



Global Dynamics of Corruption: Analyzing Regional Bodies' Role in Building Integrity and Effectiveness in the Fight Against Corruption

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Submitted: October 5, 2024; Reviewed: November 20 2024; Accepted: December 27, 2024

Article's Information

Keywords:

Corruption, Criminalization, Illicit Activities, Preventive Measures, Regional Bodies.

DOI :

<https://doi.org/10.25041/corruptio.v5i2.3707>

Abstract

This article analyzes the global dynamics of selected regional bodies in promoting integrity and effectiveness in the fight against corruption. The widespread recognition of corruption in the early 1990s led to the formation of regional bodies aimed at fostering integrity and developing effective instruments for global corruption eradication. The findings reveal that while each regional body is unique in its history and structure, there are similarities that are often transferable. However, ambiguities in definitions, criminalization of acts, and preventive measures undermine the effectiveness of these systems and limit their potential to reinforce comprehensive integrity in the fight against corruption. This article employs both qualitative and quantitative methods to review existing literature, generate data, and assess the role of regional bodies in building integrity and combating corruption.

A. Introduction

Corruption is not a new phenomenon; it has accompanied human development throughout history and is deeply rooted in various cultures and civilizations.¹ Historical evidence shows that corruption has been present since ancient times, as reflected in religious texts and societal structures. Sacred scriptures, including the Quran and the Bible, explicitly address and condemn corrupt practices such as bribery. For instance, the Quran states²: "Do not consume one another's wealth unjustly or offer it [in bribery] to the authorities in order to wrongfully consume a portion of others' wealth knowingly" (Quran 2:188). Similarly, the Bible³ recounts

¹ See Saphy L.B., The Genesis of Corruption and Its' Perception. National Journal of Criminal Law. Volume 1, Issue 1. (2018) p32. Available at www.stmjournals.com

² The Quran; Surat Baqarah (chapter 2:188).

³ The bible (Mathew 26:14-16) and (Mark 14:10-11).



Judas Iscariot's betrayal of Jesus in exchange for thirty pieces of silver, illustrating the moral and social consequences of corruption (Matthew 26:14–15).

Throughout the medieval period (1000–1500 A.D.), corruption was widely acknowledged and depicted in religious, legal, and literary texts, suggesting its pervasiveness and systemic nature. Prior to the global recognition of corruption as a transnational issue, it was considered the sole responsibility of national governments. However, the international community has since acknowledged that combating corruption requires coordinated, cross-border strategies. This shift has led to the development of regional and international legal frameworks aimed at curbing corruption and promoting accountability.⁴

Prominent among these frameworks are the United Nations Convention against Corruption (UNCAC), the OECD Anti-Bribery Convention, the African Union Convention on Preventing and Combating Corruption, and the SADC Protocol against Corruption. These instruments aim to harmonize anti-corruption efforts, promote legal coherence, and enhance international cooperation. Nevertheless, concerns remain regarding the effectiveness of these instruments, particularly in relation to due process and the equitable enforcement of anti-corruption measures.⁵

1. The Meaning and Understanding of Corruption:

Corruption gained heightened global attention in the early 1990s, dominating headlines and legal discourse across diverse political and economic systems. Initially, anti-corruption efforts were seen as the sole responsibility of national governments. However, it soon became evident that effective responses required broad-based international cooperation to ensure consistency, fairness, and alignment with global economic and governance standards.⁶ For example, the Transparency International Global Report (2001)⁷ emphasized the increasing international dimension of corruption, attributing its rise to the globalization of goods, services, people, and illicit activities. Similarly, the OECD (2006) acknowledged that corruption had evolved into a global phenomenon, undermining efforts to reduce poverty and impeding development in both donor and recipient countries.⁸

Contemporary findings reveal a growing consensus that corruption significantly hampers social service delivery, particularly in developing nations.⁹ It distorts economic structures, weakens institutions, and contributes to the deterioration of social cohesion. Beyond isolated incidents of bribery, corruption is increasingly understood as a systemic problem that obstructs national development and perpetuates inequality.¹⁰ Efforts to combat corruption now include implementing targeted policies to reduce opportunities for personal enrichment and enhance institutional transparency.¹¹ Transparency International identifies corruption as one of the most

⁴ See Also Carr I., *Fighting Corruption Through Regional and International Conventions: A Satisfactory Solution?* (2006) p2.

⁵ See Alatas, S., *Corruption, Its Nature, Causes and Functions*. Aldershot: Brookfield, Bergstein & Elliott K (Eds) *Corruption in The World Economy 1997* Washington: (1990). Institute for International Economics.

⁶ United Nations Convention Against Corruption (2004: iii); Rose-Ackerman also argued that *some other international professional and business organizations have also put the anti-corruption initiative on their agenda*. (1999)

⁷ The Transparency International Global Corruption Report (2001) p. 232.

⁸ See also the World Bank Opinion *Corruption is a Global Problem for Development. To Fight It, We All Have a Role to Play*. (2023). Available at www.worldbank.org

⁹ See also Pillay P., *Ethics and accountability in South African municipalities: The struggle against corruption*. African Journal of Public Affairs, Vol. 9 No. 2. (2016) p.2 Available at www.repocitory.up.ac.za

¹⁰ Mbaku (2007: ix). *Corruption in Africa Causes, Consequences, and Clean-ups*. Similarly, Pilla (2004:586). *Corruption – The Challenge to Good Governance: A South African Perspective* argues that *dealing effectively with corrupt transactions remains one of the most important challenges in developing countries*. Pillay (2004:586) further states that *corruption fundamentally runs contrary to accountability and the rule of law because it undermines governance, diminishes public trust in the credibility of the state and threatens the ethics of government and society. Additionally, corruption has been identified as the greatest obstacle that impedes the world's economic and social development and undermines development by destroying and weakening the institutions to corruption eradication*.

