

# Collaborative Orchestration in Polycentric Global Governance for the Fight against Corruption

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## Abstract

With an increasing number of regime complexes experienced in the past decade, a serious question has arisen as to how to create consistency and harmony out of potential discordance among diverse goals, interests, and norms in a congested regime complex. International organizations' orchestration may provide an answer to this question. The global anti-corruption governance is a transnational polycentric regime complex, with regulations and frameworks created and promoted by multiple actors at multiple levels, in multi-sectoral settings and over multiple issues. The United Nations Office on Drugs and Crime (UNODC) is one of the major orchestrators for countering corruption and has many partnerships with public, private and civil sectors. This paper discusses some problems of the orchestration theory developed by Kenneth W. Abbott, Duncan Snidal and others, and proposes a concept of "collaborative orchestration" as a promising model for polycentric governance. Then it examines conditions for UNODC's orchestration and a case of collaborative orchestration in enhancing the effectiveness of the United Nations Convention against Corruption (UNCAC).

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Global Governance; Orchestration; Polycentricity; Regime Complex; Fight against Corruption; United Nations Convention against Corruption (UNCAC); United Nations Office on Drugs and Crime (UNODC); UNCAC Coalition

**1. Introduction: How can governance actors create synergy in decentralized global governance?**

Since the mid-1990s, we have seen an increasing number of global polycentric governance systems characterized by decentralized structures in which there are multiple centers of authority operating at multiple scales<sup>1</sup> with a diversity of stakeholders, including civil society organizations (CSOs), private sector organizations, international governmental organizations (IGOs), and states. These governance systems are often observed in regime complexes, defined as “an array of partially overlapping and nonhierarchical institutions governing a particular issue-area,”<sup>2</sup> situated on a continuum between highly integrated and hierarchical regulations at one extreme and fragmented, decentralized institutions with few or no linkages among them on the other.<sup>3</sup>

Many scholars of the regime complex theory argue that decentralized or fragmented structures could result in inefficiencies due to inconsistencies, duplications, and gaps among diverse institutions and ineffectiveness due to behaviors like forum-shopping and regime-shifting.<sup>4</sup> Scholars working on institutional interplay have pointed out, more positively, that synergistic institutional interactions are rather prevalent in global environmental governance.<sup>5</sup> Still others have argued in a more nuanced way that the flexibility and adaptability of regime complexes are preferred, under certain conditions, for their political feasibility.<sup>6</sup>

While we have no definitive answer as to how to solve the problem of inefficiency and ineffectiveness, especially in a congested regime complex,<sup>7</sup> Kenneth W. Abbott emphasizes benefits of decentralized and fragmented regime complexes, including complementary regulations, multifaceted approaches and solutions to problems, and a broader range of choices for actors. He argues that these benefits are likely to be enhanced while the costs of fragmentation are minimized, if local activities are coordinated by public authorities in a manner that maintains the coherence and consistency of a polycentric governance system.<sup>8</sup> This specific mode of governance is called “orchestration,” which he sees as key for effective management of a decentralized regime complex.

Furthermore, we have to cope with a legitimacy problem in terms of input legitimacy (democratic procedures) and output legitimacy (efficient management and effective problem-solving) in global governance.<sup>9</sup> As Michael Zürn argues, the traditional mode of international governance led by the US and international financial institutions, which he terms “executive multilateralism,” has been seriously challenged by transnational protests against their lack of legitimacy and accountability, as decision-makers of IGOs and Western powers have not been held accountable for wrong decisions they have made at the international level.<sup>10</sup> On the other hand, the UN system as a whole has faced problems of legitimacy, caused by a lack of transparency and frequent occurrences of serious corruption. However, there could be a tradeoff between input and output legitimacies, as a plethora of incompetent participants and cumbersome procedures could lower performance.<sup>11</sup> Therefore, we have to find a way to enhance input legitimacy without damaging output legitimacy. Orchestration might mitigate these legitimacy problems by facilitating participation by diverse actors.

Orchestration has been observed in various fields, from environmental management, development, commerce, health, and human rights to security.<sup>12</sup> It may also be seen in anti-corruption efforts, as global governance in the fight against corruption is characterized by a highly fragmented regime complex consisting of multi-level and multi-sector norms and initiatives created by diverse actors, including states, governmental agencies, IGOs, CSOs, and business organizations. We argue that governance actors prefer to engage in a specific type of orchestration to promote the implementation of anti-corruption norms by promoting coordination and synergy among diverse actors.

The paper proceeds as follows. It first reviews the concept and theory of orchestration, and criticizes some of the hypotheses that have been advanced. Subsequently, it proposes a specific type of orchestration that is assumed to be prevalent and preferred in polycentric governance: “collaborative orchestration”. It also discusses conditions under which IGOs prefer collaborative orchestration and examines them in the case of the United Nations Office on Drugs and Crime (UNODC), an anti-corruption orchestrator.

## **2. Orchestration: A soft and indirect governance mode**

### **(1) O-I-T Model**

The concept of orchestration was recently introduced in the field of international

Figure 1: Simple orchestration: O-I-T model



Source: Kenneth W. Abbott, Philipp Genschel, Duncan Snidal, and Bernhard Zangl, eds., *International Organizations as Orchestrators*, Cambridge: Cambridge University Press, 2015, p.4.

relations by Kenneth W. Abbott and Duncan Snidal as an essential component of New Governance, which is characterized by participation of “decentralized” actors, be they public or private; a regulator’s reliance on their regulatory expertise; and the regulator’s preference for the usage of orchestration and soft law.<sup>13</sup> An orchestrator sets a governance goal, convenes, supports and steers relevant stakeholders toward achieving the goal.<sup>14</sup>

This definition has gradually changed; in an edited volume, *International Organizations as Orchestrators* (hereafter, “AGSZ”), orchestration generally refers to the orchestrator’s working through intermediaries to indirectly govern targets (the O-I-T model),<sup>15</sup> emphasizing an indirect and soft aspect. In some cases, O, I, and T are mutually overlapping: the orchestrator can serve as a secretariat for the intermediary, or target members can serve as members of the intermediary.

There are other forms of indirect governance, including trusteeship, delegation, and cooptation, but they are different from orchestration in terms of the governor’s authoritative control over intermediaries.<sup>16</sup> In orchestration, intermediaries voluntarily cooperate without being controlled by the orchestrator with hard measures. This kind of soft governance is usually considered ineffective compared to the hierarchical mode of governance, and academics and practitioners tend to dismiss its impact. However, orchestration is indeed observed in diverse issue-areas and can enhance capabilities, legitimacy, and the focality of actors involved in a dynamic process while strengthening a regime complex as a system.<sup>17</sup>

## (2) Conditions under which IGOs are likely to orchestrate

While governments can work through diverse actors in domestic governance with “directive orchestration,” which involves mandatory rules, public regulators (states and IGOs) in the global arena tend to rely on “facilitative orchestration,” or enlisting and supporting diverse actors with soft instruments to engage in regulatory activities. Facilitative orchestration is expected to reinforce capabilities and legitimacy of orchestrators and intermediaries, and simultaneously enhance Transnational New Governance (TNG) as a system by reducing gaps

and overlaps among multiple regulations, resolving collective action problems, reducing forum-shopping and forum-shifting behaviors, and promoting learning and innovation.<sup>18</sup> IGOs prefer to use facilitative orchestration, as they can achieve regulatory goals within their capacities and competence outside of member states' control over IGO mandates.<sup>19</sup>

However, given that the TNG suffers from an "orchestration deficit" compared to domestic governance,<sup>20</sup> under what conditions are IGOs likely to orchestrate? The AGSZ is dedicated to pursuing this question. It argues that governance actors are likely to orchestrate under the following conditions: First, if they lack certain capabilities, such as regulatory competence, operational capacity, or legitimacy, they tend to orchestrate (orchestrator capabilities hypothesis). Whereas a governance actor with no capabilities could not orchestrate, an actor with extensive capabilities would not need orchestration. Second, orchestration is likely if an actor is focal in the issue-area, in a sense of having "single and uncontested governance leadership" (focality hypothesis).<sup>21</sup> Major sources of focality include authority, legitimacy, operational competence, available resources, expertise, path-dependence, and charismatic organizational leaders. Third, if the actor has an entrepreneurial culture that favors collaboration with diverse actors and experimentation with innovative approaches, there is a motivation to orchestrate (entrepreneurship hypothesis).<sup>22</sup> In addition, orchestrations are likely when multiple intermediaries that share the orchestrator's goal and have complementary capabilities are available (intermediary availability hypothesis). When there is only one potential intermediary, a governance actor would be rather reluctant to orchestrate it. However, this hypothesis is rather weak, because an orchestrator could catalyze a new institution quite easily in the event that an intermediary is unavailable.

