

The adoption of the Heads of State and Governments of the African Union Convention on Preventing and Combating Corruption and Related Offences in Maputo Mozambique in July 2003 is a landmark in the fight against corruption on the African continent.

Corruption is exacerbating poverty and deprivation and truncating the democratic process and rules of competition. By adopting a convention that provides a regional framework and a transnational process for cooperation and monitoring, the African Union has opted to fight against this evil. Transparency International's plain language hand book, explains this important convention in simple language. It is intended to inform and encourage, assisting the African citizenry's fight against corruption.

Transparency International (TI) works at both the national and international level to curb the supply of, and demand for bribery and corruption. TI is the only global non-governmental organisation exclusively devoted to combating corruption; it brings civil society, business and governments together in a powerful coalition. Its' international secretariat is based in Berlin, with around 90 national chapters worldwide.

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## UNDERSTANDING THE AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION AND RELATED OFFENCES



AKERE MUNA

*Cover conceived by Akere T. Muna,  
Artist Retin*

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**Third edition**

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A faint, light-colored outline map of the African continent is centered in the background of the title box.

**UNDERSTANDING THE AFRICAN UNION  
CONVENTION ON PREVENTING AND  
COMBATING CORRUPTION  
AND RELATED OFFENCES**

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By

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Chairperson Transparency Cameroon  
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## Update

On June 1st 2005\*, 35 countries had signed the Convention. they are:

Algeria, Benin, Burkina Faso, Burundi, Chad, Cote d'Ivoire, Comoros, Congo, Democratic Republic of Congo, Equatorial Guinea, Ethiopia, Gabon, The Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Libya, Mali, Madagascar, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, Senegal, South Africa, Swaziland, Sierra Leone, Tanzania, Togo, Uganda, and Zimbabwe

Almost two years after the adoption of the Convention by AU Heads of State in Maputo (Mozambique) in July 2003, only nine countries had ratified :

Burundi, Comoros, Libya, Lesotho, Madagascar, Mali, Namibia, Rwanda and Uganda

TI would like to remind that 15 ratifications are required before the Convention enters into force.

If you wish to update this information please consult:  
[www.africa.union.org](http://www.africa.union.org)

Chairperson of the Commission. This denunciation shall take effect six (6) months following the date of receipt of notification by the Chairperson of the Commission.

2. After denunciation, cooperation shall continue between State Parties and the State Party that has withdrawn on all requests for assistance or extradition made before the effective date of withdrawal.

### Article 27: Depository

1. The Chairperson of the Commission shall be the depository of this Convention and the amendments thereto.

2. The Chairperson of the Commission shall inform all State Parties of the signatures, ratifications, accessions, entry into force, requests for amendments submitted by States and approvals thereof and denunciations.

3. Upon entry into force of this Convention, the Chairperson of the Commission shall register it with the Secretary General of the United Nations in accordance with Article 102 of the Charter of the United Nations.

### Article 28: Authentic Texts

The original of this Convention, of which the Arabic, English, French and Portuguese texts are equally authentic, shall be deposited with the Chairperson of the Commission.

IN WITNESS WHEREOF WE, the Heads of State and Government of the African Union, or our duly authorized representatives have adopted this Convention.

Done at ..... this ..... day of ..... 2002

\*Information available on African Union webpage (updated 12th April 2005)

e. collect information and analyze the conduct and behaviour of multi-national corporations operating in Africa and disseminate such information to national authorities designated under Article 18 (1) hereof

f. develop and promote the adoption of harmonized codes of conduct of public officials

g. build partnerships with the African Commission on Human and Peoples' Rights, African civil society, governmental, Intergovernmental and non-governmental organizations to facilitate dialogue in the fight against corruption and related offences;

h. submit a report to the Executive Council on a regular basis on the progress made by each State Party in complying with the provisions of this Convention;

i. perform any other task relating to corruption and related offences that may be assigned to it by the policy organs of the African Union.

6. The Board shall adopt its own rules of procedure.

7. States Parties shall communicate to the Board within a year after the coming into force of the instrument, on the progress made in the implementation of this Convention. Thereafter, each State Party, through their relevant procedures, shall ensure that the national anti-corruption authorities or agencies report to the Board at least once a year before the ordinary sessions of the policy organs of the AU.

#### FINAL CLAUSES

#### Article 23: Signature, ratification, accession and Entry into Force

1. The present Convention shall be open for signature, ratification or accession by the Member States of the African Union.

2. The Convention shall enter into force thirty (30) days after the date of the deposit of the fifteenth instrument of ratification or accession.

3. For each State Party ratifying or acceding to the Convention after the date of the deposit of the fifteenth Instrument of Ratification, the Convention shall enter into force thirty (30) days after the date of the deposit by that State of its instrument of ratification or accession.

#### Article 24: Reservations

1. Any State Party may, at the time of adoption, signature, ratification or accession, make reservation to this Convention provided that each reservation concerns one or more specific provisions and is not incompatible with the object and purposes of this Convention.

2. Any State Party which has made any reservation shall withdraw it as soon as circumstances permit. Such withdrawal shall be made by notification to the Chairperson of the Commission.

#### Article 25: Amendment

1. This Convention may be amended if any State Party makes a written request to the Chairperson of the Commission.

2. The Chairperson of the Commission shall circulate the proposed amendments to all State Parties. The proposed amendments shall not be considered by the State Parties until a period of six (6) months from the date of circulation of the amendment has elapsed.

3. The amendments shall enter into force when approved by a two-thirds majority of the Member States of the AU.

#### Article 26: Denunciation

1. Any state Party may denounce the present Convention by sending notification to the

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## Preface

By Peter Eigen,  
Chairman, Transparency International

The African Union (AU) Convention on Preventing and Combating Corruption, which was adopted by African Heads of State in Maputo, Mozambique, in July 2003 provides an ideal platform for regional cooperation among African states in the fight against corruption. It has the potential to become an effective means of assisting governments in implementing practices that will promote accountability and transparency. It is also expected to assist African countries in living to their New Partnership for Africa's Development (NEPAD) promises.

In recognition of the need for a common platform for the anti-corruption movement in Africa, Transparency International has endeavoured to encourage "home-grown" anti-corruption efforts and to strengthen the role of civil society in the fight against corruption.

Together with our partners in Africa, TI has worked assiduously with the AU Commission in promoting the adoption of the Convention. The TI Convention Working Group - comprising programme staff and anti-corruption activists in Africa - actively co-ordinated TI's input into the process leading to the drafting and adoption of the Convention by the AU's Ministerial Conference in Addis Ababa in September 2002. It was later approved by the Executive Council in N'djamena, Chad in 2003, before being adopted by the Heads of State during the AU Heads of State summit in Maputo in July 2003.