¹¹ See Hope *et al* (eds). *Corruption and Development in Africa: Lesson from Country Case Research* (2000:1). See also Spyromitros, E, and Panagiotidis, M., *The Impact of Corruption on Economic Growth in developing countries and a*

critical challenges facing the modern world. It undermines good governance, distorts public policy, misallocates resources, hinders private sector development, and disproportionately affects the poor. As aptly summarized in international discourse, corruption is “an insidious plague” that erodes democratic institutions, violates human rights, distorts markets, and enables organized crime and terrorism to thrive.¹²

The term corruption carries varied connotations¹³ depending on the field of research, often leading to divergent interpretations.¹⁴ Many legal and institutional instruments focus on describing corrupt acts rather than offering a precise definition.¹⁵ Consequently, corruption has been conceptualized in multiple ways by different scholars and organizations. For example, the SADC Protocol against Corruption¹⁶ defines corruption as any act, including bribery or related behavior, committed by individuals entrusted with public or private responsibilities that violates their duties for the purpose of securing undue advantages.¹⁷ Similarly, the African Union Convention on Preventing and Combating Corruption¹⁸ broadly refers to corruption as the acts and practices, including related offenses, outlined within its provisions. The Oxford English Dictionary defines corruption as dishonest or illegal behavior, especially by people in positions of authority, typically involving bribery.¹⁹

International organizations have also contributed to shaping the discourse around corruption. Institutions such as the World Bank, through its Control of Corruption Index, and Transparency International, via its Corruption Perceptions Index, have emphasized the harmful effects of corruption on governance, economic growth, and social development.²⁰ The World Bank's 2008 report identified corruption as the single greatest obstacle to economic and social progress.²¹ Similarly, Transparency International²² highlights corruption as a major global challenge, noting that it undermines good governance, distorts public policy, misallocates resources, hampers private sector development, and disproportionately harms the poor.

Scholars have also contributed significantly to defining corruption, offering perspectives that reflect its complex and multifaceted nature. Wathne²³ defines corruption as “the misuse of entrusted power for private gain,” a widely accepted formulation. Similarly, Kibwana²⁴ describes it as “an act of omission perpetrated by an individual or group that contravenes legitimate societal expectations and interests,” occurring across public, corporate, and private spheres. Riara²⁵ emphasizes the moral dimension of corruption, portraying it as immoral, unjust, and contrary to human ideals—an act that society collectively deems wrong and should

Comparative analysis of corruption measurement indicators. *Cogent Economics & Finance*, 10(1). (2022). Available at <https://doi.org/10.1080/23322039.2022.2129368>.

¹² The United Nations Convention Against Corruption (2003) piii.

¹³ Saphy B., *The Genesis of Corruption and Its' Perception*; National Journal of Criminal Law. (2019). P.1. Available at www.researchgate.net

¹⁴ See also Tanzi., *Corruption around the World: Causes, Consequences, Scope and Cures* (1998) p.576. Tanzi further argues that in some jurisdictions, the concept of corruption is very narrow and some jurisdictions do not have the crime of corruption or bribery at all, however, that does not mean that certain acts that are typically regarded as corruption are lawful.

¹⁵ See also Tanzi V., *Corruption around the World: Causes, Consequences, Scope and Cures*. (1998) p.576. Available at www.imf.org

¹⁶ SADC Protocol against Corruption, 2000.

¹⁷ Art. 1 of the SADC Protocol against Corruption, (2000).

¹⁸ Art. 3 of the AU Convention on Prevention and Combating Corruption (2003).

¹⁹ *Oxford Advanced Learner's Dictionary*, 8th Edition, International Student's Edition Oxford University Press (2010).

²⁰ See Hope *et al* (eds) *Corruption and Development in Africa: Lesson from Country Case Research* (2000). p.1; See also Spyromitros, E, and Panagiotidis, M ., *The Impact of Corruption on economic growth in developing countries and a comparative analysis of corruption measurement indicators*. *Cogent Economics & Finance*, 10(1). (2022).

²¹ See also a World Bank Report of 2008.

²² *Oxford Advanced Learner's Dictionary* 8th Edition (2010).

²³ Wathne, C., *Understanding corruption and how to curb it*. Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute. (2021): p.3. Available at www.u4.no/publications

²⁴ Kibwana K., *Initiatives against Corruption in Kenya: Legal and Policy Interventions* Clari Press, Nairobi. (2001): p.14).

²⁵ Riara B., *Grand Corruption as a Crime Against Humanity* (2014): p. 2. Available at www.kenyalaw.org

unequivocally condemn. Leys²⁶ adds that corruption involves a breach of established standards, whether formal or informal, regarding the proper use of public office or institutions.²⁷ Euben²⁸ extends the definition further by suggesting that corruption refers to a system, condition, or institutional function becoming infected or degraded.

Forms and Categories of Corrupt Activities: Corruption manifests in various forms and is often classified under categories such as petty and grand corruption, or active and passive bribery. These forms generally describe situations where an official, either directly or through intermediaries, solicits or accepts undue advantages for themselves or others.²⁹ Despite the nuanced terminology, many of these classifications overlap in meaning. This article focuses on the two most prominent forms—grand and petty corruption—as they are the most commonly associated with public and private officials who abuse their positions for personal enrichment, thereby perpetuating the cycle of corruption.