When the orchestrator is an IGO as an agent subject to control by principals (member states), the divergence of goals among member states or between the IGO and member states and weak institutional oversight by member states are hypothesized to increase the possibility of IGO orchestrations (the goal divergence hypothesis and state oversight hypothesis, respectively).<sup>23</sup>

These hypotheses have been examined and broadly corroborated with some revisions in case studies of the European Union (EU), the World Trade Organization (WTO), the Group of Twenty (G20), the Global Environment Facility (GEF), the World Health Organization (WHO), the United Nations Environment Programme (UNEP), the International Labor Organization (ILO), and other organizations.

### (3) Challenges of orchestration theory

While this collaborative study provides insightful hypotheses about conditions for IGO orchestration, there are some theoretical and empirical shortcomings, as some case-study chapters point out. First, focality co-varies with capabilities, making the impact of respective independent variables as well as the value of the dependent variable indeterminate. If an IGO has extensive capabilities, its performance and focality will improve, but its likelihood of orchestration will decrease according to the capabilities hypothesis. On the other hand, an IGO's shortage of certain capabilities (capability deficit) may lower its focality but increase the likelihood of orchestration. This presumption contradicts with the focality hypothesis that argues focality will increase the likelihood of orchestration. Thus, the value of dependent variable (likelihood of orchestration) can be indeterminate due to the contradictory predictions.

Second, the divergence of goals co-varies with the tightness of state oversight, especially when issue salience is high; this also makes the value of the dependent variable indeterminate, as there is a possibility that the effect of one variable (goal divergence) could be counterbalanced by the effect of another variable (state oversight). Divergence of goals may lead to tighter oversight that negatively affects IGO orchestration, even though the hypothesis assumes that goal divergence motivates IGOs to orchestrate. The interaction effects between goal divergence and state oversight is discussed in the concluding chapter as well as in the case of the WTO,<sup>24</sup> and chapters on UNEP and the ILO point out that issue salience can increase state oversight when goals are divergent.<sup>25</sup>

Although the covariation of state oversight and goal divergence is rather an empirical question, it could be said that the indeterminacies discussed above is derived from inappropriately defining the dependent variable. Therefore, we argue that dependent variables should be differentiated according to independent variables. As is discussed in a case study on EU regulation, goal divergence seems to illuminate variations of orchestration or designs of intermediaries (loose/close networks) rather than explain the likelihood of orchestration, whereas the capabilities hypothesis explains why actors orchestrate.<sup>26</sup> We put it in another way: whereas capability deficit explains *why*, focality and goal divergence combined with state oversight are more likely to determine *how* actors orchestrate, more specifically, *how deep* they engage with the intermediary. When focality is high, orchestrators are able to deeply engage in orchestration. If IGO's goal is divergent from that of member states over a controversial issue, it will be difficult for the IGO to orchestrate deeply against the will of the states.

Last but not least, there is another empirical problem: the focality defined as having a single, uncontested leadership is not common in today's regime complexes. As a regime complex comprises multiple issue-areas and institutions, each of which involves a governing body as a center of authority, we often see multi-center systems. For instance, several IGOs together play a leading role in each area of the Millennium Development Goals (MDGs): the World Bank, UNICEF, and UNESCO in primary education; the United Nations Development Programme (UNDP), the World Bank, the UN Women, UNESCO in the empowerment of women; and so on.<sup>27</sup> Especially in regime complexes crowded with powerful IGOs, states (or state agencies), and non-state actors, diffused focality is not an exception; it prevails. A potential orchestrator can be focal in a specific, differentiated area, but it usually cooperates with other potential orchestrators to cope with complex issues. Therefore, it is realistic to think that multiple orchestrators that share focality coexist, compete, or collaborate with each other in a congested regime complex.

Taking the above points into account, in the following section, we discuss variations of orchestration that promote coordination and synergy in fragmented polycentric governance.

### **3. Orchestration models in a polycentric governance system**

#### **(1) Orchestration under diffused focality: Collaborative orchestration**

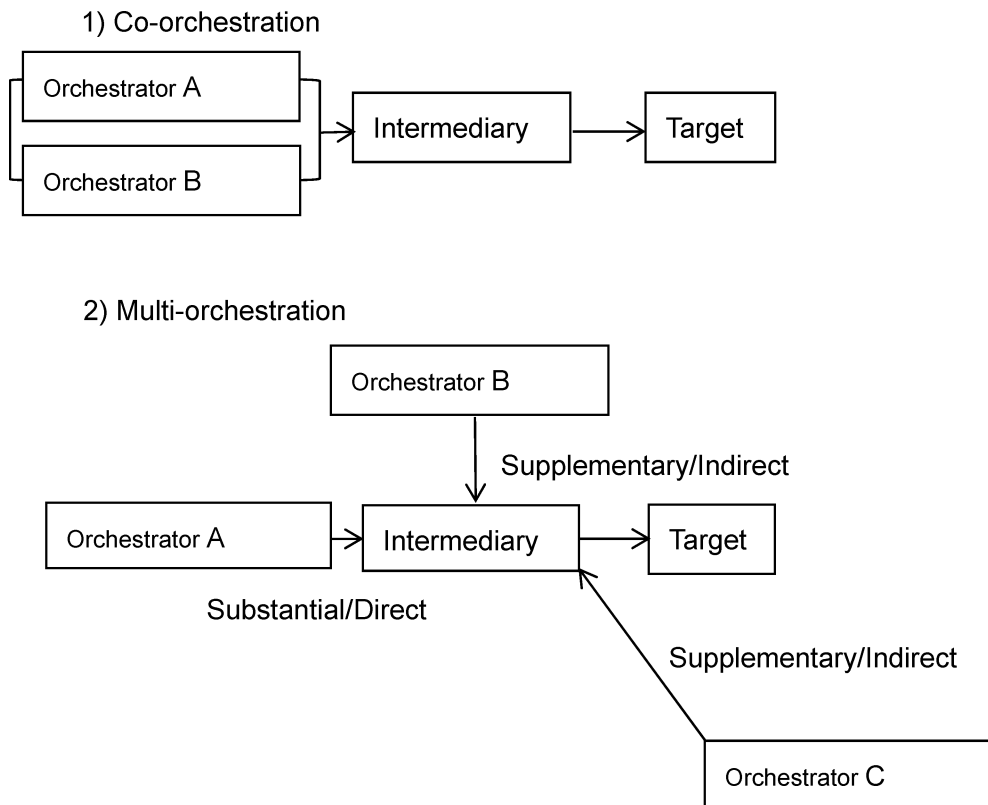
In a congested regime complex, focality tends to be diffused among multiple governors, and coordination problems accompanied by high uncertainty easily come to the surface. As the low focality will lower the depth of orchestration, potential orchestrators are tempted to cooperate with each other to complement respective lack of focality and capabilities. Even UNEP, often referred to as a typical orchestrator that has pioneered the TNG,<sup>28</sup> co-orchestrates with another governance actor when focality is low, such as in the field of Corporate Social Responsibility (CSR). As discussed in the case of UNEP's co-orchestration with the UN Global Compact (UNGC) of the Principles for Responsible Investment (PRI), "...orchestration may be more likely in crowded issue areas...where focality is less obvious, where issue-linkage is the norm and where the realities of complex interdependence may very well require co-orchestration by two or more IGOs."<sup>29</sup> Low focality motivates an IGO to orchestrate with another orchestrator instead of orchestrating alone. While the original O-I-T model focuses on vertical synergy between orchestrator and intermediary, the collaborative orchestration model sheds more light on horizontal collaboration between orchestrators.

### *Co-orchestration and multi-orchestration*

The AGSZ conceptualizes that O, I, and T can each be a set of actors respectively.<sup>30</sup> When two or more actors work as an orchestrator jointly as a set, we call this type of collaboration between orchestrators “co-orchestration.” In the above PRI case, UNEP and the UNGC jointly orchestrated from the same orchestrating position during the same period of time; they jointly engaged in convening, assisting, endorsing, and coordinating throughout the course of preparing, launching, and expanding the PRI.

On the other hand, we suggest another form of collaboration by multiple orchestrators: multi-orchestration. Contrary to co-orchestration, multiple orchestrators orchestrate the intermediary from different orchestrating positions by using different orchestration techniques. The simplest form of multi-orchestration is dual-orchestration: for instance, Orchestrator A (CSO) convenes and coordinates a civil society network as an umbrella network organization,

Figure 2: Collaborative orchestration





whereas Orchestrator B (IGO) gives official endorsement and material support to the umbrella organization to apply pressure to member states. A more complicated case is that of triple-orchestration, as in the case where Orchestrator A (a business association) organizes a private regulatory standard scheme that is endorsed by Orchestrator B (CSO) and funded by Orchestrator C (IGO).

The first feature of multi-orchestration is that orchestrators collaborate through a clear division of labor without a high level of coordination between different sectors, in which civil society actors coordinate the civil society network, IGOs coordinate among international and state bodies, national governments coordinate domestic networks, and business actors coordinate private sector regulation. In this way, orchestrators can facilitate efficient coordination and networking among different sectors while maximizing the autonomy of each sector. The multi-orchestration model illustrates the mechanism of polycentric governance where diverse actors, be they public or private, work as orchestrators simultaneously.

