly work as an indicator as anticipated by international community, the UNODC, as the custodian of the ICCS, needs to improve its reliability and break the vicious circle of non-compliance of states and cheating by states. To eliminate the relative gain that can be obtained by states from their non-compliance and cheating, monitoring sustained by soft and hard sanctions for non-compliance needs to be established, even at the initial stage of implementation of the ICCS. The advantage of non-compliance is basically derived from the arbitrary exercise of discretion by certain states to lower the Corruption (0703) tally below its actual number. Monitoring will level the playing field and prevent certain states from behaving in a way that would cause a discrepancy between the Corruption (0703) tally produced by those states

---

159. See Petter Gottschalk & Lars Gunnesdal, *Tip of the Crime Iceberg*, in WHITE-COLLAR CRIME IN THE SHADOW ECONOMY 27, 27 (2018); SAMANTHA LYNEHAM, CHRISTOPHER DOWLING & SAMANTHA BRICKNELL, AUSTL. INST. CRIMINOLOGY, STATISTICAL BULLETIN NO. 16, ESTIMATING THE DARK FIGURE OF HUMAN TRAFFICKING AND SLAVERY VICTIMIZATION IN AUSTRALIA (2019).

160. DAVIS & KINGSBURY, *supra* note 106, at vi.

for the ICCS and the “actual” number in the Corruption (0703) tally. Monitoring would reassure users that the Corruption (0703) tally is a reliable, quantifiable measure of corruption on a global level.

In addition, in order to remove the relative loss of compliance disadvantages, it is necessary that users of Corruption (0703) be provided with requisite qualitative information on the strength of anti-corruption laws and enforcement of states in a readily understandable numerical figure (*i.e.*, HCI). The disadvantage of compliance stems from the lack of reliability of the Corruption (0703) tally in properly reflecting the actual number of Corruption (0703) “incidents” due to its special characteristics as a hidden crime. By corroborating the Corruption (0703) tally to elicit the actual number of Corruption (0703) “incidents,” the HCI can inhibit the contradictory effect of statistics, in which states with stronger anti-corruption laws and enforcement are at a disadvantage.

Indeed, the Corruption (0703) tally, even when corroborated by the HCI, may not reflect the actual level of corruption. The ideal indicator would demonstrate an actual level of corruption which reflects not only the actual number of corruption incidents, but also the differing size and impact of each corruption case. Although this article does not deny the possibility that Corruption (0703) could be developed into an ideal indicator through efficient usage of tags that reflect the differences in the amount of financial gain or rank of officers involved, such a development of Corruption (0703) is beyond the scope of this piece.

Instead, this article establishes that Corruption (0703) is a better indicator than the existing indicators, as it reflects the actual number of objective corruption incidents. Corruption (0703) overcomes the prior weakness in objective data on corruption because it seeks unity in the object and methods of measurements among states.<sup>161</sup> In addition, Corruption (0703) solves some deficiencies the subjective data of corruption produced by existing indicators such as the CPI and the CC.

Through the reforms suggested in this article, Corruption (0703) under the ICCS will be able to demonstrate, with increased reliability, the prevalence that the grave threat of corruption poses to international security by displaying the issue within each state, as measured in an objective manner. It will operate as an indicator that is better-suited than the existing indicators to overhaul the institutions and structures of global corruption governance, as required to ensure international security.

---

161. See Lambsdorff, *supra* note 155, at 81.