Grand corruption refers to large-scale corrupt practices involving high-ranking public officials and multinational corporations, often in the context of international trade or investment.³⁰ It is typically driven by the greed of individuals who are already affluent by both local and global standards. This form of corruption occurs at the upper echelons of political institutions, where state officials exploit their authority to create or enforce policies that serve to consolidate their own power, status, and wealth.³¹ Rose-Ackerman³² characterizes grand corruption as a phenomenon that infiltrates the highest levels of national government, thereby eroding public trust in governance, undermining the rule of law, and destabilizing the economy. Similarly, Doig and Theobald³³ observe that grand corruption is motivated by greed and involves elite actors who manipulate their positions to demand substantial bribes from transnational corporations, arms dealers, and drug traffickers, or who profit from large-scale contract fraud and illicit financial transfers.

Petty corruption—also known as "low-level" or "street-level" corruption—involves relatively small sums of money and typically occurs during everyday interactions between citizens and lower-level public officials.³⁴ This form of corruption is most visible in the delivery of essential public services, such as in hospitals, schools, licensing offices, or police departments.³⁵ Commonly referred to as "speed money" or "grease payments," petty corruption involves unofficial payments made to expedite routine services that should be provided without

²⁶ Klitgaard R., *Controlling Corruption* Berkeley (University of California Press). (1988).

²⁷ International Conference Notes: forms of corruption in history and contemporary society: origins, continuity, evolution (CORHICS) Paris 1 Sorbonne University 2011. Available at <http://corruptionresearchnetwork.org>

²⁸ Euben, J.P. Corruption. In Ball, T., Farr, J. and Hanson, R.L. (eds), *Political innovation and conceptual change*. Cambridge: Cambridge University Press. (1989): p.222.

²⁹ Art. 2 of the EU Conventions on the Corruption eradication of 1997.

³⁰ Transparency Index of Report. See also Pillay P., (2016): p.2.

³¹ Elaine ., *Moral and Legal Development of Corruption: Nineteenth and Twentieth Century Corruption in Ireland*. (2007):p. 49. Elaine further argues that this kind of corruption takes place at the policy formulation end of politics. Corruption refers not so much to the amount of money involved as to the level at which it takes place. Grand corruption is at the top levels of the public sphere, where policies and rules are formulated in the first place.

³² Rose-Ackerman *Democracy and Grand Corruption* (2000): p.323. Similar to Palmer Combating Grand Corruption in Africa: Should it be an International Crime? States that *grand corruption is used in two senses*: (2012): p. 31. *it refers either to specific acts of corruption involving particularly large amounts of money, usually at senior levels of government, or to corrupt practices that result in the abuse of systems designed to ensure good and effective governance. Palmer further states that the sustained abuse of such systems can result in the entrenchment of the corrupt practices as part of the systems, at which point these practices are referred to as 'systemic corruption*.

³³ Doig and Theobald (eds) *Corruption and Democratization* (2000) :p. 9.

³⁴ See also Doig and Theobald (2000): p.7; Similar to that Palmer (2012): p.4 states that *petty corruption means either specific acts of the abuse of power by public officials for some small bribes or relatively minor benefits or more serious corruption at the managerial level*.

³⁵ See also Woods, G. and Mantzaris, E.A. *The anti-corruption reader*. ACCERUS, School of Public Leadership, Stellenbosch University. Stellenbosch. (2012). Woods and Mantzaris say that *those who are at the higher levels of the public service have been called grand corruption politicians committing political corruption and administrators in middle management or lower in petty corruption. Money procured from corruption varies greatly*.

cost.³⁶ The primary motivation behind petty corruption is often economic survival, particularly in settings where public servants receive inadequate salaries.³⁷ Despite its relatively minor scale, petty corruption undermines public trust and entrenches systemic inefficiencies. It is also characterized by a paradox wherein individuals may publicly denounce corruption in principle while privately rationalizing their participation due to societal norms or necessity, such as beliefs that "everyone does it" or "it is essential to survive."³⁸

a. International and Regional Bodies' Inception Against Corruption:

During the 20th century, significant global momentum emerged in the corruption eradication, marked by the establishment and expansion of institutional and legal frameworks aimed at curbing corrupt practices.³⁹ A milestone in this movement was the adoption of the United Nations Convention against Corruption (UNCAC)⁴⁰ in 2003 (negotiated from 2001), which serves as the first legally binding international instrument to comprehensively address corruption in both public and private sectors. Earlier, in 1997, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was adopted to criminalize the act of bribing foreign public officials to gain or maintain international business advantages.⁴¹ Regional initiatives soon followed. In 2000, both the Southern African Development Community (SADC) and the Economic Community of West African States (ECOWAS) adopted anti-corruption protocols to guide member states in combating corruption through cooperative frameworks. To reinforce continental efforts, the African Union (AU) adopted the Convention on Preventing and Combating Corruption in 2003, aimed at preventing, detecting, punishing, and eradicating corruption across both public and private sectors.⁴² These instruments reflect the growing international and regional consensus on the need to address corruption.