The second feature is different degrees of engagements by orchestrators. In the above case of dual-orchestration, Orchestrator A is deeply committed to orchestrating the civil society network, whereas Orchestrator B orchestrates that network only shallowly from the outside. Here, deep orchestration requires substantial, continuous, and direct management of an intermediary through mobilizing, initiating, coordinating/steering, and giving costly endorsement, whereas shallow orchestration involves only supplementary and external support, including the provision of opportunities for advocacy, material assistance, and low-cost endorsement. In other words, deep orchestration requires a more costly commitment than does shallow orchestration.

We should note, however, depth of orchestration is a relative concept, and cannot be measured in absolute terms. Exactly which techniques should be perceived as shallow or deep is dependent on degrees of relevant actors' and public awareness on the salience of the issue, private or civil sector's influence, institutional congestion, available financial resources, etc., all of which affect orchestrators' focality and capabilities.<sup>31</sup>

### ***Difference between co- and multi- orchestrations***

The multi-orchestration can be differentiated from co-orchestration in terms of orchestrators' orchestrating positions and their engagement with a joint project; more precisely, with regards to a sense of ownership and a degree of coordination. When governance actors co-orchestrate, they share not only a joint goal but also ownership of the project from the same

orchestrating position. They have to be involved in high degree of coordination among conflicting interests and of integrated policy and agree on such terms of contract as memorandum of understanding over the joint project.

When governance actors are involved in multi-orchestration, on the other hand, they don't share the same level of ownership and responsibilities. Neither do they necessarily share the same set of goals; respective orchestrators usually have their own agenda aside from the overall goal of the project. They orchestrate from different orchestrating positions at different distance from the intermediary; therefore, each orchestrator would be involved in different depth of orchestration. As only a little coordination is required, multi-orchestration can be easily performed and provide a wide range of options for orchestrators.

In short, whereas co-orchestration takes place when orchestrators are involved in jointly planned and designed project as a collective governor or on the basis of agreed division of labor, multi-orchestration is characterized by the lack of joint ownership and different depth of engagements from different orchestrating positions. However, there can be continuity between both types of collaborative orchestration; multi-orchestration can change into co-orchestration and vice versa, according to changing relationships, goals, and degree of coordination.

## (2) Conditions for collaborative orchestration

The antecedent condition for collaborative orchestration is the availability of multiple potential orchestrators with complementary capabilities and a willingness to collaborate; "orchestrator availability," so to speak. As the multiplicity of centers of authority is characteristic of polycentric governance, we posit that there should be multiple orchestrators in polycentric system, though the multiplicity as well as diversity of orchestrators is not well discussed in the AGSZ. Furthermore, powerful actors that have enough capabilities to serve as intermediaries can turn into an orchestrator over the course of orchestration; orchestration by ex-intermediaries is often observed, as the chapter on the WHO orchestration demonstrates.<sup>32</sup>

The role of orchestrator is not limited to IGOs and states. CSOs, business entities, and local governments can potentially play the role of orchestrator. According to a study conducted by Global Solution Networks, whereas almost half of orchestrators are IGOs, states account for one-third, and CSOs account for about 15 percent of the total number of orchestrators.<sup>33</sup> As non-state actors try to make up a shortage of legitimacy and capabilities, they are inclined to rely on orchestration on a daily basis. Thus, an increasing number of IGOs encourage powerful CSOs to

orchestrate civil society coalitions and facilitate public-private partnerships and multi-stakeholder initiatives.

In general, a governance actor would be motivated to orchestrate collaboratively with other orchestrators, if it lacked certain capabilities combined with focality to steer intermediaries single-handedly. Furthermore, when an orchestrator is an IGO, a combination of high goal divergence and tight state oversight would increase the likelihood of the IGO to engage in shallow orchestration in a multi-orchestration setting, whereas a combination of high goal divergence and loose state oversight would likely result in the IGO's single- or co-orchestration.<sup>34</sup> For example, an IGO that aims to facilitate civil society involvement under tight oversight by some member states attempting to exclude civil society actors from decision-making process would be tempted to restrain from deep orchestration of civil society, so as to avert ex-post sanctions by the member states. By keeping distance from civil society and engaging in shallow orchestration, IGOs can legitimately facilitate the participation of civil society actors within their own competence, and at the same time, mobilize such civil society actors efficiently, allowing civil orchestrators to engage in deep orchestration of civil society. It could be said that multi-orchestration is a way of facilitating multi-sector involvement even under goal divergence between the IGO and member states accompanied by tight state oversight.

The concept of collaborative orchestration questions some of the hypotheses discussed in the AGSZ, namely, the hypotheses concerning focality, goal divergence, and state oversight. First, contrary to the hypothesis that low focality would not induce orchestration, low focality would encourage orchestrators to be involved in collaborative orchestration. Second, despite the AGSZ's finding that high goal divergence combined with tight state oversight would decrease the likelihood of IGO orchestration,<sup>35</sup> this combination could increase an IGO's preference for multi-orchestration, using shallow orchestration techniques. These two variables co-vary when the issue is salient, and goal divergence determines the depth of orchestration rather than likelihood, as was mentioned in the previous section. Considering the covariation under issue salience, it would be more accurate to treat state oversight as an intervening variable.

#### 4. Overview of the global anti-corruption governance

##### (1) Decentralized regime complex for the fight against corruption

The global governance for the fight against corruption is characterized by a polycentric system with diversity of actors, multi-level institutions, and diverse regulations with hard and soft instruments. Multi-level public regimes operated by the UN, regional organizations, international clubs such as G20, and national as well as sub-national governments, co-exist with private or multi-stakeholder regimes initiated by the International Chamber of Commerce (ICC), the UNGC, and so on.

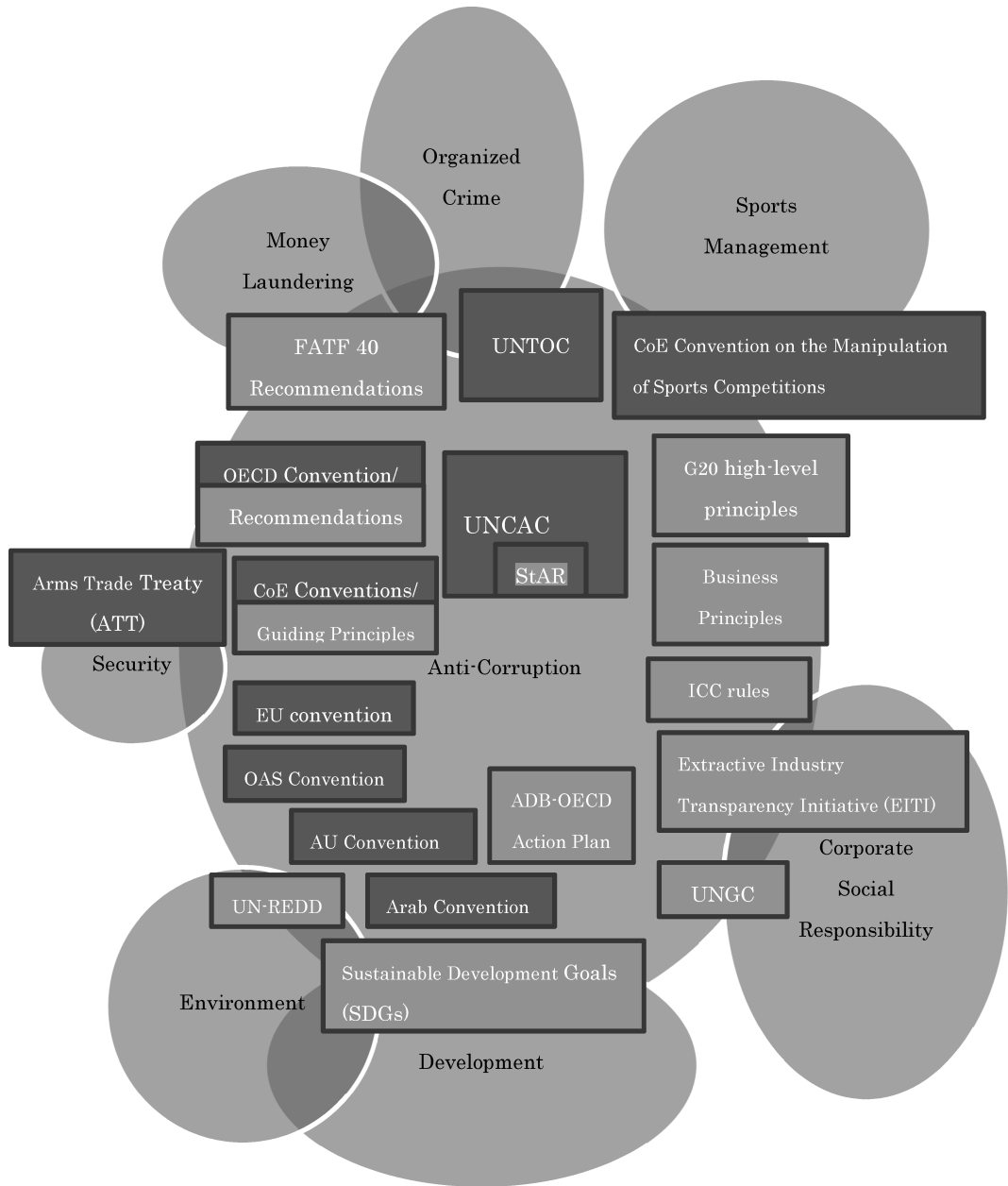
In addition, institutions link with each other in “embedded,” “nested,” “clustered,” and “overlapping” relations in a dense regime complex, as shown in Figure 3.<sup>36</sup> The United Nations Convention against Corruption (UNCAC) is firmly embedded in the principles of sovereignty and non-intervention in domestic affairs. Institutions in sub-fields of UNCAC, such as the Stolen Asset Recovery initiative (StAR), a special institution for assisting the recovery of stolen asset, are nested in the UNCAC regime. Furthermore, as corruption problems relate to many issue-areas including crimes, development, environment, security, etc., institutions dealing with different topics have been clustered and easily overlap with other issue-areas. Thus, the regime complex includes thematic schemes such as the Extractive Industry Transparency Initiative (EITI), and multi-issue institutions including the Financial Action Task Force (FATF) 40 Recommendations, aiming to regulate money laundering and corruption.