In the drafting phase, TI made recommendations on provisions relating to access to information,

ration on criminal matters for purposes of investigations and procedures in offences within the jurisdiction of this Convention.

### Article 20: National Authorities

1. For the purposes of cooperation and mutual legal assistance provided under this Convention, each State Party shall communicate to the Chairperson of the Commission at the time of signing or depositing its instrument of ratification, the designation of a national authority or agency in application of offences established under Article 4 (1) of this Convention.

2. The national authorities or agencies shall be responsible for making and receiving the requests for assistance and cooperation referred to in this Convention.

3. The national authorities or agencies shall communicate with each other directly for the purposes of this Convention.

4. The national authorities or agencies shall be allowed the necessary independence and autonomy, to be able to carry out their duties effectively.

5. State Parties undertake to adopt necessary measures to ensure that national authorities or agencies are specialized in combating corruption and related offences by, among others, ensuring that the staff are trained and motivated to effectively carry out their duties.

### Article 21: Relationship with other Agreements

Subject to the provisions of Article 4 paragraph 2, this Convention shall in respect to those State Parties to which it applies, supersede the provisions of any treaty or bilateral agreement governing corruption and related offences between any two or more State Parties.

### Article 22: Follow up Mechanism

1. There shall be an Advisory Board on Corruption within the African Union.

2. The Board shall comprise 11 members elected by the Executive Council from among a list of experts of the highest integrity, impartiality, and recognized competence in matters relating to preventing and combating corruption and related offences, proposed by the State Parties. In the election of the members of the board, the Executive Council shall ensure adequate gender representation, and equitable geographical representation.

3. The members of the Board shall serve in their personal capacity.

4. Members of the Board shall be appointed for a period of two years, renewable once.

5. The functions of the Board shall be to:

a. promote and encourage adoption and application of anti-corruption measures on the continent

b. collect and document information on the nature and scope of corruption and related offences in Africa

c. develop methodologies for analyzing the nature and extent of corruption in Africa, and disseminate information and sensitize the public on the negative effects of corruption and related offences

d. advise governments on how to deal with the scourge of corruption and related offences in their domestic jurisdictions

e. collect information and analyze the conduct and behaviour of multi-national corporations operating in Africa and disseminate such information to national authorities designated under Article 18 (1) hereof

competent authorities to order the confiscation or seizure of banking, financial or commercial documents with a view to implementing this Convention.

2. The Requesting State shall not use any information received that is protected by bank secrecy for any purpose other than the proceedings for which that information was requested, unless with the consent of the Requested State Party.

3. State Parties shall not invoke banking secrecy to justify their refusal to cooperate with regard to acts of corruption and related offences by virtue of this Convention.

4. State Parties commit themselves to enter into bilateral agreements to waive banking secrecy on doubtful accounts and allow competent authorities the right to obtain from banks and financial institutions, under judicial cover, any evidence in their possession.

#### Article 18: Cooperation and Mutual Legal Assistance

1. In accordance with their domestic laws and applicable treaties, State Parties shall provide each other with the greatest possible technical cooperation and assistance in dealing immediately with requests from authorities that are empowered by virtue of their national laws to prevent, detect, investigate and punish acts of corruption and related offences.

2. If two or several State Parties have established relations on the basis of uniform legislation or a particular regime, they may have the option to regulate such mutual relations without prejudice to the provisions of this Convention.

3. State Parties shall co-operate among themselves in conducting and exchanging studies and researches on how to combat corruption and related offences and to exchange expertise relating to preventing and combating corruption and related offences.

4. State Parties shall co-operate among themselves, where possible, in providing any available technical assistance in drawing up programmes, codes of ethics or organizing, where necessary and for the benefit of their personnel, joint training courses involving one or several states in the area of combating corruption and related offences.

5. The provisions of this Article shall not affect the obligations under any other bilateral or multilateral treaty which governs, in whole or in part, mutual legal assistance in criminal matters.

6. Nothing in this Article shall prevent State Parties from according one another more favourable forms of mutual legal assistance allowed under their respective domestic law.

#### Article 19: International Cooperation

In the spirit of international cooperation, State Parties shall:

1. Collaborate with countries of origin of multi-nationals to criminalise and punish the practice of secret commissions and other forms of corrupt practices during international trade transactions.

2. Foster regional, continental and international cooperation to prevent corrupt practices in international trade transactions.

3. Encourage all countries to take legislative measures to prevent corrupt public officials from enjoying ill-acquired assets by freezing their foreign accounts and facilitating the repatriation of stolen or illegally acquired monies to the countries of origin.

4. Work closely with international, regional and sub regional financial organizations to eradicate corruption in development aid and cooperation programmes by defining strict regulations for eligibility and good governance of candidates within the general framework of their development policy.

5. Cooperate in conformity with relevant international instruments on international coope-

funding of political parties, repatriation of stolen assets, and the involvement of civil society in monitoring the implementation of the Convention.

These recommendations have been included in the Convention, which guarantees access to information and the participation of civil society and the media in monitoring the implementation of the Convention. Other articles outlaw the use of funds acquired through illicit and corrupt practices to finance political parties and require State Parties to adopt legislative measures to facilitate the repatriation of the proceeds of corruption. However, for this important regional instrument to enter into force, it must be ratified by no fewer than 15 African states.

*Understanding the African Union (AU) Convention on Preventing and Combating Corruption and related Offences*, written by Mr. Akere Muna, Lawyer and Chairman of Transparency International Cameroon, is designed to encourage ordinary Africans to participate meaningfully in the process of pressurising their governments to ratify the Convention, as it presents - in easy-to-understand language - the key provisions of the Convention. While retaining its essential elements, this Plain Language Version (PLV) broadly explains the features of the Convention, the offences it covers, the obligations of State Parties, the rights of individuals, civil society and the media, and issues related to trials for corruption and related offences under the Convention.

Berlin  
September 2003.

## Introduction

Following the struggle for political independence of the fifties and the early sixties, the Organisation of African Unity (OAU) was born. The organisation set itself certain goals including, in the short term, to fight apartheid in South Africa and help African countries still under colonial rule to gain independence. OAU's long term vision, was the dream of a united Africa.

However, the panafricanists seemed to have paid little attention to the global ideological bipolarization between the East and the West that followed World War II. In the prevailing atmosphere some African countries aligned themselves with either of the power blocs, while others opted for non-alignment, which appeared then as the safest way of not siding with the West or East.

