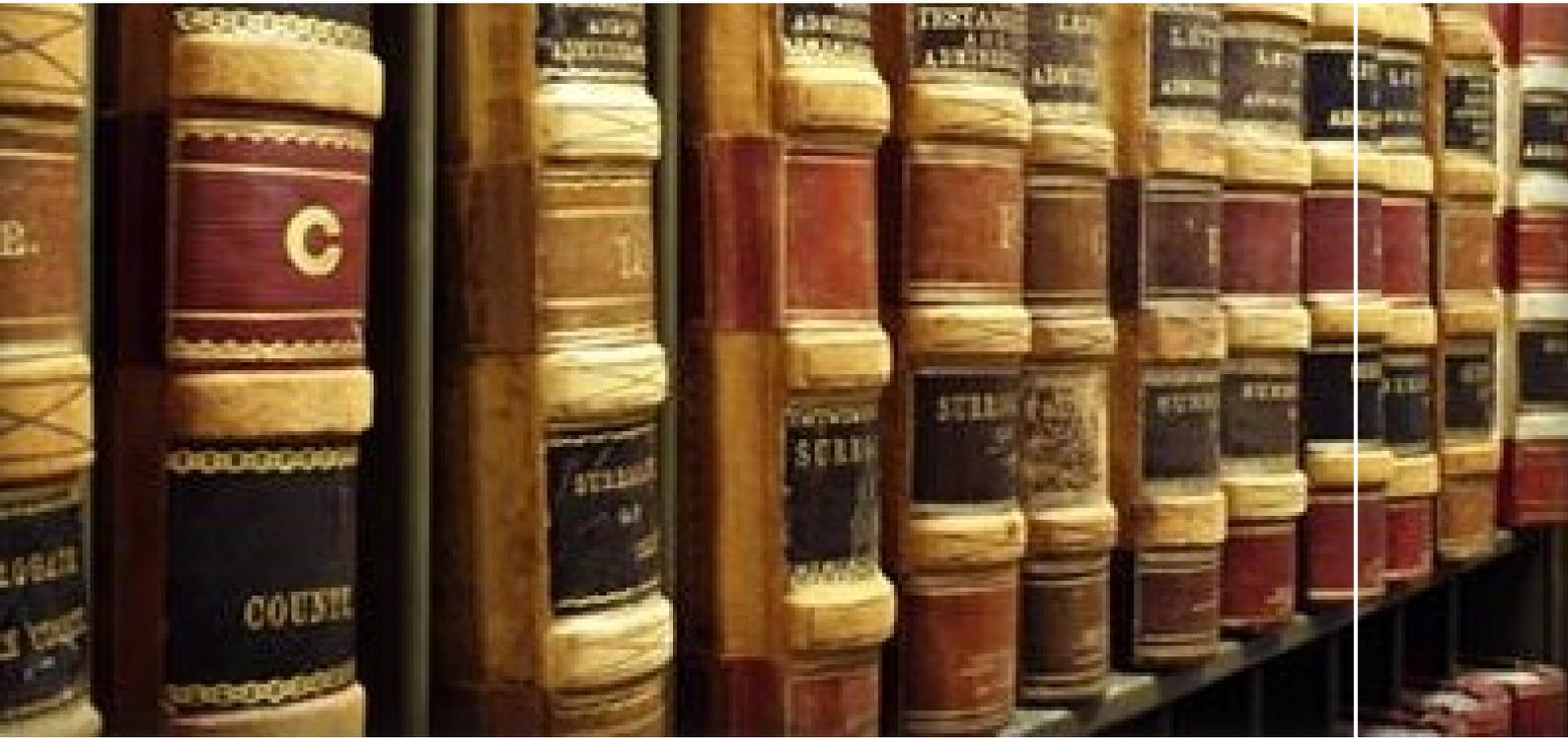




**UNODC**

United Nations Office on Drugs and Crime



# The United Nations Convention against Corruption: A Model Academic Course



UNITED NATIONS OFFICE ON DRUGS AND CRIME  
Vienna

The United Nations Convention against Corruption

# **A Model Academic Course**

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# Introduction

## Course Overview: Modules 1 -14

<b>Course Name:</b>	Global Corruption, Good Governance and the UNCAC	<b>Credits:</b>	2 to 5 credit (per semester) or non-credit certificate
<b>Method:</b>	Seminar or Course: Face-to-Face/Paper or On-Line/Blackboard Optional	<b>Hours:</b>	2 to 5 hours (weekly) or 1 week seminar (25 hours)
<b>Assessment:</b>	Class and on-line participation, reading assignments, real case studies, research papers, videos, documentaries, on-line games & quizzes	<b>Duration:</b>	15 weeks (optional) or 1 week seminar (25 hours)
<b>Professor/Lecturer:</b>	University Full-time or Adjunct Professors and Guest Speakers	<b>Period:</b>	Spring/Summer/Fall
<b>Office Hours:</b>	By appointment/on-line/e-mail/Skype	<b>Prerequisites:</b>	All students

## Course Purpose and Scope

### Purpose

The purpose of this course is to give students a strong understanding of the United Nations Convention against Corruption (UNCAC) and to explore how, as the only global, comprehensive and legally binding anti-corruption instrument in the world, it can act as framework for the international fight against corruption. Due to its global and comprehensive nature, the UNCAC provides an excellent framework for analyzing the issue of corruption from an international and holistic perspective.

The course will give students a snapshot of the emerging anti-corruption legal and governance landscape for the purpose of analyzing the forms, causes, cost, risks and

prevention and law enforcement remedies associated with the global phenomenon of corruption. In doing so, it also aims to spark discussion, debate and more academic and applied research in the field of anti-corruption studies. Legal and philosophical questions as to how to define and prioritize different forms of corruption and learning a process to help students and stakeholders decide “what is the right thing to do” when confronted with corruption are also queried throughout the course.

The United Nations Convention Against Corruption has now been ratified by 165 countries and counting, reflecting that there is now an international consensus both that preventing and addressing corruption is a high global priority and in relation to the type and range of measures that must be taken by various stakeholders in order to achieve this. At its core, the Convention promotes key transparency and accountability principles that are of equal importance to both the public and private sectors and civil society.

### **Scope**

The scope of this course, reflecting the comprehensive nature of the UNCAC, includes all key fronts in the fight against corruption including; Prevention, Criminalization, International Cooperation and Asset Recovery.