##### (2) Multi-level and diverse regulations

Corrupt practices had come to the fore as a serious issue by the 1970s. The US adopted in 1977 the Foreign Corrupt Practices Act (FCPA), which would be extraterritorially applied. As US businesses lobbied for international regulation to level the playing field, the US led international legalization at the United Nations Economic and Social Council (ECOSOC). However, legalization efforts at the UN failed due to disagreements between industrialized countries, which were in pursuit of regulations for a level playing field, and developing countries, which were wary of interference in their domestic affairs and prioritized economic growth by inviting foreign investment with loose regulations.

In the 1990s, scandals involving grand corruption committed by major politicians and corporations were frequently reported on and attracted attention worldwide. Major development

Figure 3: Regime Complex for the Fight against Corruption (Major Elements)



Note: Ellipses indicate issue-areas and boxes indicate institutional elements (norms or schemes). Boxes with dark shadows denote hard legal instruments, and those with lighter shadows denote soft institutions. IGOs as agents, including regime or scheme secretariats, are not included in this figure.

organizations including the World Bank began to declare their resolve to combat corruption. The US pushed the issue forward at the Organization of Economic Cooperation and Development (OECD) instead of the UN, and under its leadership, the OECD adopted a recommendation against bribery (hereafter, the OECD Recommendation), followed by the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (hereafter, the OECD Convention) in 1997. Since then, the OECD Convention regime has been one of the core institutions in the anti-corruption regime complex. The period from the 1990s through the early twenty-first century saw the proliferation of regional legal instruments against corruption in Europe,<sup>37</sup> the Americas,<sup>38</sup> Africa,<sup>39</sup> and the Middle East.<sup>40</sup> In Asia-Pacific, the Anti-Corruption Action Plan for Asia and the Pacific (hereafter, ADB-OECD Action Plan) jointly promulgated by the Asian Development Bank (ADB) and the OECD has served as a regional legal framework.

At the global level, corrupt practices committed by public officials were criminalized in the United Nations Convention against Organized Crime (UNTOC) in 2000. During the negotiation of UNTOC, an international consensus was built on the negotiation of a comprehensive treaty directly pertaining to corruption,<sup>41</sup> and consequently, UNCAC was adopted in 2003. UNCAC is the only universal and comprehensive treaty against corruption. To recap, there was a geographical expansion of public regulations from national to regional and from regional to global legalization.

On the other hand, as the definition of corruption and the scope of criminalized practices significantly vary from country to country, there is also a demand for soft regulations, which are expected to reduce sovereignty costs, build a normative consensus, and lay the groundwork for hard institutions.<sup>42</sup> In parallel with the geographical expansion of public legislation, private and multi-stakeholder regulations to fight against corruption were also expanded and enhanced in the 2000s. Combating Extortion and Bribery: ICC Rules of Conduct and Recommendations, issued by the ICC in 1977 (hereafter, the ICC Rules), was substantially updated. The anti-corruption principle was incorporated in the 10<sup>th</sup> Principle of the UNGC, a central institution in the transnational regime on the Corporate Social Responsibility (CSR). In addition, the Business Principles for Countering Bribery (hereafter, Business Principles) were created in 2013 through a multi-stakeholder process orchestrated by Transparency International (TI).<sup>43</sup>

The private regulations described above were designed to generate a synergistic effect. The first ICC Rules were created for the purpose of complementing the prospective UN Convention, which was not adopted at that time. Subsequently, they were updated in

1996 and 1999 to correspond with the OECD Convention, followed by a couple of amendments corresponding to key legal instruments including UNCAC, in 2005 and 2011.<sup>44</sup> As the ICC has a long history of advocacy relations with the OECD, UN, and CoE, the ICC Rules were purposefully designed to complement public legislation by promoting self-regulation by business.<sup>45</sup> The UNGC 10<sup>th</sup> Principle was also intentionally introduced in order to correspond with UNCAC. These private regulations are expected to improve the effectiveness of hard law.

### (3) Diverse actors and diffused focality

Due to a decentralized governance structure, focality is diffused among major organizations. The primary IGOs working against corruption include the UNODC, the UNDP, the World Bank Group and its institutes, the UNGC, the OECD, the European Commission (EC), CoE, and so on. Since UNCAC was adopted, the UNODC has led global anti-corruption activities as the Secretariat for UNCAC and UNTOC. In addition to promoting the ratification and implementation of these two conventions, it works as a coordinator of global campaigns, an information hub on corruption, and an organizer of conferences and global events such as International Anti-Corruption Day. The UNDP has tackled corruption since the early 1990s from the perspective of human and sustainable development. As one of major partners of the UNODC, it has co-organized global campaigns against corruption since 2004. In the field of development, the World Bank also has been an eminent leader for the fight against corruption, having placed the issue of corruption at the top of its agenda in the mid-1990s.<sup>46</sup> The OECD also has led international anti-corruption activities, since it adopted the OECD Convention and relevant recommendations.

In addition to IGOs, a number of influential CSOs have worked on anti-corruption measures; among such CSOs, TI, the Basel Institute on Governance, the ICC, Transparent Agents and Contracting Entities International (TRACE), and the Control Risks Group are recognized as the most influential. Whereas TI is a leading NGO in the anti-corruption movement, the ICC, TRACE, and Control Risks are all business organizations working mainly for the private sector.

There are also large-scale, active multi-stakeholder and non-state initiatives and networks, including the EITI, the most promising public-private initiative for increasing revenue transparency in extractive industries; the World Economic Forum Partnering against Corruption Initiative (WEF-PACI), a cross-industry platform for anti-corruption and transparency in the private sector; the Global Organization of Parliamentarians Against Corruption (GOPAC), a global network of parliamentarians; the UNICORN International Network Limited (UNICORN),

a global multi-sector network of trade unions; Publish What You Pay (PWYP), a civil society network aiming at enhancing revenue transparency in extractive industries; and the UNCAC Coalition, a civil society network for promoting UNCAC implementation, which will be detailed later in this paper.

The abovementioned organizations and initiatives all function as independent authorities and network hubs, though their actions have been moderately coordinated by forming transnational polycentric networks.<sup>47</sup> It could be said that focality in anti-corruption governance is highly diffused under a decentralized and congested regime complex.

#### (4) Challenges in coordination of the regime complex

Although international legal instruments work in a relatively harmonious manner, domestic law as well as law in international organizations has not yet been sufficiently harmonized with international law. UNCAC, as the sole universal and comprehensive hard law, may appear to sit on the top of the legal hierarchy and align other legal instruments. In reality, however, there are difficulties in the domestic implementation of UNCAC, as UNCAC is embedded in the principles of sovereign equality, territorial integrity, and non-intervention in domestic affairs.

Many provisions of UNCAC are non-mandatory, vague, or qualified, as a result of a compromise between the principles of non-intervention and anti-corruption. In fact, more than half of criminalization provisions are non-mandatory and most provisions on prevention and international cooperation are qualified with wordings such as “as appropriate,” “as necessary,” and “subject to the basic concepts of its legal system.” Thus, states parties are allowed to refer to the irreconcilability of domestic legal systems with some controversial provisions, such as “public reporting” (Article 10), “participation of society” (Article 13) and the criminalization of “illicit enrichment,” “trading in influence,” and “abuse of function” (Articles 17 to 19) as justifications for non-implementation.<sup>48</sup> They comply with provisions while not actually implementing them.<sup>49</sup> Even the provisions on mutual legal assistance and law enforcement cooperation necessary for asset recovery, which are the biggest characteristics of UNCAC, allow member states not to cooperate when these provisions are irreconcilable with domestic law. One of the reasons why more than 180 countries ratified the Convention might be these soft provisions.