As African countries were wooed by the West and the East, human rights, the rule of law and public participation in the decision making process were relegated to the back burner. The people and institutions which had been a strong force in the struggle for independence, the powerful trade unions, the successful multiparty systems, all disappeared in favour of one party states and dictatorships, tolerated and in some cases promoted by the East or the West. Promoting good governance or fighting corruption was far from the agenda. The word corruption was too sensitive to be considered in national and international discussions even by the international financial institutions such as the World Bank and the International Monetary Fund.

However, towards the end of 1989, 200 years after the French Revolution of 1789, Communism and the politics of one party state began to unravel, first in Poland,

a request for extradition from a State Party with which it does not have such treaty, it shall consider this Convention as a legal basis for all offences covered by this Convention.

4. A State Party that does not make extradition conditional on the existence of a treaty shall recognize offences to which this Convention applies as extraditable offences among themselves.

5. Each State Party undertakes to extradite any person charged with or convicted of offences of corruption and related offences, carried out on the territory of another State Party and whose extradition is requested by that State Party, in conformity with their domestic law, any applicable extradition treaties, or extradition agreements or arrangements existing between or among the State Parties.

6. Where a State Party in whose territory any person charged with or convicted of offences is present and has refused to extradite that person on the basis that it has jurisdiction over offences, the Requested State Party shall be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution, unless otherwise agreed with the Requesting State Party, and shall report the final outcome to the Requesting State Party.

7. Subject to the provisions of its domestic law and any applicable extradition treaties, a Requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the Requesting State Party, take into custody a person whose extradition is sought and who is present in its territory, or take other appropriate measures to ensure that the person is present at the extradition proceedings.

### Article 16: Confiscation and Seizure of the Proceeds and Instrumentalities of Corruption

1. Each State Party shall adopt such legislative measures as may be necessary to enable:

(a) its competent authorities to search, identify, trace, administer and freeze or seize the instrumentalities and proceeds of corruption pending a final judgement

(b) confiscation of proceeds or property, the value of which corresponds to that of such proceeds, derived, from offences established in accordance with this convention;

(c) repatriation of proceeds of corruption.

2. The Requested State Party shall, in so far as its law permits and at the request of the Requesting State Party, seize and remit any object:

(a) which may be required as evidence of the offence in question; or (b) which has been acquired as a result of the offence for which extradition is requested and which, at the time of arrest is found in possession of the persons claimed or is discovered subsequently.

3. The objects referred to in clause 2 of this Article may, if the Requesting State so requests, be handed over to that State even if the extradition is refused or cannot be carried out due to death, disappearance or escape of the person sought.

4. When the said object is liable for seizure or confiscation in the territory of the Requested State Party the latter may, in connection with pending or ongoing criminal proceedings, temporarily retain it or hand it over to the Requesting State Party, on condition that it is returned to the Requested State Party.

### Article 17: Bank Secrecy

1. Each State Party shall adopt such measures necessary to empower its courts or other

against unfair competition, respect of the tender procedures and property rights.

3. Adopt such other measures as may be necessary to prevent companies from paying bribes to win tenders.

#### Article 12: Civil Society and Media

State Parties undertake to:

1. Be fully engaged in the fight against corruption and related offences and the popularisation of this Convention with the full participation of the Media and Civil Society at large;

2. Create an enabling environment that will enable civil society and the media to hold governments to the highest levels of transparency and accountability in the management of public affairs;

3. Ensure and provide for the participation of Civil Society in the monitoring process and consult Civil Society in the implementation of this Convention;

4. Ensure that the Media is given access to information in cases of corruption and related offences on condition that the dissemination of such information does not adversely affect the investigation process and the right to a fair trial.

#### Article 13: Jurisdiction

1. Each State Party has jurisdiction over acts of corruption and related offences when:

(a) the breach is committed wholly or partially inside its territory;

(b) the offence is committed by one of its nationals outside its territory or by a person who resides in its territory; and

(c) the alleged criminal is present in its territory and it does not extradite such person to another country.

(d) when the offence, although committed outside its jurisdiction, affects, in the view of the State concerned, its vital interests or the deleterious or harmful consequences or effects of such offences impact on the State Party.

2. This Convention does not exclude any criminal jurisdiction exercised by a State Party in accordance with its domestic law.

3. Notwithstanding the provision of paragraph 1 of this Article, a person shall not be tried twice for the same offence.

#### Article 14: Minimum Guarantees of a Fair Trial

Subject to domestic law, any person alleged to have committed acts of corruption and related offences shall receive a fair trial in criminal proceedings in accordance with the minimum guarantees contained in the African Charter on Human and Peoples' Rights and any other relevant international human rights instrument recognized by the concerned States Parties.

#### Article 15: Extradition

1. This Article shall apply to the offences established by the State Parties in accordance with this Convention.

2. Offences falling within the jurisdiction of this Convention shall be deemed to be included in the internal laws of State Parties as crimes requiring extradition. State Parties shall include such offences as extraditable offences in extradition treaties existing between or among them.

3. If a State Party that makes extradition conditional on the existence of a treaty receives

and later in the rest of Eastern Europe as socialism fell to be replaced by the ideals of democratisation and accountability.

The iron curtain which former British Prime Minister Churchill said had descended over Europe, rent violently to set the Communist nations of eastern Europe free.

The fall of the Berlin Wall in 1989 had significant effects in Francophone Africa as calls for sovereign national conferences became more strident. Democratisation, accountability, respect of human rights and an end to corruption in high and low places became the clarion call, as protesters called for change in several of these countries. These calls vividly exposed the fragility of African nation states, as the population demanded constitutional rule and respect for human rights and fundamental freedoms. The international financial institutions and many countries of the world started applying pressure for good governance and the democratisation of the state. It is in this context that it became obvious that some of the balance had to be struck between the state, civil society, the media and the private sector in promoting good governance.

International organizations such as the human rights group "Amnesty International" and local pressure groups mounted a sustained campaign against human rights violations. Owing to their pressures, the OAU began working on a regional human rights instrument to address reports of human rights abuses across the continent. These efforts culminated in the adoption in 1986, of the African Charter of Human and Peoples' Rights.

The nineties saw the return to constitutional multi-party rule in many African nations. In the atmosphere of globalisation and democratisation which followed, pressure from civil society, the media and political parties quickly pushed corruption and governance issues to the fore. This movement was of course helped along by financial scandals and pressures from international financial institutions (which by then had started openly talking about corruption) and international NGO's such as Transparency International, which was founded in 1993.

Against this backdrop the OAU, the precursor of the African Union (AU), sought to introduce an African regional approach to a problem that had obviously taken on the magnitude of human rights issues in the eighties.

On the 19th of September 2002 the AU produced "The Convention on Preventing and Combating Corruption and Related Offences." It was a sign of the times that the continent was and is still going through, many recent election victories in Africa have been fought under the anti-corruption banner.