1) United Nations Convention against Corruption (UNCAC):

The United Nations, through resolution 55/61, called for the establishment of an ad hoc committee to negotiate an effective international legal instrument to combat corruption. This resolution also tasked the Secretary-General with convening an intergovernmental open-ended expert group to examine the issue of illegally transferred funds and to draft terms of reference for the negotiation of such an instrument.⁴³ Consequently, in 2000, the United Nations Convention against Corruption (UNCAC) was adopted and entered into force in 2003⁴⁴, marking a significant milestone as the first international legal instrument specifically designed to combat corruption and organized crime.⁴⁵ The adoption of UNCAC represented a pivotal

³⁶ Transparent Index (2000).

³⁷ Similarly, Pillay (2016):p. 4 states that *petty corruption takes place at the lower and middle administrative levels mainly when there is direct contact between officials and citizens on an everyday or weekly basis.*

³⁸ Blundo and Olivier de Sardan., *The Popular Semiology of Corruption.* (2006): p.218.

³⁹ The Convention Against Bribery of Foreign Public Officials in International Business Transactions to criminalize any bribery of foreign public officials of 1999

⁴⁰ The United Nations Convention against Corruption [UNCAC].

⁴¹ See also Theobald R., *Corruption, Development, and underdevelopment* (Basingstoke Hampshire UK: Macmillan. (1990).

⁴² The African Union Convention on Preventing and Combating Corruption in 2003.

⁴³ The General Assembly Resolution 58/4 of 31 October 2003.

⁴⁴ The General Assembly (53/111 of 1998) resolved *decided to establish an open-ended intergovernmental ad hoc committee to elaborate a comprehensive international convention against transnational organised crime and discuss the elaboration, as appropriate, of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants including by sea.*

⁴⁵ The General Assembly (53/111 of 1998) Strongly convinced that *the Convention will constitute an effective tool and the necessary legal framework for international cooperation in combating, inter alia, such criminal activities as money laundering, corruption, illicit trafficking in endangered species of wild growing links between transnational organised crime and terrorist crimes.*

shift from regional to global initiatives corruption eradication⁴⁶, responding to international calls to close major enforcement gaps and curb the proliferation of organized crime.⁴⁷

The implementation of UNCAC is widely regarded as a landmark achievement in global governance, reflecting a comprehensive commitment to anti-corruption measures. The Convention has three primary objectives⁴⁸: First, to promote and strengthen measures to prevent and combat corruption more efficiently and effectively; second, to facilitate and support international cooperation and technical assistance in the prevention and corruption eradication, including asset recovery; and third, to promote integrity, accountability, and the proper management of public affairs and public property. The scope of the Convention is outlined as follows: it applies to the prevention, investigation, and prosecution of corruption, as well as the freezing, seizure, confiscation, and return of proceeds from crimes established by the Convention.⁴⁹

2) United Nations Convention against Transnational Organized Crime (UNTOC)

In 1998, the United Nations General Assembly, recalling resolution 53/111, established an open-ended intergovernmental ad hoc committee to draft an international convention against transnational organized crime. In 2000, the Convention was adopted and entered into force in 2005, marking a significant framework for international cooperation in combating organized crime and corruption. This Convention aimed to address global organized crime by closing major gaps hindering international crime control efforts.⁵⁰ It represents a crucial step in recognizing the gravity of transnational crime and underscores the importance of enhanced international collaboration.⁵¹ The UNTOC provides a comprehensive set of standards and measures for countries to strengthen their legal and regulatory frameworks in the corruption eradication.

3) The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

In 1994, the Organisation for Economic Co-operation and Development (OECD) issued non-binding recommendations urging member states to implement effective measures for preventing and combating corruption in foreign transactions. The OECD emphasized that these recommendations should be linked to international business transactions, particularly focusing on the criminalization of bribery in accordance with each country's legal principles.⁵² In 1999, the OECD established the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, a key international initiative aimed at eradicating corruption.⁵³ The Convention's significance lies in its prompt and coordinated criminalization of bribery, aligned with the common elements outlined in the recommendations and each country's jurisdictional and legal framework. The OECD Convention's primary objectives are to create domestic laws to combat the bribery of foreign public officials and to establish offences for both active and passive bribery.⁵⁴ It stipulates that all member states must treat

⁴⁶ Available at www.unodc.org; and see also Dell (2006): p. 29. Dell states that *the UN Convention against Transnational Organized Crime (UNTOC) recognises that corruption is an integral component of transnational organised crime and must be addressed as part of efforts to combat organised crime.*

⁴⁷ Nagle., *The Challenges of Fighting Global Organized Crime in Latin America* (2003):26. ; Webb (2005): p. 203 in his paper emphasises that *the Convention focuses on the activities of 'organized criminal groups', but recognizes that corruption is often an instrument or effect of organized crime and includes several provisions to address this. He further states that the main one is the requirement that each party adopt laws and other necessary measures to criminalise active and passive corruption in connection to the exercise of the duties of government officials.*

⁴⁸ Art. 1 of the UNCAC.

⁴⁹ Art. 3 of the UNCAC.

⁵⁰ See also Nagle (2003): p. 26.

⁵¹ Similarly, Art.1 of the Convention provides that *the purpose of the Convention is to promote cooperation to prevent and combat transnational organized crime more effectively.*

⁵² Preamble of the Organisation for Economic Co-operation and Development, 1997.

⁵³ The OECD Anti-Bribery Convention.

⁵⁴ See also Art. 1 of the OECD Convention.

transactions, such as offering, giving, or accepting bribes, as criminal offences. The Convention also emphasizes that individuals who offer, promise, or assist in bribery, whether directly or indirectly, must be held accountable. Furthermore, the OECD Convention mandates that states adopt necessary measures to ensure that involvement in activities like incitement, aiding and abetting, or authorizing bribery of foreign public officials is criminalized.