In addition, the international review mechanism (IRM) has remain weak since its inception six years after UNCAC was signed, compared with review mechanisms of other anti-corruption regimes such as the OECD Convention and CoE Conventions: country visits by review



teams, cooperation with society in the preparation of and during the review process, and making full country reports public are all non-mandatory.<sup>50</sup>

Since the Convention reflects compromises during tough negotiations and is regarded as an end product in the form of a comprehensive and binding treaty, there is no political will to make weak provisions mandatory or to negotiate a new, stronger treaty. The evolution of the Convention can be said to be already “frozen.”<sup>51</sup> In this sense, it could be said that disagreements over the balance between anti-corruption and non-intervention principles, and over controversial issues, are already institutionalized in UNCAC.

Furthermore, in the field of technical assistance, a plethora of programs operated by more than 50 major organizations without coordination caused terrible congestion, and the necessity of aid coordination and harmonization to reduce duplications and gaps has been repeatedly pointed out since the early twenty-first century.<sup>52</sup> Moreover, as states are regulated by multiple regimes, they are overburdened by the monitoring requirements of every review regime, causing a problem called “monitoring fatigue.”<sup>53</sup> There were also mounting criticisms against the overall anti-corruption industry for its mushrooming budget.<sup>54</sup> Thus, there has been an increasing demand for coordination to reduce inefficiencies among anti-corruption programs and among the implementation mechanisms of different regimes; the UNODC was designated to cope with these difficult tasks.

## **5. Conditions for orchestration by the UNODC**

The UNODC is perceived as one of the centers of global authority for the fight against corruption as the Secretariat for UNCAC and UNTOC. Its primary anti-corruption mandate is to promote the ratification and implementation of UNCAC and UNTOC; it is the Corruption and Economic Crime Branch that is predominantly tasked with this job. To achieve this goal, the Office manages the Conference of States Parties (CoSP) and its subsidiary bodies, including the Implementation Review Group (IRG) and working groups; provides technical assistance to member states; and creates and manages anti-corruption knowledge. Its mandates also include the facilitation of coordination among diverse institutions and collaboration with private sector and civil society, which encourage the Office to engage in collaborative orchestration. In this section, we analyze the conditions that enable the UNODC’s orchestration.

### (1) Focality

The UNODC's focality in the anti-corruption regime complex was not very strong, partly due to its institutional origin and mandates. The United Nations Office on Drug Control and Crime Prevention (UNODCCP), the predecessor of the UNODC, was established by merging the United Nations Drug Control Programme and the Center for International Crime Prevention (CICP) of the United Nations Crime Prevention and Criminal Justice Programme in 1997. The governing body is the Commission on Crime Prevention and Criminal Justice under ECOSOC, which was created in 1992.

The CICP launched three Global Programmes against criminal activities in 1999, including the Global Programme against Corruption (GPAC), which provided and facilitated technical assistance, research and policy formulation, interagency coordination, and judicial integrity.<sup>55</sup> As major anti-corruption programs had come into being by the end of the 1990s, the launch of GPAC was rather late and the CICP was forced to compete with powerful organizations like the World Bank, the United States Agency for International Development (USAID), the OECD, the UNDP, and TI, all of which already had a much stronger presence in the anti-corruption industry prior to the CICP's involvement.

Furthermore, the UNODCCP, which was tasked with the programs related to drug and crime, was initially placed in a disadvantageous position in the fight against corruption, as corruption had been addressed mainly in the context of development. Major development organizations had already substantially incorporated anti-corruption policies in their programs throughout the 1990s. The Office had only weak focality and operational capabilities over anti-corruption issues except for those related to crime prevention and criminal justice. It had less experience on development issues than did development agencies. In fact, the CICP had to carve out a niche in the anti-corruption industry in order to get an advantage from its expertise, which resulted in the creation of programs specializing in judicial integrity.<sup>56</sup>

However, the UNODC's focality has been strengthened since the early twenty-first century, as the focus of anti-corruption industry gradually shifted away from awareness-raising and capacity- and institution- building led by major development agencies and TI toward international cooperation among law enforcement and judicial agencies.<sup>57</sup> This trend boosted the focality of the Office, which already had sufficient expertise and connections with law enforcement and judicial agencies around the world to work as an authoritative hub of networks of both governmental and non-governmental experts and institutes. CoSP and subsidiary bodies also

provide opportunities for networking among officials and have reinforced the UNODC's role as a hub of expert networks. In addition, the Office frequently organizes symposia and workshops for networking, information sharing, and mutual learning, which also strengthen its focality.

Nevertheless, while actors and institutions have continued to expand and diversify, the UNODC has only a moderate influence in the private sector and civil society in the area of anti-corruption. Therefore, it could be fair to say that the UNODC's focality is high in the area of crime prevention and criminal justice, whereas its focality in civil society, the private sector, and development issues is relatively low.

## (2) Capabilities

The UNODC's expertise is highly evaluated by both public sector and civil society. With this high level of expertise, the Office initiates many projects for standard setting and promotion, technical assistance, and knowledge management and creation. It facilitates the implementation of the Conventions by producing specialized tools, including legislative and practical guides, guidelines and guiding principles, model laws and provisions, thematic reports, computer-based self-assessment and writing tools.

Nevertheless, the UNODC has constantly suffered from a lack of funding. The Office is a middle-sized agency with about 1,500 personnel and an annual budget of approximately US \$300 million on average since 2012.<sup>58</sup> The size of its budget is relatively small compared to that of the UNDP, which was earmarked more than US \$5 billion for fiscal year 2015.<sup>59</sup> The number of staff is insufficient for meeting every demand from member states for technical assistance.

In addition, over the past decade, there has been a steady decline in general purpose funds that could be used for the core activities of executive management and basic research. Although the Office has made efforts to streamline, expand its donor base, and diversify financial sources, "UNODC effectiveness is undermined by an unsustainable funding model."<sup>60</sup> Tight budgetary constraints coupled with a shortage of human resources have apparently induced the organization to rely on collaborations including co- and multi-orchestration with partner organizations to make up for shortages of focality and capabilities.

## (3) Entrepreneurship

The UNODC's preference for partnership is attributed not only to its moderate focality and fiscal constraints but also to an entrepreneurial culture that stresses partnership and

intellectual endeavors. The Drugs Programme and the Crime Prevention and Criminal Justice Programme both have emphasized partnership since their inception, and have actively engaged in inter-branch collaborations as well as close cooperation between the headquarters and field offices. Staff members have also regularly attended meetings as observers of major partner organizations, including the OECD Working Group on Bribery (WGB), the UNGC Anti-Corruption Working Group, the Task Force on Improving Transparency and Anti-Corruption of the Business 20.

It has actively collaborated with civil society as well, including with NGOs, experts, academics, grassroots movements, trade unions, and community groups, as their abilities to investigate, advise, raise awareness, empower, and educate are highly valued in the fight against drugs and organized crime. In particular, the Drugs Programme has been eager to engage with civil society; the Crime Prevention and Criminal Justice Programme has followed suit.<sup>61</sup> Thus, civil society actors are officially involved in the implementation review mechanism of UNTOC by participating in the review process as well as attending CoSP subsidiary bodies as observers.

Furthermore, it developed online platforms for dissemination of knowledge: TRACK (Tools and Resources for Anti-Corruption Knowledge) for anti-corruption and SHERLOC (Sharing Electronic Resources and Laws on Crime) for crime prevention. Both of these platforms provide information on convention implementation, comprehensive databases of legislation (legal libraries), analytical materials and tools, bibliographies, and directories of competent national authorities. In addition to providing this information, the TRACK portal is intended to be “a community of practice for partner institutions and practitioners,”<sup>62</sup> and contains tools and resources co-developed with partner institutions including the UNDP, the OECD, the UNGC, the Stolen Asset Recovery initiative (StAR), and the Group of States against Corruption (GRECO). TRACK was thus created through a combination of partnership and knowledge creation.

It could be said that orchestration methods that promote partnership, knowledge building and innovation have been deeply embedded in the Office’s basic strategy and action repertoires. Such a strong propensity for entrepreneurship might offset the negative impact of tight state oversight on orchestration.

#### (4) Goal divergence and tight state oversight

As mentioned above, the UNODC has been constrained by its tight budget, most of which are contributed by major donor countries for special purposes. Nearly 90 percent of the UNODC budget comes from voluntary contributions, and 90 percent of this is earmarked for

special purposes, leaving little room for the Office to effectively undertake tasks such as research and analysis, advocacy, human resource management, independent evaluation, and auditing.<sup>63</sup> This means that the use and amount of funds is largely controlled by the will of major member state donors, including Colombia, the EU, the US, the Netherlands, Sweden, the UK, Japan, Brazil, and Mexico.<sup>64</sup> Therefore, in general, there remains little room for the Office to expand its activities at its discretion beyond member states' expectations.