The draft of this Convention was approved by the AU's Ministerial Conference in Addis Ababa (September 2002). At another meeting in N'Djamena, Chad (March 2003) the AU Executive Council (Foreign Ministers) approved and recommended the draft Convention. This draft was adopted by the Heads of State at their summit in Maputo, Mozambique, in July 2003.

The adoption of the Convention by the Heads of State and Government was a significant landmark in the history of the AU. Firstly because the Convention paves the way for an African regional anti-corruption instrument which is expected to assist African states to live up to their NEPAD promises. It also presents a unique opportunity for anti-corruption activists, media organisations and citizens at large to support the process. It is critical that they lobby for ratification

or ownership of or rights with respect to property which is the proceeds of corruption or related offences;

c) The acquisition, possession or use of property with the knowledge at the time of receipt, that such property is the proceeds of corruption or related offences;

#### Article 7: Fight Against Corruption and Related Offences in the Public Service

In order to combat corruption and related offences in the public service, State Parties commit themselves to:

1. Require all or designated public officials to declare their assets at the time of assumption of office during and after their term of office in the public service.

2. Create an internal committee or a similar body mandated to establish a code of conduct and to monitor its implementation, and sensitize and train public officials on matters of ethics.

3. Develop disciplinary measures and investigation procedures in corruption and related offences with a view to keeping up with technology and increase the efficiency of those responsible in this regard.

4. Ensure transparency, equity and efficiency in the management of tendering and hiring procedures in the public service.

5. Subject to the provisions of domestic legislation, any immunity granted to public officials shall not be an obstacle to the investigation of allegations against and the prosecution of such officials.

#### Article 8: Illicit Enrichment

1. Subject to the provisions of their domestic law, State Parties undertake to adopt necessary measures to establish under their laws an offence of illicit enrichment.

2. For State Parties that have established illicit enrichment as an offence under their domestic law, such offence shall be considered an act of corruption or a related offence for the purposes of this Convention.

3. Any State Party that has not established illicit enrichment as an offence shall, in so far as its laws permit, provide assistance and cooperation to the requesting State with respect to the offence as provided in this Convention.

#### Article 9: Access to Information

Each State Party shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences.

#### Article 10: Funding of Political Parties

Each State Party shall adopt legislative and other measures to:

(a) Proscribe the use of funds acquired through illegal and corrupt practices to finance political parties; and

(b) Incorporate the principle of transparency into funding of political parties

#### Article 11: Private Sector

State Parties undertake to:

1. Adopt legislative and other measures to prevent and combat acts of corruption and related offences committed in and by agents of the private sector.

self or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result

(g) illicit enrichment

(h) the use or concealment of proceeds derived from any of the acts referred to in this Article; and

(i) participation as a principal, co-principal, agent, instigator, accomplice or accessory after the fact, or on any other manner in the commission or attempted commission of, in any collaboration or conspiracy to commit, any of the acts referred to in this article.

2. This Convention shall also be applicable by mutual agreement between or among two or more State Parties with respect to any other act or practice of corruption and related offences not described in this Convention.

#### Article 5: Legislative and other Measures

For the purposes set-forth in Article 2 of this Convention, State Parties undertake to:

1. Adopt legislative and other measures that are required to establish as offences, the acts mentioned in Article 4 paragraph 1 of the present Convention.

2. Strengthen national control measures to ensure that the setting up and operations of foreign companies in the territory of a State Party shall be subject to the respect of the national legislation in force.

3. Establish, maintain and strengthen independent national anti-corruption authorities or agencies.

4. Adopt legislative and other measures to create, maintain and strengthen internal accounting, auditing and follow-up systems, in particular, in the public income, custom and tax receipts, expenditures and procedures for hiring, procurement and management of public goods and services.

5. Adopt legislative and other measures to protect informants and witnesses in corruption and related offences, including protection of their identities.

6. Adopt measures that ensure citizens report instances of corruption without fear of consequent reprisals.

7. Adopt national legislative measures in order to punish those who make false and malicious reports against innocent persons in corruption and related offences.

8. Adopt and strengthen mechanisms for promoting the education of populations to respect the public good and public interest, and awareness in the fight against corruption and related offences, including school educational programmes and sensitization of the media, and the promotion of an enabling environment for the respect of ethics.

#### Article 6: Laundering of the Proceeds of Corruption

States Parties shall adopt such legislative and other measures as may be necessary to establish as criminal offences:

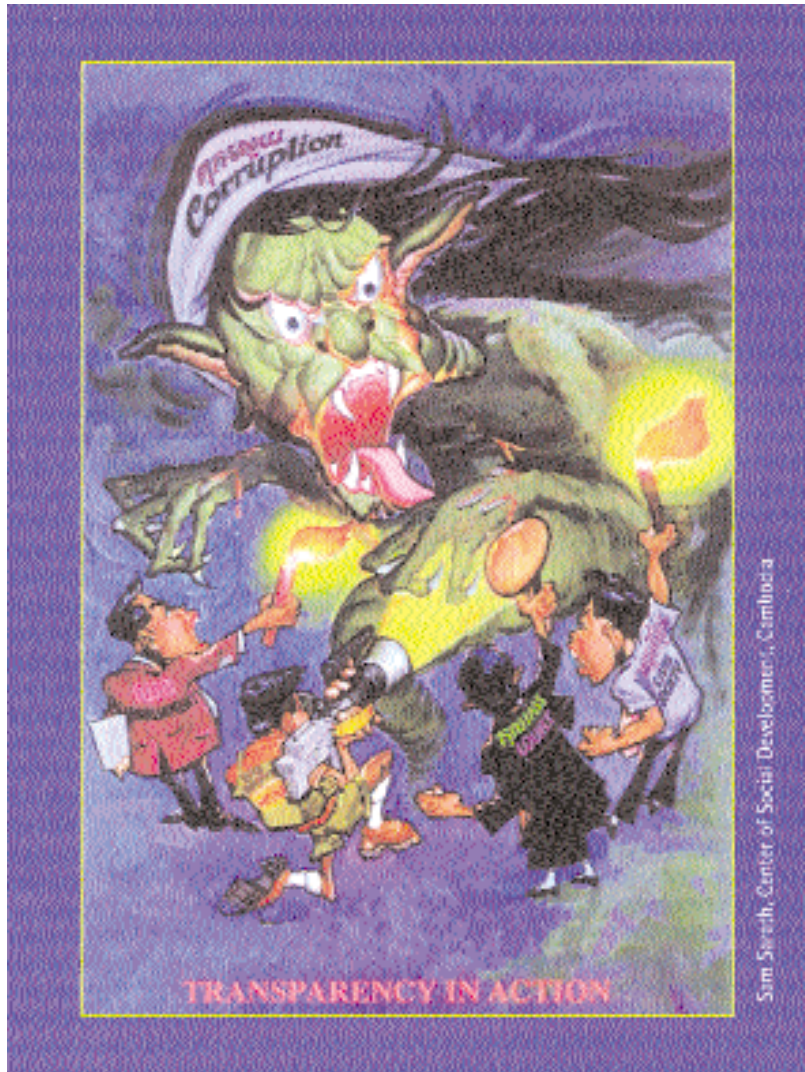
a) The conversion, transfer or disposal of property, knowing that such property is the proceeds of corruption or related offences for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the offence to evade the legal consequences of his or her action.

b) The concealment or disguise of the true nature, source, location, disposition, movement

of the Convention, thereby ensuring that it eventually comes into force.