4) African Union Convention on Preventing Corruption

The African Union Convention on Preventing and Combating Corruption⁵⁵ (AU Convention) was adopted in 2000 and entered into force in 2003. It emerged in response to the realization that corruption was undermining accountability, transparency, and socio-economic development across the continent.⁵⁶ The AU Convention was adopted to address the root causes of corruption in Africa, prompting African countries to prioritize a common penal policy to combat it. This policy emphasizes adopting appropriate legislation and preventive measures, fostering partnerships between governments, civil society, the media, and the private sector to tackle corruption.⁵⁷ As the latest regional legal framework for combating multinational corruption, the AU Convention outlines principles that member states believe were instrumental in weakening authority in Africa during the twentieth century.⁵⁸ The Convention criminalizes actions such as illicit enrichment, concealment of ill-gotten gains, and participation in crimes like conspiracy and attempts.⁵⁹ It also specifies actions that automatically fall under corruption, calling for their prevention and criminalization within African countries.⁶⁰

The objectives of the AU Convention, outlined in Article 2, focus on promoting effective mechanisms for regulation among member states⁶¹ and ensuring the adequacy of measures taken to prevent, detect, and eradicate corruption in both the public and private sectors.⁶² Article 4 further details the activities by public and private officials or individuals that constitute corruption.

5) SADC Protocol Against Corruption

The SADC Protocol against Corruption⁶³ (the "SADC Protocol") was established following the African Union's recognition of the need to eliminate corruption through effective preventive and deterrent measures⁶⁴, strict enforcement of anti-corruption legislation, and fostering public support for these efforts. The Protocol acknowledges that corruption undermines good governance, including accountability and transparency, and emphasizes that political will and leadership are crucial to effectively combating corruption.

⁵⁵ The African Union Convention on Preventing and Combating Corruption (2003).

⁵⁶ See also Sall., *fighting Corruption in Africa: A Tremendous Challenge* (2014).

⁵⁷ Resolution AHG-Dec 126(XXXIV).

⁵⁸ The African Union Convention on Preventing and Combating Corruption (2003)

⁵⁹ Jatto., *Africa's Approach to the International War on Corruption: A Critical Appraisal of the African Union Convention on Preventing and Combating Corruption* (2010): p. 83. Jatto further says that *the AU Convention adopts a holistic and pragmatic approach to combating both foreign and domestic corruption. It seeks to engender and reinforce the development of mechanisms necessary for the prevention, detection, punishment, and eradication of corruption and related offences in the public and private sectors, as well as to establish conditions necessary for ensuring transparency and accountability in the management of public affairs.*

⁶⁰ See also Webb. *The United Nations Convention against Corruption Global Achievement or Missed Opportunity*. (2005): p. 203

⁶¹ Art. 2 of the AU Convention.

⁶² The Convention provides its objectives as to: 1. Promote and strengthen the development in Africa by each State Party, of mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors; 2. Promote, facilitate and regulate co-operation among the States Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa; 3. Coordinate and harmonize the policies and legislation between State Parties for the purpose of prevention, detection, punishment and eradication of corruption on the continent; 4. Promote socio-economic development by removing obstacles to the enjoyment of economic, social and cultural rights as well as civil and political rights; and 5. Establish the necessary conditions to foster transparency and accountability in the management of public affairs.

⁶³ The SADC Protocol against Corruption of 2000.

⁶⁴ Preambles of the SADC Protocol.

Article 2 of the SADC Protocol outlines its purpose, empowering member states to develop legal mechanisms to strengthen provisions aimed at combating corruption in both the public and private sectors.⁶⁵ The Protocol mandates that all member states adopt efficient and adequate preventive measures in their domestic legislation to eradicate corruption.⁶⁶ It also binds state parties, even those without such measures in place, to implement these necessary provisions.

6) ECOWAS Protocol against Corruption

The ECOWAS Protocol, which came into force in 2001, was established after member states recognized the need for preventive and suppressive measures to combat corruption, particularly targeting individuals engaged in corrupt acts in both public and private sector duties.⁶⁷

The Protocol aims to promote, strengthen, and develop effective mechanisms for the prevention, suppression, and eradication of corruption by enhancing cooperation among state parties to implement effective anti-corruption measures. In addition to identifying corrupt activities, the Protocol mandates the adoption of measures to be integrated into domestic laws, ethical guidelines, regulations, and codes of conduct.⁶⁸ These provisions empower the eradication of conflicts of interest and promote transparency and efficiency in the recruitment of personnel into the public service.⁶⁹

2. Action taken by the regional bodies for Integrity and Effectiveness to Corruption eradication:

Corruption poses significant challenges to societies and economic development, prompting numerous international bodies to advocate for the establishment of preventive measures, the criminalization of corrupt acts, law enforcement and sanctions, and mechanisms for implementation to eliminate corruption globally. However, the lack of uniformity in implementation often undermines the effectiveness of these efforts. To address this, this section examines the role of selected regional bodies in advancing the fight against corruption, exploring whether their provisions are sufficient to ensure integrity in corruption eradication and evaluating their effectiveness. The selected instruments, including the UNCAC, the UNTOC, the OECD Convention against Bribery, the African Union Convention against Corruption, the SADC Protocol, and the ECOWAS Protocol, call for the criminalization of a broad range of offences. The following provisions illustrate the roles played by these regional bodies, highlighting their powers and mandates in the fight against corruption.