The divergence of goals among member states and between the UNODC and member states over specific issues also affects the Office's inclination for orchestration. As stated in the previous section, disagreements among States Parties concerning the priority of the anti-corruption principle over the non-intervention principle in addition to other controversial issues are legitimately allowed in the current UNCAC regime. In other words, goal divergence over salient issues among member states is institutionalized in the UNCAC regime, making state oversight tight over specific issues. In particular, if the issue is directly related to the stability of political regime and culture of the country—for example, the issue related to participation of society (Article 13) or the principle of transparency and accountability (Article 10 on public reporting)—a country can strongly resist any attempts to facilitate intervention in domestic affairs. The UNODC, therefore, is assumed to prefer shallow orchestration in collaboration with social actors on these sensitive issues.

##### (5) Intermediary and orchestrator availability

A number of competent and cooperative actors working as centers of authority seem to enable collaborative orchestration in the fight against corruption. There are many collaborations between civil society and the public sector, as exemplified by the process of drafting the AU Convention in which the African Union (AU) invited civil society to actively participate.<sup>65</sup> Multi-stakeholder initiatives like the EITI and the UNGC also illuminate the value of public-private partnerships. Certain powerful private actors serve as either intermediaries or orchestrators, depending on their focality, capabilities, and availability of intermediaries/orchestrators. They can sometimes play a role of intermediary and orchestrator simultaneously in a chain of orchestrations. A case in point is TI.

TI has been working as a hub of diverse anti-corruption networks and has positioned itself as an expert activist organization operating in partnership with both public and private organizations as well as individual experts and academics.<sup>66</sup> TI serves as a network hub of

experts on development economics, international commerce, criminal law, human rights, business management, etc., and launched the Anti-corruption Solutions and Knowledge (ASK) network, a pool of recognized experts and practitioners around the world.<sup>67</sup> In addition, most staff members of TI have enough expertise and networks in the areas mentioned above to be affiliated with multiple institutions.

TI's function as a multi-network hub is illustrated by its role as the Secretariat for the International Anti-Corruption Conference (IACC), a global multi-stakeholder conference that brings together CSOs, private sector, public agencies, and individuals fighting against corruption all over the world. The IACC serves as "the premier global forum for the networking and cross-fertilisation"<sup>68</sup> and as an iconic conference that symbolizes the solidarity of the global community against corruption.<sup>69</sup> In addition, TI co-orchestrated a multi-stakeholder process involving businesses, trade unions, civil society, and academics to create the Business Principles, together with the Social Accountability International (SAI).

Highly focal and capable organizations like TI can be orchestrators as well as intermediaries, but cannot dominate the focality in a congested system. Furthermore, the credibility of major organizations like the World Bank, the IMF, USAID, and TI came into question for their principally neoliberal policies. Thus, these orchestrators have found a common interest in collaborative orchestration to mutually complement their partial lack of focality and capabilities.

## **6. Collaborative orchestration by the UNODC**

### **(1) Inclination for collaborative orchestration**

The UNODC has orchestrated a number of intermediaries for various functions, including setting and promoting norms and standards; providing technical assistance for legal support, policy development, and institution- and capacity-building; and creating and managing knowledge, as shown in the table below.

While the UNODC single-handedly orchestrates networks and groups related to crime prevention and criminal justice, including the UN Crime Prevention and Criminal Justice Programme Network of Institutes (PNI) and the Judicial Integrity Group (JIG), it also frequently engages in collaborative orchestration in areas with low focality, including the Stolen Asset Recovery initiative (StAR), the Regional Working Group on Business Integrity in ASEAN

Table 1: UNODC's orchestration for the fight against corruption (intermediaries)

scale \ function	Standard setting and promotion	Technical assistance	Knowledge management
Macro (Regime complex; Global level)	IGAC <sup>70</sup> RoLCRG <sup>71</sup>	IGAC PNI <sup>72</sup> IACA ACAD <sup>73</sup>	IGAC PNI IACA ACAD
Meso (Thematic institutions; Regional level)	UNCAC Coalition ICCWC <sup>74</sup> JIG <sup>75</sup> WGBI <sup>76</sup>	UNCAC Coalition StAR <sup>77</sup> ARAC <sup>78</sup> IAACA <sup>79</sup>	StAR JIG ARAC
Micro (Programs/projects; Local level)	Programs/projects for technical and financial assistance		

(WGBI), the Anti-Corruption Academic Initiative (ACAD), and the International Anti-Corruption Academy (IACA).

As discussed in the previous section, a combination of high expertise, a shortage of resources, a relative lack of focality, strong entrepreneurship, and orchestrator/intermediary availability is assumed to have encouraged the Office to engage in collaborative orchestration. In addition, high goal divergence over sensitive issues is assumed to have motivated the Office to engage in multi-orchestration with shallow orchestration techniques.

However, it is not good for a public agency to collaborate with a private organization whose credibility is somewhat in doubt. Through cooperation with an umbrella organization consisting of multiple organizations, this criticism can be avoided. There had been already many umbrella networks of non-state organizations in the field of anti-corruption, including GOPAC, UNICORN, the PWYP, and the UNCAC Coalition. Therefore, the UNODC prefers to work closely with umbrella organizations, including the Vienna Non-Governmental Organization Committee (VNGOC), the NGO Alliance on Crime Prevention and Criminal Justice, and the UNCAC Coalition.<sup>80</sup> Its partnerships with umbrella organizations have laid the groundwork for multi-orchestration.

## (2) Multi-orchestration: The UNCAC Coalition

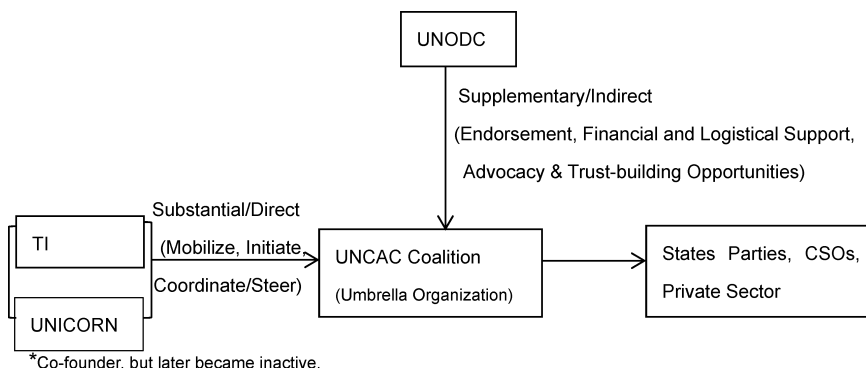
The UNODC intended to orchestrate an intermediary to ensure input from civil society in the deliberations of CoSP subsidiary bodies, but it was hardly able to initiate or coordinate

civil society intermediaries due to a lack of focality in civil society; the Office's partnership with civil society in the area of anti-corruption was not strong compared to its partnership over drug issues.

Furthermore, it was under tight oversight by some States Parties. Civil society actors are not allowed to participate in the meetings of the IRG and working groups, even though the Office of Legal Affairs of the UN Secretariat recommended IRG to take positive steps on this issue<sup>81</sup> and the UN Special Rapporteur on Freedom of Assembly and Association publicly criticized the exclusion of civil society from the IRG.<sup>82</sup> The issue of the civil society's observer status in the CoSP subsidiary bodies has been highly controversial and has not to date been settled. Some civil society actors criticized the UNODC for its barring of civil society representatives from the meetings of subsidiary bodies, having yielded to pressure from the States Parties, "without putting the question to the members of those bodies as required by the rules of procedure."<sup>83</sup> This illustrates the fact that tight state oversight constrained the Office so much that it was unable to steer civil society to pressure States Parties for the participation of CSOs in the subsidiary bodies.

TI, on the other hand, has broad influence over civil society, and with its high focality and capabilities, it was able to mobilize and convene civil society actors to initiate the UNCAC Coalition. It was launched in 2006 by Gillian Dell of TI and Kirstine Drew of UNICORN, primarily for the purpose of coordinating inputs from civil society to States Parties' deliberations. To better pursue advocacy activities, the Coalition was registered as an independent NPO in Vienna, Austria, in October 2016. TI has been deeply involved in the orchestration of the Coalition, and has served as the Secretariat and the permanent member of the Coalition Coordination

Figure 4: Multi-orchestration through UNCAC Coalition





Committee (CCC) since the Coalition's inception.

Approximately 120 members (as of January 2018) participate in the coalition, including major CSOs and umbrella organizations that have a long cooperative partnership with TI such as Christian Aid, Global Witness, the Basel Institute on Governance, and the Tax Justice Network, as well as parliamentarians and academics. The members of the Coalition are from diverse fields, including governance, development, human rights, labor rights, environment, and peace and security. The members' countries of origin are also diverse: about 20% are from Sub-Sahara Africa, about 35% from Europe, about 10% from South Asia, 6% from Asia-Pacific, 8% from the Americas, 6% from the Middle East and North Africa, and about 10% act on a global basis.