Additionally, the Convention would, when it comes into force (this requires the ratification of no fewer than 15 states) provide citizens of various African countries with the necessary tool to hold their governments accountable in the area of corruption. It also defines the framework and prerequisites of national anti-corruption strategies. Perhaps more significantly, this is the first concrete political step to be taken by African leaders to address the issue of corruption and its impact on socio-economic development.

Just as with the fight for democracy and human rights, success in the fight against corruption depends on the citizens taking ownership of the battle, hence the publication of this handbook which outlines the Convention in a language and a form, it is hoped, accessible to most. The translation of this handbook in many other languages should complete this endeavour.



2. Promote, facilitate and regulate cooperation among the State 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 purposes 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.
5. Establish the necessary conditions to foster transparency and accountability in the management of public affairs.

#### Article 3: Principles

The State Parties to this Convention undertake to abide by the following principles:

1. Respect for democratic principles and institutions, popular participation, the rule of law and good governance.
2. Respect for human and peoples' rights in accordance with the African Charter on Human and Peoples Rights and other relevant human rights instruments.
3. Transparency and accountability in the management of public affairs.
4. Promotion of social justice to ensure balanced socio-economic development.
5. Condemnation and rejection of acts of corruption, related offences and impunity.

#### Article 4: Scope of Application

1. This Convention is applicable to the following acts of corruption and related offences:

- (a) the solicitation or acceptance, directly or indirectly, by a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
- (b) the offering or granting, directly or indirectly, to a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
- (c) any act or omission in the discharge of his or her duties by a public official or any other person for the purpose of illicitly obtaining benefits for himself or herself or for a third party;
- (d) the diversion by a public official or any other person, for purposes unrelated to those for which they were intended, for his or her own benefit or that of a third party, of any property belonging to the State or its agencies, to an independent agency, or to an individual, that such official has received by virtue of his or her position;
- (e) the offering or giving, promising, solicitation or acceptance, directly or indirectly, of any undue advantage to or by any person who directs or works for, in any capacity, a private sector entity, for himself or herself or for anyone else, for him or her to act, or refrain from acting, in breach of his or her duties;
- (f) the offering, giving, solicitation or acceptance directly or indirectly, or promising of any undue advantage to or by any person who asserts or confirms that he or she is able to exert any improper influence over the decision making of any person performing functions in the public or private sector in consideration thereof, whether the undue advantage is for him -

rights, including the fight against corruption and impunity and propose appropriate legislative and other measures;

**Further Recalling** the decision of the 37th ordinary session of the Assembly of Heads of State and Government of the OAU held in Lusaka, Zambia, in July 2001 as well as the Declaration adopted by the first session of the Assembly of the Union held in Durban, South Africa in July 2002, relating to the New Partnership for Africa's Development (NEPAD) which calls for the setting up of a coordinated mechanism to combat corruption effectively.

**HAVE AGREED as follows:**

#### Article 1: Definitions

1. For the purposes of this Convention;

**"Chairperson of the Commission"** means Chairperson of the Commission of the African Union;

**"Confiscation"** means any penalty or measure resulting in a final deprivation of property, proceeds or instrumentalities ordered by a court of law following proceedings in relation to a criminal offence or offences connected with or related to corruption;

**"Corruption"** means the acts and practices including related offences proscribed in this Convention;

**"Court of Law"** means a court duly established by a domestic law;

**"Executive Council"** means the Executive Council of the African Union;

**"Illicit enrichment"** means the significant increase in the assets of a public official or any other person, which he or she cannot reasonably explain in relation to his or her income.

**"Private Sector"** means the sector of a national economy under private ownership in which the allocation of productive resources is controlled by market forces, rather than public authorities and other sectors of the economy not under the public sector or government;

**"Proceeds of Corruption"** means assets of any kind corporeal or incorporeal, movable or immovable, tangible or intangible and any document or legal instrument evidencing title to or interests in such assets acquired as a result of an act of corruption;

**"Public official"** means any official or employee of the State or its agencies including those who have been selected, appointed or elected to perform activities or functions in the name of the State or in the service of the State at any level of its hierarchy;

**"Requested State Party"** means a State Party requested to extradite or to provide assistance under this Convention;

**"Requesting State Party"** means a State Party making a request for extradition or assistance in terms of this Convention;

**"State Party"** means any Member State of the African Union which has ratified or acceded to this Convention and has deposited its instruments of ratification or accession with the Chairperson of the Commission of the African Union.

2. In this Convention, the singular shall include the plural and vice versa.

#### Article 2: Objectives

The objectives of this Convention are 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.

## What is Corruption?

Article 4 of the Convention defines corruption and the scope of application of the Convention. This definition is similar TI's description of corruption as "the use of entrusted powers for private gain."

#### WHO can be corrupt?

- ☞ A public official or any other person who is in a position to take or give bribes for carrying out any activity.
- ☞ Anyone who diverts the ownership of property (e.g. government houses).
- ☞ Anyone who takes undue advantage (e.g. by offering, promising to give or accepting money or gifts for the award of a tender or a contract)

#### WHAT do people do to be corrupt?

- ☞ Ask for or accept bribes and undue favours
- ☞ Offer or grant bribes and undue favours
- ☞ Act or refuse to act as a result of undue favours
- ☞ Divert actions or omit to take certain actions.