Emphasis is placed at the beginning of the course on the preventive and good governance measures that both public and private sector bodies can put in place in order to reduce the risk of corruption taking place. The course then moves on to address the key corruption offences criminalized under the UNCAC, asking students to consider how national governments with different political and legal systems can implement the requirements of the Convention in this regard.

Having assessed the domestic preventive and criminalization steps that are required to effectively combat corruption, students will then consider how cooperation at both a national and international level can play a crucial role in the detection and punishment of corrupt acts. Finally, students will consider the relatively new field of asset recovery and the role it can play in returning the proceeds of corruption back to its rightful owners.

### **Course Design and Description**

#### **Multiple goals - multiple stakeholders - multiple jurisdictions.**

This template, adaptable curriculum is designed for university students studying varied disciplines, but it can also be easily adapted and used by key stakeholders in both the public and private sectors and civil society organizations. The course attempts to fill a serious education and training gap by merging the world of anti-corruption theory with the real world experience of anti-corruption practice, as seen through the collective eyes of different stakeholders in diverse country settings. Special emphasis is placed on analyzing these issues through the eyes of developing and emerging markets and democracies around the world.

#### **Course emphasis and course definitions.**

Students will learn to how to identify and concretely analyze the new risks and higher costs of both public and private sector corruption and how to use the UNCAC as a framework for fighting corruption and promoting the rule of law and good governance principles. For the purposes of this course “corruption” will include those criminal laws mandated or recommended in the United Nations Convention Against Corruption (UNCAC).

While the course includes a summary overview of all eight UNCAC chapters, primary

emphasis is placed on the Convention's mandated criminal laws, preventive and good governance provisions, and its international law enforcement cooperation and asset recovery provisions. The substance of these chapters will be considered in the context of both the public and private sectors.

Each module has both "required" and "recommended" readings. The required readings have been selected to provide students and stakeholders a foundational understanding of the key substantive areas of the UNCAC from the least to the most developed country. The recommended readings delve into key the issues more deeply or explore related additional topics.