Despite diverse backgrounds, members are fairly unified for the purpose of promoting the ratification and implementation of UNCAC.<sup>84</sup> Coalition policy is coordinated by the CCC, which consists of eight regional seats, two international seats, one individual seat, and the Secretariat, which is served by TI.<sup>85</sup> Through geographically equal representation, it can adjust for regional differences and facilitate global solidarity beyond regions. The CCC sets goals and organizes collective activities, including advocacy activities at CoSP and participation in side events and trainings. While the CCC invites members to join such activities, doing so is voluntary.

For the UNODC, the Coalition was a convenient partner in terms of legitimacy; it appears neutral as an umbrella organization of a wide range of civil society actors, and the plan to launch the Coalition was endorsed at a meeting of the UN inter-agency coordination body for anti-corruption programs.<sup>86</sup> The Civil Society Team of the UNODC has engaged in shallow orchestration of the Coalition due to its lack of focality in civil society and tight state oversight. First, it gives legitimacy to the Coalition as a civil society representative by endorsing it as an official partner. Second, it grants financial support to the Coalition, which has no stable funding source.

Third, as the Secretariat for CoSP, the Office hosts side events on the margins of CoSP meetings and briefing sessions on the margins of IRG. In both, the Coalition is allowed to present views and exchange opinions with delegates. Side events on the margins of CoSP meetings consist of panel sessions organized by states, IGOs, branches of UNODC, CSOs, and multi-stakeholder groups. The number of sessions has increased with each meeting, with 5-10 sessions held per day, totaling 33 sessions during CoSP 6 in 2015. Some sessions, including those on Sustainable Development Goals (SDGs), were held as part of high-level meetings, providing some input into the formal decision-making process. Briefing sessions on the margins of IRG

provide an opportunity for the Coalition to organize panel sessions accompanied by Q&A sessions with delegates. At the first IRG briefing in 2012, almost 40 civil society representatives and 100 delegates attended and actively took the floor. Whereas some delegates criticized CSOs by questioning their qualifications, including their professional capabilities and neutrality, others considered it an opportunity to have a constructive dialogue. Some civil society representatives have felt trust being built between governments and civil society as a result of these briefing sessions.<sup>87</sup>

Fourth, the Office and the Coalition have jointly organized trainings for CSOs to build professional capabilities to participate in the preparation of and during the UNCAC review process.<sup>88</sup> Nearly 150 CSOs in total were trained in Austria, South Africa, and Senegal from 2012 to 2013.<sup>89</sup> These trainings were highly evaluated by the Independent Evaluation Unit, and so, a three-year extension for the project was approved.<sup>90</sup> The trainings were organized through a division of labor: the Office convened the training sessions and provided financial and administrative support while the Coalition was substantively tasked with training.<sup>91</sup> Fifth, the Coalition and the UNODC co-organized multi-stakeholder workshops on UNCAC and its review mechanism for governments, civil society, and the private sector from 2014 to 2016.<sup>92</sup> These workshops were highly praised as serving as a platform for trust building and mutual learning.<sup>93</sup>

Thus, the UNODC has been making efforts to bridge the gap between government and civil society and to facilitate the participation of civil society by using multi-orchestration techniques under tight state oversight and a lack of focality. The capabilities and focality of both organizations have been strengthened through multi-orchestration. For instance, some CSOs participating in the trainings later joined the Coalition as active members, such as I WATCH, a Tunisian NGO, which became a new CCC member in 2015.<sup>94</sup> The UNODC's connections in civil society and the private sector have been significantly increased compared to those in the early twenty-first century.<sup>95</sup>

## 7. Conclusion

The ultimate question this paper seeks to answer is how to improve coordination and synergy in a decentralized and congested regime complex, in which the focality of governance is diffused among multiple actors, a plethora of programs or schemes operate in an uncoordinated fashion, and issue-linkages frequently occur. This paper attempts to answer the question

by proposing the collaborative orchestration model, including co-orchestration and multi-orchestration, which could enhance the focality, capability, and legitimacy of orchestrators as well as intermediaries under diffused focality. Even under high goal divergence coupled with tight state oversight, multi-orchestration, in which multiple orchestrators engage with the same intermediaries from different orchestrating positions, may improve input legitimacy by promoting the participation of diverse stakeholders without involving too much cost. It may also promote problem solving by facilitating the spontaneous and efficient development of networks in respective sectors, yielding an increase in multifaceted approaches and a wider range of options for governance actors. This analysis demonstrated why and how the UNODC strategically orchestrated intermediaries to create synergy among major governance actors while facilitating the participation of a broad range of stakeholders through multi-orchestration.

### *Theoretical implications*

This paper gives a new insight into the theoretical hypotheses concerning focality, goal divergence, and state oversight. First, contrary to the focality hypothesis, orchestration techniques are likely to be chosen under low focality, which is often the case in a congested regime complex, in a collaborative form of orchestration. In general, governance actors are motivated to orchestrate collaboratively when an orchestrator lacks a combination of certain capabilities and the focality to orchestrate an intermediary that could be orchestrated by another orchestrator. In addition, we suggest “orchestrator availability,” i.e., availability of multiple orchestrators, as an antecedent condition for collaborative orchestration.

Second, it is the combination of goal divergence and state oversight that determines the depth of orchestration, rather than likelihood. Contrary to the AGSZ’s findings, the paper argues IGOs prefer shallow orchestration under the condition of high goal divergence accompanied by tight state oversight over controversial issues, as in the case of the UNODC’s engagement in shallow orchestration in a multi-orchestration setting with TI as another orchestrator, concerning the issue of civil society participation in CoSP subsidiary bodies.

### *Effectiveness of orchestration*

This paper eschews discussion of the effectiveness of orchestration, which should be investigated in future research. Here, we touch on three things to be considered when discussing effectiveness: dynamic process, organizational interest, and possible combinations with other

modes of governance.

Considering the dynamic process of orchestration, an orchestrator's focality and capabilities would be undermined over time if intermediaries and other orchestrators are able to strengthen their focality and capabilities through competition, and challenge the orchestrator. To ensure that orchestration is sustainable, effective coordination among competitive intermediaries and orchestrators is thought to be indispensable. This might be one of the reasons why the UNODC orchestrates the UNCAC Coalition, as the Coalition is well coordinated by TI as an orchestrator of civil society. Hence, it is essential to assess dynamic effectiveness over the course of orchestration in the long run.

Second, conflict between public interests and organizational interests must be considered. IGOs use orchestration to serve their own organizational interests, including expanding resources while reducing costs, enhancing focality and legitimacy, and enhancing autonomy from member states' control. Orchestration is helpful also for mission creep (expansion into other areas), because IGOs can gain experience and expertise through orchestration without heavy organizational investments.<sup>96</sup> When an orchestrator's organizational interests are incompatible with certain public interests, its orchestration may lose its effectiveness.

Finally, it would be inappropriate to assess the effectiveness of orchestration separately from other factors, especially in a "Prisoners' Dilemma" situation, which induces opportunistic behaviors. Considering the possibility of growing conflicts of interests among organizations, it may be better to complement the soft mode of governance with the hard mode of governance in order to enhance the effectiveness of coordination. It is worth discussing which types of orchestration and modes of governance should be combined for achieving specific goals.

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  - 23 These hypotheses are summarized in the framework chapter: Kenneth W. Abbott, Philipp Genschel, Duncan Snidal, and Bernhard Zangl, "Orchestration: Global governance through intermediaries," in Abbott, Genschel, Snidal, and Zangl, op.cit., pp.3-36.
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- 30 Abbott, Genschel, Snidal, and Zangl, op.cit., p.4.
- 31 In particular, the effect of endorsement may significantly differ depending on the degree of congestion caused by a number of private authorities. For instance, in the issue-area of environmental management, crowded with private regulatory schemes, an official endorsement by the public sector is supposed to have a big influence, whereas in other cases with fewer private authorities, official endorsement may not be so crucial, though endorsement against the will of member states would be costly.
- 32 Hanrieder, op.cit., pp.191-213.
- 33 Abbott and Hale, op.cit., pp.4-5. Among others, UNEP, the World Bank, the World Health Organization, the US government, the UK government, and the World Wildlife Fund (WWF) have been predominantly involved in the orchestrated initiatives identified in the study. On the other hand, approximately one-third of intermediaries are corporations, and states and CSOs account for 20 percent each.
- 34 For findings that a combination of high goal divergence and loose state oversight induces IGO-initiated orchestration, whereas low goal divergence coupled with tight state oversight tends to result in state-initiated orchestration, see Abbott, Genschel, Snidal, Zangl, op.cit., p.372.
- 35 *Ibid.*, pp.372-373.
- 36 Oran Young, "Institutional Linkages in International Society: Polar Perspectives," *Global Governance* 2(1), 1996, pp.1-23. An institution can be "embedded" in basic principles of international society such as the respect for sovereignty; "nested" in a superior and comprehensive norm according to a legal hierarchy; "clustered" with institutions dealing with other topics; and "overlapping" with different issue-areas.
- 37 For example, the Council of Europe (CoE) the Criminal and Civil Law Conventions on Corruption (hereafter, the CoE Conventions)
- 38 For example, the Inter-American Convention against Corruption (hereafter, OAS Convention).
- 39 For example, the AU Convention on Preventing and Combating Corruption (hereafter, AU Convention).
- 40 For example, the Arab Convention against Corruption (hereafter, Arab Convention)
- 41 A/54/128 "Action against corruption"; A/55/383 "Report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on the Work of Its First to Eleventh Sessions."