**WHICH** tools are used in corruption?

- ☞ money
- ☞ valuable goods or gifts (e.g. land, gold, houses)
- ☞ favours (e.g. sexual favours, etc)
- ☞ promises
- ☞ undue advantages



Source TI Cameroon Poster Campaign

**AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION AND RELATED OFFENCES**

**PREAMBLE**

The Member States of the African Union:

**Considering** that the Constitutive Act of the African Union recognizes that freedom, equality, justice, peace and dignity are essential objectives for the achievement of the legitimate aspiration of the African peoples;

**Further Considering** that Article 3 of the said Constitutive Act enjoins Member States to coordinate and intensify their cooperation, unity, cohesion and efforts to achieve a better life for the peoples of Africa;

**Cognizant** of the fact that the Constitutive Act of the African Union, inter alia, calls for the need to promote and protect human and peoples' rights, consolidate democratic institutions and foster a culture of democracy and ensure good governance and the rule of law;

**Aware** of the need to respect human dignity and to foster the promotion of economic, social, and political rights in conformity with the provisions of the African Charter on Human and People's Rights and other relevant human rights instruments;

**Bearing in mind** the 1990 Declaration on the Fundamental Changes Taking Place in the World and their Implications for Africa; the 1994 Cairo Agenda for Action Relaunching Africa's Socio-economic Transformation; and the Plan of Action Against Impunity adopted by the Nineteenth Ordinary Session of the African Commission on Human and Peoples Rights in 1996 as subsequently endorsed by the Sixty fourth Ordinary Session of the Council of Ministers held in Yaounde, Cameroon in 1996 which, among others, underlined the need to observe principles of good governance, the primacy of law, human rights, democratization and popular participation by the African peoples in the process of governance.

**Concerned** about the negative effects of corruption and impunity on the political, economic, social and cultural stability of African States and its devastating effects on the economic and social development of African people;

**Acknowledging** that corruption undermines accountability and transparency in the management of public affairs as well as socio-economic development on the continent;

**Recognizing** the need to address the root causes of corruption on the continent;

**Convinced** of the need to pursue, as a matter of priority, a common penal policy aimed at protecting the society against corruption, including the adoption of appropriate legislative and adequate preventive measures;

**Determined** to build partnerships between governments and all segments of civil society, in particular, women, youth, media and the private sector in order to fight the scourge of corruption;

**Recalling** resolution AHG-Dec 126(XXXIV) adopted by the Thirty-fourth Ordinary Session of the Assembly of Heads of State and Government in June 1998 in Ouagadougou, Burkina Faso, requesting the Secretary General to convene, in cooperation with the African Commission on Human and Peoples' Rights, a high level meeting of experts to consider ways and means of removing obstacles to the enjoyment of economic, social and cultural

## THE ARTICLES OF THE AFRICAN UNION CONVENTION

### PREAMBLE

- Article 1 Definitions
- Article 2 Objectives
- Article 3 Principles
- Article 4 Scope of Application
- Article 5 Legislative and other Measures
- Article 6 Laundering of the Proceeds of Corruption
- Article 7 Fight Against Corruption and Related Offences in the Public Service
  
- Article 8 Illicit Enrichment
- Article 9 Access to Information
- Article 10 Funding of Political Parties
- Article 11 Private Sector
- Article 12 Civil Society and Media
- Article 13 Jurisdiction
- Article 14 Minimum Guarantees of a Fair Trial
- Article 15 Extradition
- Article 16 Confiscation and Seizure of the Proceeds and Instrumentalities of Corruption
  
- Article 17 Bank Secrecy
- Article 18 Cooperation and Mutual Legal Assistance
- Article 19 International Cooperation
- Article 20 National Authorities
- Article 21 Relationship with other Agreements
- Article 22 Follow up Mechanism
- Article 23 Signature, ratification, accession and Entry into Force
  
- Article 24 Reservations
- Article 25 Amendment
- Article 26 Denunciation
- Article 27 Depository
- Article 28 Authentic Texts

## Other Corrupt Activities

- ☞ embezzlement
- ☞ nepotism
- ☞ bribery
- ☞ extortion
- ☞ interest peddling
- ☞ fraud
- ☞ illicit enrichment
- ☞ “revolving door” (“pantouflage”)



Source TI Cameroon Poster Campaign

## Adverse Effects of Corruption

- ☞ halts or undermines development (e.g. money intended for schools, roads and hospitals goes to individuals)
- ☞ undermines democracy and good governance
- ☞ destroys democracy (e.g. corruption during elections results in candidates with most votes not taking office) and erodes the legitimacy of governments, because they are not the people's choice
- ☞ absence of transparency and accountability results in suspicion and mistrust
- ☞ impacts negatively on the rule of law (e.g. corruption in the judiciary can result in court judgements not being implemented)
- ☞ destroys the capacity of institutions to perform well (e.g. corruption in civil service promotions results in less qualified people making decisions and controlling how resources are used)
- ☞ destroys competition
- ☞ increases the costs of business
- ☞ destroys the capacity of individuals to perform well (e.g. people who are skilled, honest and able remain unemployed, while those who are dishonest or connected have jobs).

## Corruption Facilitates Other Criminal Activity: some examples

- ☞ Drug Trafficking
- ☞ Terrorism
- ☞ Prostitution
- ☞ Money Laundering

## Annex

The  
**African Union Convention**  
on  
**Preventing and Combating  
Corruption and Related  
Offences**

*as adopted by the*

Second Ordinary Session of the Assembly of Heads of State and  
Government of the African Union.

Maputo - Mozambique  
July 2003



"O, that estates, degrees, and offices  
Were not deriv'd corruptly, and that clear honour  
Were purchas'd by the merit of the wearer!  
How many then should cover that stand bare!  
How many be commanded that command!"

William Shakespeare (1564-1616)  
The Merchant of Venice (1596)

## The roots of the African Union Convention

The **African Union Convention on Preventing and Combating Corruption and Related Offences** is linked to several international agreements : the African Charter on Human and Peoples Rights, the 1990 Declaration on the Fundamental Changes taking place in the World and their Applications for Africa, the 1994 Common Agenda for Action Re-launching Africa's Socio-economic Transformation and the Plan of Action against Impunity adopted by the Windhoek Ordinary Session of the African Commission on Human and Peoples Rights 1996 as subsequently endorsed by the Sixty-Fourth Ordinary Session of the Council of Ministers held in Yaounde, Cameroon.


None of the above declarations explicitly mention corruption. The word corruption was first used at the Thirty-Fourth Ordinary Session of The Assembly of Heads of State and Governments in June 1998 in Ouagadougou, Burkina Faso. This session requested a high level meeting to consider ways and means of removing obstacles to the enjoyment of economic, social and cultural rights, **including**


## What can you do?

After the Maputo adoption of the Convention, the Member States need to sign up to it. The next stage will be ratification by the parliaments of the State Parties. For the Convention to be effective it must be ratified by at least fifteen countries. Civil Society has a key role to play in bringing the Convention into force.