1) Preventive Measures

Chapter 2 of the UNCAC emphasizes the importance of each member state developing and implementing effective, preventive anti-corruption measures. It mandates that each state party establish coordinated anti-corruption policies that encourage societal participation and uphold principles of the rule of law, effective management of public affairs, integrity, transparency, and accountability.⁷⁰ State parties are required to periodically assess the adequacy of their legal and administrative measures to prevent and combat corruption. Collaboration with relevant international and regional organizations is also encouraged to strengthen these efforts, while ensuring alignment with each state's legal framework.⁷¹

Article 6 further stipulates that each state party must establish organizations or bodies responsible for overseeing and coordinating the implementation of anti-corruption policies, ensuring that these bodies work within the principles of the state's legal system to combat corruption effectively.⁷² Article 7 gives states the authority to promote integrity, transparency,

⁶⁵ Art. 2 of the SADC Protocol.

⁶⁶ Available at <http://www.sadc.int>.

⁶⁷ ECOWAS Protocol. .

⁶⁸ Art. 3 of the Protocol.

⁶⁹ Art 5. of the ECOWAS Protocol.

⁷⁰ Art. 5(3) of the UNCAC.

⁷¹ See also Art. 5 of the ANCAC.

⁷² Art. 6 (1) of the UNCAC.

and accountability among public servants, ensuring their protection while fostering efficiency and merit-based recruitment.⁷³

Similarly, Article 8 of the UNTOC calls for preventive measures against corruption in both the public and private sectors. It urges state parties to implement legislative, administrative, or other measures to promote integrity and prevent, detect, and punish corruption by public officials, ensuring these measures align with their legal systems.⁷⁴ The UNTOC further stresses that state parties should empower their authorities to take effective action in preventing, detecting, and punishing corruption, providing the necessary independence to avoid undue influence on their actions.⁷⁵

Article 2 of the SADC Protocol mandates preventive measures that state parties must adopt to eliminate and control corruption. These measures include establishing standards of conduct for public functions, implementing government control systems over revenue, enacting strict regulations and legislation, and creating legal institutions responsible for preventing, detecting, punishing, and eradicating corruption. This includes addressing bribery by both domestic public officials and officials of foreign states.⁷⁶ The Protocol underscores the need for coordinated actions to strengthen and maintain effective anti-corruption mechanisms across state parties.⁷⁷

The ECOWAS Protocol also identifies acts constituting corruption and mandates that state parties adopt measures to address these acts through domestic laws, ethical guidelines, regulations, and codes of conduct. These provisions grant powers to eradicate conflicts of interest and ensure transparency and efficiency in the recruitment of public service personnel, further supporting the prevention and eradication of corruption.⁷⁸

2) Criminalization of Corrupt Activities

Article 16 of the UNCAC mandates member states to adopt legislative measures to criminalize the bribery of foreign public officials and officials of public international organizations.⁷⁹ This includes punishing any public official employed by international organizations who engages in corrupt activities, specifically through the promise, offer, or giving of an undue advantage, either directly or indirectly, to influence their official duties related to international business.⁸⁰

Article 8 of the UNTOC requires state parties to criminalize corrupt activities, including the promise, offer, or giving of an undue advantage to a public official, directly or indirectly, to influence their official duties. The UNTOC emphasizes the need for state parties to establish criminal offenses for such acts.⁸¹

Article 3 of the SADC Protocol defines corruption-related offenses, targeting public officials and foreign state officials.⁸² These offenses include soliciting, offering, or granting any goods or monetary value in exchange for actions or inactions during office tenure, benefiting the official or others.⁸³

⁷³ Art 7 of the UNCAC.

⁷⁴ see also Art. 9 (1) of the UNTOC, 2004.

⁷⁵ Art. 9(2) of the UNTOC, 2004.

⁷⁶ Available at <http://www.sadc.int>.

⁷⁷ See also a Handbook of Institute of Security Research (2004): p. 12.

⁷⁸ Art 5. of the ECOWAS Protocol.

⁷⁹ Art 16 of the UNCAC, 2004.

⁸⁰ Article 17 of the UNCAC ordered the State Parties to establish criminal offences related to the embezzlement of property in the private sector. Under Art. 19 of the UNCAC also establishes offences about the abuse of functions, including misappropriation, mismanagement or any other act or omission that may be conducted by the public official for his or her benefit or the benefit of another person or organisation in connection with any property, public or private funds or securities or anything of value entrusted to the public official.

⁸¹ Art. 8 (2) of the UNTOC, 2004.

⁸² Art.8 (1) of the UNTOC, 2004.

⁸³ See also Saphy L. B., *Legal Challenges to The Effective Implementation of Anti-Corruption Strategies in Selected African Countries*. LLD Thesis at the North-West University, South Africa. (2019): p. 56.