Both the required and recommended readings are developed so that the themes and issues covered within each module are discussed within public and private sector comparative context, helping students to link and consider the actual implementation of a common set of anti-corruption values and best practices across both sectors.

## Course Requirements

### Attendance and Participation Rules (xx Points)

Student participation and engagement are critical for meeting this course's objectives. Each week students are encouraged to actively engage with classroom colleagues either in class or through an on-line discussion board, or both, depending on the teaching method chosen by the institution teaching this course.

### Required Course Text, Core Readings and Key Reference Materials:

Students will greatly benefit at the beginning of this course if they take the time to summarily review some of the core reading materials and publications noted below. They should also begin to follow and research media stories of particular interest to them. Beginning each class with a new or updated corruption story/case is often one of the best ways to engage on a concrete set of issues.

The core publications that will be referenced in and needed for virtually all of the modules are:

(i) *The United Nations Convention Against Corruption.*

UNODC. (2004). *United Nations Convention against Corruption*. Vienna, Switzerland: United Nations Office on Drugs & Crime. Retrieved December 11, 2012 from [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

(ii) *The UNODC Legislative Guide for the Implementation of the UNCAC*

UNODC. *Legislative Guide for the Implementation of the UNCAC (2006)*. New York, NY: United Nations. Retrieved June 7, 2017 from [https://www.unodc.org/pdf/corruption/CoC\\_LegislativeGuide.pdf](https://www.unodc.org/pdf/corruption/CoC_LegislativeGuide.pdf)

(iii) *The Many Faces of Corruption*

*The Many Faces of Corruption*, by J. Campos & S. Pradhan, <http://www.u4.no/recommended-reading/the-many-faces-of-corruption-tracking-vulnerabilities-at-the-sector-level/>

The United Nations Convention against Corruption will be the core document used by students throughout the course. In light of its comprehensive scope, students will use it to explore the full range of measures required at a national and international level in order to address the issue of corruption. In most modules, reference will also be made to the

Legislative Guide for the Implementation of the Convention which provides further detail and explanation on the provisions of the Convention.

The publication from Campos & Pradhan provides a good overview of the issue of corruption including sectoral analyses and a wide range of case studies and best practices tools. Both students and professors should also become familiar, at the beginning of the course, with the Required Readings listed immediately below. They will also be covered in more detail in individual modules.

Students are encouraged to do their own independent research, particularly as it relates to a specific sector, state and current events. Part of the student's learning experience is to learn how to undertake research and analysis, including how to analyze provisions of international conventions that are supplemented with guidance, like the UNODC Legislative Guide.

The majority of the books, articles or treaties can all be accessed on-line, with the exception of a number of academic and scholarly articles (See the citations for each in the UNCAC Bibliography for this course).

UNODC. *Technical Guide to the United Nations Convention against Corruption*. (2009). Vienna: United Nations Office on Drugs and Crime. Retrieved December 10, 2012 from [http://www.unodc.org/documents/corruption/Technical\\_Guide\\_UNCAC.pdf](http://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf)

Black Money (The BAE case -- 2009). PBS Frontline Documentary (watch the whole movie) <http://www.pbs.org/wgbh/pages/frontline/blackmoney/view/>

Doing Business 2012, an annual global report monitoring and reporting country progress on making the regulatory process more efficient, archives are available (<http://doingbusiness.org/reports/global-reports/doing-business-2013>)

J. Campos & S. Pradhan. *The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level*. Washington, DC: The International Bank for Reconstruction and Development / The World Bank. Retrieved December 15, 2012 from <http://www.u4.no/recommended-reading/the-many-faces-of-corruption-tracking-vulnerabilities-at-the-sector-level/>

Mungiu-Pippidi, A. (2011). *Contextual Choices in Fighting Corruption: Lessons Learned*. Berlin, Oslo, Norway: NORAD – Norwegian Agency for Development Cooperation. Retrieved June 7, 2017 from <https://www.norad.no/om-bistand/publikasjon/2011/contextual-choices-in-fighting-corruption-lessons-learned/>

Nicholls, C., Daniel, T., Bacarese, A., and Hatchard, J. (2011). *Corruption and Misuse of Public Office* (2<sup>nd</sup> ed.). New York: Oxford University Press. Available for purchase from <http://ukcatalogue.oup.com/product/9780199577279.do#.UUqQMLWe58E>

Rose-Ackerman, S. (1999). *Corruption and Government: Causes, Consequences and Reforms*. New York: Cambridge University Press.