Civil Society - meaning grass-roots organisations, unions, universities, philanthropist foundations, user groups, professional associations, all influence public performance. In the late eighties and early nineties these groups channelled their energies through political parties in the fight for democracy. They were soon to realise that immediately the political parties achieved their immediate goals, most of the leadership of these groups disappeared into the political quagmire. These leaders, are now producing results like the Convention from within the political arena.

The time has come for civil society to be issue oriented, and seek to build national and transnational coalitions. The Convention is a perfect opportunity for this. Individuals and groups can act to promote the Convention at different levels, for exemple, by

 Lobbying for the signing and subsequent ratification by State Parties. This can very easily be made a campaign issue in any election. It involves informing other citizens and making the Convention widely available

 Highlighting behaviour that is contrary to the Convention. For example, many countries have adopted laws that call for the declaration of assets. These laws are either ignored or selectively applied. The Convention, with

## 2) The Advisory Board

The Advisory Board on Corruption comprising of all 11 members of the African Commission and elected by the Executive Council is created under the Convention. It will have a 2 year mandate renewable once. Under the Convention it is viewed as a follow up structure.

### Functions of the Board (Article 22)

Among other functions the Board:

- 👉 collects, documents and analyses information on corruption
- 👉 advises governments, promotes and encourages adoption of anti-corruption measures
- 👉 works in partnership with the African Commission on Human and Peoples' Rights, governments, and civil society organisations
- 👉 submits project reports to State Parties Executive Council

**the fight against corruption, and to propose appropriate legislative and other measures to combat this scourge.**

The meeting was to be convened by the Secretary General of the Ouagadougou session, in cooperation with the African Union.

The scene was thus set for the drafting of a historic convention in which TI played an active part. The TI-African Union Convention Working Group was made up of Chantal Uwimana (TI-Secretariat), Akere Muna (TI-Cameroon), Andrew Nongogo and Kumbirai Hodzi (TI-Zimbabwe). TI intensively and successfully lobbied for provisions on assets recovery, political party financing, access to information and whistle blowers protection to be included in the final document.

The AU convention started out as the Convention on Preventing and Combating Corruption. Problems of definition and of differences in legal systems caused the addition of the phrase "and related offences". Throughout the drafting process, there was a real determination to ensure that a useful document was produced. The Convention, apart from its preamble is made up of 28 articles. It is suitable to use as the framework for any National Anti-Corruption Strategy.

## Objectives and Principles

A State Party to the Convention is any nation which has signed and ratified the Convention to the point that it has become law within its borders.

Article 2 of the Convention emphasizes cooperation between State Parties

*"to 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 Africa"*

and

*"to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa".*

## Monitoring

Apart from monitoring by civil society and media the Convention provides for the creation of two structures: one at the national level, (Article 20) and one at the level of the African Commission, an Advisory Board (Article 22).

### 1) The National Authority or Agency

At the national level the Convention requires the designation of a specialised independent and autonomous national authority. The denomination is not specified by the Convention but shall be communicated to the Chairperson of the African Union Commission on deposition of ratification instruments. Apart from some whistleblower attributions, the national authorities will have the duty of making and rendering reports for assistance and cooperation as provided for by the Convention and communicating with other national authorities for the purposes of the Convention. They will report once a year to the Advisory Board.



The Whistle Blower, Transparency International Malawi, October-december 2001

## Bank Secrecy

Under Article 17 of the Convention Banking Secrecy will not constitute a bar to the access, confiscation or seizure of documentary evidence. It is important to note that documents may be used only in proceedings for which that information was requested.

Articles 18 and 19 advocate the promotion of cooperation and mutual assistance, and international cooperation in all aspects relating to prevention, investigation and punishment of corruption and related offences.



## Features of the Convention

The Convention is targeted amongst other things towards the following:

- ☞ prevention
- ☞ punishment
- ☞ cooperation
- ☞ education.

In this regard it

- ☞ strengthens the laws on corruption by listing offences that should be punishable by domestic legislation
- ☞ outlines measures to be undertaken to enable the detection and investigation of corruption offences
- ☞ indicates mechanisms for the confiscation and forfeiture of the proceeds of corruption and related offences
- ☞ determines the jurisdiction of State Parties
- ☞ organizes mutual assistance between countries, in relation to corruption and related offences
- ☞ encourages the education and promotion of public awareness on the evils of corruption
- ☞ establishes a framework for the monitoring and supervision of enforcement of the Convention.

## Offences covered by the Convention

The Convention (Article 4) deals with four offences:

- ☞ corruption
- ☞ embezzlement
- ☞ illicit enrichment
- ☞ money laundering.

The Convention comprehensively describes bribery. To ensure that the differences in legal and judicial cultures do not adversely affect its application, the word bribery itself is not used.

### 1) Corruption

The Convention deals with acts of corruption in nine subsections (Article 4) . It covers what is commonly known as bribery, and it sanctions the bribe payer and the bribe receiver equally.

Those used to criminal law will be surprised by the punishment of acts of omission: e.g. if a person does not do their job because they expect a bribe then they are criminally responsible.

The Convention makes special mention of public officials, but is clear that any person can be guilty of corruption.

e.g. Article 8 illicit enrichment

i) Subject to domestic law, State Parties undertake to adopt necessary measures to establish under their laws an offence of illicit enrichment.

ii) For State Parties that have established illicit enrichment as an offence under their domestic law, such offence shall be considered an act of corruption or a related offence for the purposes of this Convention.

iii) Any State Party that has not established illicit enrichment as an offence shall, in so far as its laws permit, provide assistance and cooperation to the requesting State with respect to the offence as provided in this Convention.

### Extradition

An accused person may be extradited for:

- ☞ offences established as a result of this Convention
- ☞ offences that fall within the jurisdiction of the Convention

When is extradition possible? The Convention acts as an extradition treaty between State Parties for all offences covered by the Convention.

### Confiscation and Seizure

Article 16 requires State Parties to pass laws that will permit the searching, identifying, training, administering, seizing and freezing of the proceeds of corruption or property of equivalent value. It also requires laws to be passed requiring the repatriation of proceeds of corruption. The Convention also requires the passing of laws that will permit remission and seizure of objects which constitute evidence.

## Trial for Corruption and Related Offences

Article 14 reiterates the rights of those accused of corruption and related offences to receive a fair trial. This is a right guaranteed by the African Charter on Human and Peoples' Rights and other international instruments.

### The Jurisdiction of State Parties

State Parties have jurisdiction over :

- ☛ offences wholly or partly within their territory
- ☛ offences committed by its nationals regardless of where he or she resides.
- ☛ offences committed by anyone within its national territory
- ☛ suspects within its territory who have not been extradited
- ☛ offences committed outside national territory but affecting vital state interests.