- 42 Kenneth W. Abbott and Duncan Snidal, "Hard and Soft Law in International Governance," in *International Organization* 54(3), pp.421-456.
- 43 *Business Principles for Countering Bribery: A Multi-Stakeholder Initiative Led by Transparency International*, Berlin: Transparency International, 2013.
- 44 International Chamber of Commerce, *The ICC Rules on Combating Corruption*, 2011 edition.
- 45 Fritz Heiman and François Vincke, *Fighting Corruption: International Corporate Integrity Handbook*, 2008 edition., International Chamber of Commerce, 2008, p.8.
- 46 In 1995, then-President of the World Bank James Wolfensohn addressed "the cancer of corruption" at the annual meetings of the World Bank and the International Monetary Fund; since then, the issue of corruption has been at the forefront of international development assistance. *Voice for the World's Poor: Selected Speeches and Writings of World Bank President James D. Wolfensohn, 1995-2005*, Washington: World Bank, p.50.
- 47 Makiko Nishitani, "The Coordination of the Global Anti-Corruption Governance via Hybrid Polycentric Networks," in *The Study of Global Governance*, 2, 2015, pp.48-67.
- 48 Cecily Rose, *International Anti-Corruption Norms: The Creation and Influence on Domestic Legal Systems*, Oxford: Oxford University Press, 2015, pp.97-132.
- 49 *Ibid.*, p.127.
- 50 Only 40 percent of States Parties have published their full review reports online, since the implementation review mechanism was launched in 2009.
- 51 Rose, *op.cit.*, p.116.
- 52 ODCCP, *Report on the Second United Nations Interagency Anti-Corruption Co-ordination Meeting*, Vienna, July 1-2, 2002, p.4; UNODC, *Report on the Fifth Meeting of the International Group on Anti-Corruption Coordination (IGAC)*, Merida, December 11, 2003, p.5.
- 53 UNODC and Asian Development Bank (ADB), *Report on the Seventh Meeting of the International Group for Anti-Corruption Coordination (IGAC)*, Bangkok, April 21-22, 2005, p.13.
- 54 According to the estimates of Bryane Michaels and Donald Bowser, the size of the anti-corruption industry was approximately \$100 million in 2003 and mushroomed to almost \$5 billion by 2009. Bryane Michaels and Donald Bowser, "The evolution of the anti-corruption industry in the third wave of anti-corruption work," in Sebastian Wolf and Diana Schmidt-Pfister, eds., *International Anti-Corruption Regimes in Europe: Between Corruption, Integration, and Culture*, Baden-Baden: Nomos, 2010, p.161.
- 55 CICP, *Value Added of Partnership in the Fight against Corruption*, conference paper, Vienna, March 2001, p.21.
- 56 UNODC, *Report on the Fourth United Nations Interagency Anti-Corruption Coordination Meeting*, Vienna, July 24-25, 2003, p.12.
- 57 Michaels and Bowser, *op.cit.*, pp.164-166.
- 58 UNODC, *Annual Report 2014*, p.120; "Staff" <http://www.unodc.org/unodc/en/about-unodc/employment.html?ref=menutop>; "Field offices" <http://www.unodc.org/unodc/en/field-offices.html?ref=menutop> (accessed June 1, 2017)
- 59 "Our projects," <http://open.undp.org/#2015> (accessed June 1, 2017)
- 60 UNODC, *Annual Report 2014*, p.66.
- 61 UNODC, *Annual Report 2010*, p.38.
- 62 Corruption and Economic Crime Branch of UNODC, *Anti-Corruption Update*, Issue 1, February 2012, p.2.
- 63 UNODC, *Annual Report 2010*, p.63.
- 64 UNODC, *Annual Report 2014*, p.122.
- 65 Gillian Dell, *Anti-Corruption Conventions in Africa: What Civil Society Can Do to Make Them Work*, Berlin: Transparency International, 2006.
- 66 TI has formal partnerships with 35 public or private organizations. "Institutional

- Relationship,”<https://www.transparency.org/whoweare/accountability/governance/0/> (accessed June 1, 2017)
- 67 “Network of Experts,” [http://www.transparency.org/experts\\_network](http://www.transparency.org/experts_network) (accessed August 30, 2015)
- 68 [http://iacconference.org/en/about/about\\_iacc](http://iacconference.org/en/about/about_iacc) (Accessed March 1, 2014)
- 69 Comments on the IACC given by Ms. Gillian Dell, who has served on the Secretariat for a long time. Author’s interview with Ms. Gillian Dell, July 23, 2012.
- 70 International Group for Anti-Corruption Coordination
- 71 Rule of Law Coordination and Resource Group
- 72 UN Crime Prevention and Criminal Justice Program Network of Institutes
- 73 Anti-Corruption Academic Initiative
- 74 International Consortium on Combating Wildlife Crime
- 75 Judicial Integrity Group
- 76 Regional Working Group on Business Integrity in ASEAN
- 77 Stolen Asset Recovery Initiative
- 78 Academia Regional Anticorrupción para Centroamérica y el Caribe
- 79 International Association of Anti-Corruption Authorities
- 80 Ms. Mirella Dummar-Frahi, the Civil Society Officer, and the Leader of the Civil Society Team of the Corruption and Economic Crime Branch, emphasized that the Office cooperates with umbrella organizations from the perspective of legitimacy. Author’s interview with Ms. Frahi in Vienna, June 24, 2016.
- In fact, at the first IRG briefing, some delegates questioned TI’s professional capability, neutrality, and other qualifications. Matti Joutsen, “Civil Society Organizations and UNCAC: Do CSOs Have a Seat at the Table?” presentation material distributed at the Civil Society Organizations Fighting Corruption: Theory and Practice Workshop, held at the University of Surrey, UK, July 9–10, 2012.
- 81 CAC/COSP/IRG/2010/9 “Legal Opinion from the Office of Legal Affairs,” para 16.
- 82 A/69/365 “Rights to freedom of peaceful assembly and of association.”
- 83 *UNCAC Newsletter* 10, November 2013, p.6.
- 84 Interview with Ms. Dell, July 23, 2012. She remarked that they had not had major conflicts within the network. Indeed, according to the minutes of CCC meetings, internal conflicts were not on the agenda.
- 85 “Coalition Governance,” [http://uncaccoalition.org/en\\_US/about-us/coalition-governance](http://uncaccoalition.org/en_US/about-us/coalition-governance) (accessed August 30, 2015). Its responsibilities include policy coordination, promoting the activities of the Coalition, communicating to the external audiences, approving and excluding members, and giving assistance to members that are under attack.
- 86 UNODC, *Report of the Ninth Meeting of the International Group for Anti-Corruption Coordination (IGAC)*, Dead Sea, Jordan, December 15, 2006, p.5.
- 87 Matti Joutsen, “Civil Society Organizations and UNCAC: Do CSOs Have a Seat at the Table?”, presentation material distributed at the Civil Society Organizations Fighting Corruption: Theory and Practice Workshop, held at the University of Surrey, UK, July 9–10, 2012. Also, author’s Skype interview with Ms. Dell, August 12, 2016.
- 88 The trainings were conducted as part of a civil society project launched in 2010: “Looking Beyond: Towards a Strategic Engagement with Civil Society on Anti-Corruption, and Drugs and Crime Prevention” (GLOU68).
- 89 “Empowering CSOs to Better Fight Corruption through the UNCAC,” <http://www.unodc.org/unodc/en/CSOs/CN9-Empowering-CSOs-to-better-fight-corruption-through-the-UNCAC.html> (accessed August 30, 2015)
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91 Author’s interview with Mr. Manzoor Hasan, Chair of the UNCAC Coalition, in Panama City, December 3, 2016.

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93 This observation was confirmed by Mr. Hasan, in the author’s email inquiry, December 23, 2016.

Especially the regional workshop held in Malaysia in 2014 was highly evaluated, and as a result, the Presidential UNCAC Inter-Agency Committee was established in Philippines. UNODC, *Annual Report 2014*, p.78.

94 *UNCAC Newsletter* 13, July 2015, p.10.

95 An observation by Ms. Frahi made during an interview in Vienna, June 24, 2016.

96 Abbott, Genschel, Snidal, and Zangl, op.cit., p.356.