The ECOWAS Protocol also criminalizes acts of corruption, including the demand, acceptance, or offer of undue advantages by public officials.⁸⁴ Article 6 stipulates that any individual receiving a gift, promise, or pecuniary advantage, either directly or through a third party⁸⁵, in exchange for actions or omissions in the discharge of official duties, is guilty of corruption. It also criminalizes offering undue advantages to those who claim influence over public or private sector decisions, regardless of whether the influence is exercised or has the desired effect.⁸⁶

3) Law Enforcement, Prosecution and Sanctions

Article 9 of the UN Convention mandates effective measures to detect, prevent, and punish corruption among public officials. In addition to the provisions in Article 8, it emphasizes the responsibility of State Parties to ensure the independence of authorities responsible for tackling corruption, preventing undue influence on their actions.⁸⁷ Article 11(2) further empowers State Parties to prosecute and adjudicate offences under domestic law in line with the Convention. It requires that discretionary legal powers in prosecutions be exercised to enhance law enforcement effectiveness and deter such crimes.⁸⁸

Article 11 of the UNTOC calls for sanctions for offences under Articles 5, 6, 8, and 23, with sanctions proportional to the gravity of the offence. State Parties must also ensure that discretionary legal powers related to prosecution are used effectively to deter such offences⁸⁹, while safeguarding defendants' rights, particularly regarding release pending trial or appeal.⁹⁰ Additionally, Article 6 of the Protocol requires State Parties to prohibit and punish the offering of bribes or benefits to foreign officials by nationals or businesses, subject to domestic law, in exchange for acts or omissions related to public functions.⁹¹

The SADC Protocol mandates that offences established by State Parties be classified as acts of corruption under the Protocol. States that have not established such offences must, within the limits of their domestic laws, cooperate and assist in addressing these offences as outlined in the Protocol.⁹² It further requires State Parties to provide mutual assistance, including processing requests from authorities with the legal power to investigate or prosecute corruption, to obtain evidence and facilitate legal proceedings.⁹³

Similarly, the ECOWAS Protocol directs State Parties to control and sanction foreign public officials who offer or promise favours or rewards for acts related to their duties involving pecuniary value.⁹⁴ It also requires States to empower appropriate authorities to adjudicate matters under domestic law, treaties, and relevant instruments⁹⁵, and to provide mutual assistance in investigations and judicial proceedings.⁹⁶ To enhance cooperation in combating corruption, the ECOWAS Protocol supports joint law enforcement efforts, including in cases of illicit enrichment and foreign bribery.⁹⁷ Article 15(3) clarifies that the Protocol does not

⁸⁴ Art. 3 of the SADC Protocol.

⁸⁵ Art. 6 of the Protocol.

⁸⁶ Art. 6(1) of the Protocol.

⁸⁷ Art. 9(2) of the UNCAC, 2003.

⁸⁸ Art 11(2) of the UNCAC, 2003.

⁸⁹ Art. 11 (2) of the UNTOC, 2004.

⁹⁰ Also, art. 11 (4) of the UNTOC, 2004 emphasises that *each State Party shall ensure that its courts or other competent authorities bear in mind the grave nature of the offences covered by this Convention when considering the eventuality of early release or parole of persons convicted of such offences.*

⁹¹ Art. 6(1).

⁹² Art.6(2).

⁹³ See also Art. 10(1) of the SADC Protocol.

⁹⁴ Art 12 of the ECOWAS Protocol

⁹⁵ Art. 13 (1) of the Protocol.

⁹⁶ Art 13 of the ECOWAS Protocol.

⁹⁷ Art 15 of the ECOWAS Protocol.

override any existing mutual legal agreements governing criminal cooperation among State Parties.⁹⁸

B. Discussion

The regional bodies' scope, aims, and objectives align with other legal instruments in their efforts to eliminate and control corruption within member states. The provisions highlighted from these regional bodies grant State Parties the authority and responsibility to adopt measures for preventing and addressing illicit activities, enforcing law, and imposing sanctions. These efforts underscore the seriousness of corruption and aim for uniform legislation across states to collectively combat corruption globally. Scholars also emphasize the importance of raising awareness through legal and academic work. For instance, Mbao⁹⁹ asserts that State Parties are bound to adopt legislative measures under domestic law to combat corruption in both public and private sectors, as stipulated by customary international law and the principle of *pacta sunt servanda*.

Jatto¹⁰⁰ advocates for criminalizing a broad range of bribery offences¹⁰¹, including those in both public and private sectors, as well as illicit enrichment, trading in influence, fund diversion, and concealment of corruption proceeds.¹⁰² Webb¹⁰³ highlights that regional bodies were established in response to international demands to address global organized crime and close enforcement loopholes. He argues that while regional bodies focus on organized crime, they recognize that corruption is often a tool or consequence of such crime, necessitating legal measures to criminalize both active and passive corruption in governmental duties. Dell¹⁰⁴, in his analysis, stresses that multilateral anti-corruption initiatives not only address global concerns but also emphasize the need for comprehensive provisions, including preventive measures in public and private sectors, ethics, public contracting, financial management, reporting, and standards to prevent money laundering.

Cloots et al.¹⁰⁵ argue that the UNCAC obliges State Parties to adopt comprehensive anti-corruption measures across various sectors, including establishing anti-corruption bodies, strengthening judicial integrity, and preventing private sector corruption. They emphasize that these measures are preceded by the overarching requirement in Article 5 for States to adopt coordinated anti-corruption policies that promote public participation and reflect the principles of rule of law, integrity, transparency, and accountability.

Babu¹⁰⁶ further contends that the UNCAC mandates the criminalization of several offences in domestic law, either through new legislation or amendments to existing laws, if these acts are not already criminalized. The Convention distinguishes itself from previous instruments by criminalizing not only traditional forms of corruption such as bribery and embezzlement but also trading in influence, the concealment, and laundering of corruption proceeds.¹⁰⁷ Its significance lies in the prompt and coordinated criminalization of these offences in line with international standards while respecting each country's legal principles.¹⁰⁸

⁹⁸ Art 15 (3) of the ECOWAS Protocol.

⁹⁹ Mbao (2011): p. 285.

¹⁰⁰ Jatto (2010): p. 88.

¹⁰¹ See also Nagle., *The Challenges of Fighting Global Organized Crime in Latin America*. (2003): p. 26.