Transparency International. (2007). *Global Corruption Report 2007: Corruption in Judicial Systems*. Cambridge: Cambridge University Press. Retrieved December 15, 2012 from [http://www.transparency.org/whatwedo/pub/global\\_corruption\\_report\\_2007\\_corruption\\_and\\_judicial\\_systems](http://www.transparency.org/whatwedo/pub/global_corruption_report_2007_corruption_and_judicial_systems)

U.S. Foreign Corrupt Practices Act of 1977 (Pub. L. 95-213, 91 Stat. 1494).

Retrieved December 10, 2012 from

<http://www.justice.gov/criminal/fraud/fcpa/statutes/regulations.html>

### **Recommended Readings & Academic/Scholarly Articles**

The following books and resources are for students to select from depending on interest and time. If you do not have the time to read them during the course itself save these titles

to expand your knowledge base later. These books are all worth reading and can be purchased on-line (note that some may be down-loadable for free and that some are available in various languages):

ADB. (2000). ADB/OECD Anti-Corruption Initiative for Asia and the Pacific. Retrieved December 10, 2012 from [http://www.oecd-ilibrary.org/governance/adb-oecd-anti-corruption-initiative-for-asia-and-the-pacific\\_20743440](http://www.oecd-ilibrary.org/governance/adb-oecd-anti-corruption-initiative-for-asia-and-the-pacific_20743440) .

African Union. (2003). The African Union Convention on Preventing & Combating Corruption. Retrieved June 7, 2017 from [https://www.au.int/web/sites/default/files/treaties/7786-file-african\\_union\\_convention\\_preventing\\_combating\\_corruption.pdf](https://www.au.int/web/sites/default/files/treaties/7786-file-african_union_convention_preventing_combating_corruption.pdf) .

Cheng, C. & Zaum, D. (2011). Corruption and Post-Conflict Peacebuilding: Selling the Peace?. New York: Routledge.

Collier, P. (2007). The Bottom Billion. New York: Oxford University Press.

Council of Europe. (1999). The CoE Convention Against Corruption. Retrieved December 15, 2012 from <http://conventions.coe.int/Treaty/en/Treaties/Html/173.htm> .

De Soto, H. (2000). The Mystery of Capital. New York: Basic Books.

Gounev, P. & Ruggiero, V. (2012). Corruption and Organized Crime in Europe. New York: Routledge. Available for purchase from <http://www.routledge.com/books/details/9780415693622/> .

Henning, P. & Radek, L. (2011). The Prosecution and Defense of Public Corruption. New York: Oxford University Press. Available for purchase from <https://store.lexisnexis.com/products/the-prosecution-and-defense-of-public-corruption-skuusSku-us-oxf-04641-Hardbound>.

Herman, A. (2007). How the Scots Created the Modern World. New York: Broadway. Available for Purchase from <http://www.amazon.com/How-Scots-Invented-Modern-World/dp/0609809997> .

Klitgarrd, R. (1991). Controlling Corruption. Berkeley, CA: University of California Press. Available for purchase from <http://www.ucpress.edu/book.php?isbn=9780520074088> .

Ledeneva, A. (2006). How Russia Really Works: The Informal Practices that Shaped Post-Soviet Policy & Business. New York: Cornell University Press (2006). Available for purchase from <http://www.cornellpress.cornell.edu/book/?GCOI=80140100059380> .

McClymount, M. & Grubb, S. (1994). Many Roads to Justice: The Law Related Work of Ford Foundation Grantees Around the World. New York: Ford Foundation.

Milhaupt, C. & Pistor, K. (2008). Law and Capitalism, What Corporate Crises Reveal about Legal Systems and Economic Development around the World. Chicago: University of Chicago Press.