The Convention does not purport to repeal national laws on similar matters. However, it is not possible for an individual to be charged twice for the same offence under the pretext that the offence is covered by two different laws i.e. the Convention and national law.

It is likely that most of the national laws on the issues raised by the Convention will be revised as a result of adopting this Convention. In certain cases the Convention acknowledges the possible existence of national laws that are acceptable substitutes.



Sam Sarath, Center of Social Development, Cambodia

## 2) Embezzlement

Embezzlement concerns all property with no distinction between state owned and privately or individually owned property (Article 4 d). The only important element is that, whatever is embezzled must have come into the possession of the perpetrator by virtue of his or her position.

### 3) Illicit Enrichment

There is no specific definition of illicit enrichment in the Convention - it remains to be detailed by individual State Parties (Article 4g and 8 ). However, the result of making illicit enrichment an offence is that money with no apparent legal source can be assumed to be proceeds of corruption.

$$\begin{array}{c} \text{ACTUAL WEALTH - JUSTIFIED WEALTH} \\ = \\ \text{PROCEEDS OF CORRUPTION} \end{array}$$

The requirement to declare assets (Article 7) will also help control embezzlement, bribery and other forms of illicit enrichment.



### Corrupt Funding of Political Parties

Political activities in a multiparty system are fertile ground for corruption. The Convention looks at:

- ☛ preventing the use of proceeds of corruption to finance political parties
- ☛ ensuring transparency in the funding of political parties.





*From a document by the Information Coordination Group (ICG) based in London and formed by five oil companies : BP, Esso, Mobil and Statoil.*



*Source TI Cameroon Poster Campaign*

The efficacy of the application of this law will be very much enhanced by the firming up of the application of the law on declaration of assets as it appears in Article 7 of the Convention.

#### 4) Money Laundering

Article 4 of the Convention talks of "use or concealment of proceeds derived from ..."; Article 6 clearly establishes laundering the proceeds of corruption as an offence.

Money laundering under the Convention is very widely defined. Concealment, transfer or disposal, acquisition, possession or use of the proceeds of corruption are offences under the Convention. The concealment or disguise of the sum, source or location, disposition (getting rid of), movement or ownership is equally punished. One does not have to be the owner of the funds to be liable, and liability is that of a principal offender and not that of an accomplice.

## Obligations of State Parties under the Convention

When a State Party ratifies the Convention it becomes part of its national legislative arsenal. However, the Convention obliges State Parties to carry out specific actions. Some of these require specific national laws, for others the detail is left to the State Party itself to decide.

### 1) Obligations that require specific National Laws

Under this category the State Party agrees to:

- a) Undertake to adopt legislative and other measures to combat corruption
- b) Commit themselves to undertake the fight against corruption
- c) Adopt necessary measures to establish specified offences as crimes punishable by law.

These obligations must be reflected by national laws. Ratification of the Treaty alone is not enough. National legislation should therefore cover issues like:

- ✎ making corruption, money laundering, embezzlement, and illicit enrichment illegal and criminal; regardless of whether they are practiced by public sector, private sector or individuals
- ✎ establishment of national anti-Corruption authorities or agencies

## Corruption

### Public Sector Corruption

Article 7 specifies tools that are useful in the fight against public sector corruption, some of these include:

- ✎ declaration of assets by designated public service officials
- ✎ establishment of a code of conduct and training on ethics
- ✎ transparency and equity in the management of tendering and hiring in tender procedures
- ✎ no use of immunity to bar investigation against any public official.

### Private Sector Corruption

Corruption does not only exist in government. Under the Convention, State Parties are required to pass laws to prevent and combat corruption in the private sector.

- ✎ to encourage private sector participation in the fight against unfair competition and respect of tender procedures and property rights
- ✎ to adopt, maintain, prevent bribe paying by companies for the winning of tenders.

## Civil Society and Media

Article 12 of the Convention provides for the State to ensure that the civil society and media are fully engaged in the fight against corruption and the popularisation of the Convention itself. Article 9 requires State Parties to make effective the right of access to information by legislative and other measures. Under Article 12(3) State Parties undertake to "Ensure and provide for the participation of Civil Society in the monitoring process and consult civil society in the implementation of the Convention"



Source *Combattre la corruption*, Sammuell Mwambinga, "Kristellgt Dogbad", Danmark, 1996

- ☞ creation of, maintaining and strengthening mechanisms for the auditing of public income and expenditure
- ☞ protection of informants
- ☞ access to information
- ☞ preventing use of proceeds of corruption to finance political parties
- ☞ transparency in political party funding
- ☞ confiscation and seizure of proceeds of corruption.

## 2) Obligations in which State Parties have a discretion as to the mode of implementation

Under this category the State Parties agree to adopt necessary measures, take certain undertakings and make certain commitments.

While these obligations seem more geared towards the objectives of the Convention, the means are left to the discretion of the States: e.g. in education and raising of public awareness amongst Civil Society and Media the Convention obliges State Parties to:

- a) Be fully engaged in the fight against corruption and related offences and the popularisation of this Convention with the full participation of the media and civil society.
- b) Create an enabling environment that will help civil society and the media to hold governments to the highest levels of transparency and accountability in the management of public affairs

c) Ensure, and provide for, the participation of civil society in the monitoring process and consult civil society in the implementation of this Convention

d) Ensure that the media has access to information in cases of corruption and related offences on condition that the dissemination of such information does not adversely affect the investigation process and the right to a fair trial.

Other obligations of the State Parties are commitments to address matters outlined in the objectives of the Convention e.g.

- 👉 measures to prevent bribe paying (Article 11.3)
- 👉 in matters of Banking Secrecy as it concerns seizing of documents or supply of information
- 👉 creation of a body to establish a code of conduct, monitor and train public officials ( Article 7 2).

Where there are specific national laws the monitoring process will be easier, e.g. it will be difficult to efficiently monitor the "creation of an enabling environment"

National pressure groups and political parties can contribute by lobbying governments and the legislature for the determination of a more specific framework.

## *The Rights of citizens, Civil Society and Media under the Convention*

The Convention emphasizes the need to engage the whole population in the fight against corruption.

### **The Citizen**

Some provisions concern citizens and some concern the community at large.

Concerning individuals, the Convention gives them protection so they can report instances of corruption without fear of consequent retaliation, including protection of identity. It is however important to note that under the Convention those who make false, and malicious reports are exposed to punishment.

Concerning the community the Convention reiterates and emphasizes:

- 👉 The undertaking to respect human and peoples' rights in accordance with the African Charter and other human rights instruments
- 👉 The promotion of social justice to ensure balanced socio-economic development
- 👉 The promotion and education of populations to respect public goods and public investments
- 👉 Awareness in the fight against corruption and related offences.