¹⁰² Carr., *Corruption, Legal Solutions and Limits of The Law* (2007): p. 235.

¹⁰³ Webb (2005): p. 203.

¹⁰⁴ Dell G., *Anti-Corruption Conventions in Africa: What Civil Society Can Do to Make Them Work* (2006): p. 24.

¹⁰⁵ Cloots *et al.*, *the International Legal Framework against Corruption: Achievements and Challenges* (2013): p. 218.

¹⁰⁶ Babu., *the United Nations Convention against Corruption: A Critical Overview*. (2006): p. 8.

¹⁰⁷ Nagle *The Challenges of Fighting Global Organized Crime in Latin America*. (2003): p. 1665. Nagle argues that the Convention was established in response to international calls to address global organised crime by closing major loopholes that hinder international enforcement efforts and allow organised crime to flourish.

¹⁰⁸ Similarly, Christopher., *Damned if You Do, Damned if You Don't?* (1999): pp. 1303-04. Christopher stipulates that the OECD Anti-Bribery Convention requires signatories to criminalize intentionally offering, promising or giving any undue

Nagle¹⁰⁹ highlights that the establishment of regional bodies marks a shift from regional to global initiatives aimed at combating organized crime. Webb¹¹⁰ similarly notes that while regional bodies focus on organized crime, they acknowledge that corruption often acts as both a tool and a consequence of such crime. He stresses that the Convention's central aim is for State Parties to adopt legal measures to criminalize both active and passive corruption in the performance of governmental duties. Additionally, in his foreword to the Convention, Kofi Annan underscores that it provides a new tool to address global crime, enhancing international cooperation against international criminals and ensuring a functional equivalence in the bribery of foreign public officials, without necessitating uniform changes to each State's legal system.

Rosenvinge¹¹¹ similarly argues that the establishment of mutual legal assistance provisions, which require parties to provide "prompt and effective legal assistance" for both criminal and non-criminal investigations, underscores the transition from regional to global initiatives in eradicating corruption. This approach aims to close major loopholes that hinder international enforcement and enable organized crime to thrive.¹¹²

The adoption of measures to criminalize actions such as illicit enrichment, the concealment of ill-gotten gains, and involvement in inchoate crimes highlights the need for effective mechanisms to combat corruption. Mbaku¹¹³ further asserts that the instruments in place address the misuse of public office for private gain, criminalizing any actions by public officials that involve undue influence, both in the public and private sectors.

Jatto¹¹⁴ emphasizes the holistic and pragmatic approach adopted to combat both domestic and foreign corruption, which aims to develop mechanisms for the prevention, detection, punishment, and eradication of corruption. This includes ensuring transparency and accountability in public affairs management.¹¹⁵ Mbaku¹¹⁶ concurs with Jatto, stressing the importance of addressing corruption's harmful impact on African societies.

The discussion demonstrates that regional bodies aim to promote and strengthen legal mechanisms to effectively regulate acts of corruption and remove obstacles to the global fight against corruption.

C. Conclusion

As demonstrated throughout this article, since the late 1990s, the global community has worked to establish effective instruments to combat corruption and bribery. Numerous international initiatives have been introduced, addressing the complex and multi-dimensional challenges posed by corruption. These efforts aim to promote comprehensive measures to prevent and prohibit corrupt activities, through rules and regulations, as well as mechanisms designed to support the fight against corruption.

These initiatives empower international cooperation, technical assistance, and collaboration between member states. They compel States Parties to develop and implement better policies,

pecuniary or another advantage, whether directly or through intermediaries, to a foreign public official, for that official or a third party, so that the official act or refrain from acting about the performance of official duties, to obtain or retain business or another improper advantage in the conduct of international business.

¹⁰⁹ Nagle (2003): p. 1665.

¹¹⁰ Webb., *The United Nations Convention against Corruption Global Achievement or Missed Opportunity?* (2005): p. 203.

¹¹¹ Rosenvinge., *Global Anti-Corruption Regimes: Why law schools may want to take a multi-jurisdictional approach.* (2009): p.790.

¹¹² Similarly, Webb(2005:203) emphasises that *it focuses on the activities of 'organized criminal groups', but recognizes that corruption is often an instrument or effect of organized crime and includes several provisions to address this. Webb further states that the main concern is based on the requirements that each party adopt laws and other necessary measures to criminalize active and passive corruption in connection with the exercise of the duties of government officials.*

¹¹³ Mbaku (2010): pp. 63-64.

¹¹⁴ Jatto., *Africa's Approach to the International War on Corruption: A Critical Appraisal of the African Union Convention on Preventing and Combating Corruption* (2010): p. 83.

¹¹⁵ Jatto (2010): p. 83 further observes that the AU Convention covers a range of issues obliging parties to take three essential steps: (i) prevent corruption, (ii) criminalise corruption and (iii) cooperate with other AU members on matters of corruption.

¹¹⁶ Mbaku (2010): pp. 61-62.

with an emphasis on civil society participation, to eliminate corruption and uphold the rule of law, integrity, transparency, and accountability in public affairs and property management.

Regional bodies similarly insist that their State Parties adopt a unified approach to international cooperation, particularly in addressing bribery of public officials by foreign entities in international business transactions. These bodies require States to criminalize bribery and implement measures to provide effective guidance on addressing corruption linked to trade, goods, and investments, thus supporting efforts to control corruption in Africa. Although the established legal instruments aim to eradicate corruption, it remains a persistent and dynamic global issue.

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