OECD. (2011). Convention on Combating Bribery of Foreign Public Officials in International Transactions. Retrieved June 7, 2017 from [http://www.oecd.org/daf/anti-bribery/ConvCombatBribery\\_ENG.pdf](http://www.oecd.org/daf/anti-bribery/ConvCombatBribery_ENG.pdf) .

The OECD Recommendations of the Council for Furthering Combatting Bribery of Foreign Government Officials in International Business Transactions (<http://www.cgu.gov.br/conferenciabrocde/arquivos/English-2009-Recommendation-of-the-Council.pdf>).

Organization of American States. (1996). The Inter-American Convention Against Corruption. Retrieved December 15, 2012 from <http://www.oas.org/juridico/english/treaties/b-58.html> .

Sandel, M. (2009). Justice – What’s The Right Thing To Do? Farrar, Straus and Giroux.

Sen, A. (1999). Development as Freedom. New York: Knoff.

U.K. Bribery Act (2010). Questions and Answers (UK Serious Fraud Office Guidance). <https://www.sfo.gov.uk/publications/guidance-policy-and-protocols/bribery-act-guidance/>

The United Nations Convention against Transnational Organized Crime and the Protocols Thereto (<http://www.unodc.org/unodc/en/treaties/CTOC/index.html> ).

Wrage, A., Bribery and Extortion: Undermining Business, Governments and Security (2007). Westport, Conn.: Praeger Security International.

WSJ (November 14, 2012). The USDOJ and SEC Finally Release FCPA Resource Guide <https://www.justice.gov/criminal-fraud/fcpa-guidance>.

#### **Academic & Scholarly Articles:**

Eigen, P. (2002). Measuring and Combating Corruption, *The Journal of Policy Reform*, 5(4), 187-201.

Heidenheimer, A. and Johnston, M. *Political Corruption: Concepts and Contexts* (2009), 3rd Edition, Retrieved 20 May 2013 from [http://books.google.at/books?id=49y50pzjAzAC&printsec=frontcover&source=gbs\\_ge\\_summary\\_r&cad=0#v=onepage&q&f=false](http://books.google.at/books?id=49y50pzjAzAC&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false)

McCusker, R. (2006). Review of Anti-Corruption Strategies. Australian Institute of Criminology, Technical and Background Paper, No. 23. Retrieved June 06, 2017 from [http://www.aic.gov.au/media\\_library/publications/tbp/tbp023/tbp023.pdf](http://www.aic.gov.au/media_library/publications/tbp/tbp023/tbp023.pdf)

Moroff, H., Schmidt-Pfister, D. (2010). Anti-Corruption Movements, Mechanisms, and Machines – An Introduction, *Global Crime*, 11(2). Retrieved March 20, 2013 from <http://www.tandfonline.com/action/showCitFormats?doi=10.1080%2F17440571003669118>

Sampford, C., Shacklock, A., Connors, C., Galtung, F. (eds.). (2006). *Measuring Corruption (Law, Ethics and Governance Series)*. Aldershot, England: Ashgate Publishing Limited.

#### **Course Points and Grading Scale – Student Honors Grading Policy**

The following table is an example grading scale for this course. The scores for each module quiz are self-graded. Professors should however use whichever grading scale would be appropriate for their institution. Students are required to turn in their overall score (number of questions answered correctly) at the end of the course. There is a student honors policy/system in effect, which means students are expected to record and turn-in accurate and honest scores on all of their quizzes. During the semester, students are encouraged to do their own research but they are allowed and encouraged to discuss the questions and answers with fellow students. As noted below, students for this class operate under an honors code. This means they are expected not to engage in any copying, plagiarism or dishonesty with respect to the quizzes or class paper. Clear evidence of a violation of this class policy will lead to automatic dismissal from the class.

<b>Assignment/Project</b>	<b>Points Value</b>
<i>Attendance and Participation</i>	xx points (professor decides all points for each category)
<i>Blog or Wiki for your Classroom</i>	xx Points
<i>Discussion Board</i>	xx Points
<i>Quizzes</i>	xx Points
<i>Case Studies</i>	xx Points
<i>Final Project</i>	xx Points
<i>Total Points</i>	XXX

### Course Grade = %Value

<b>Letter Grade</b>	<b>%</b>
A	100 – 95
A-	94.9 – 90
B+	89.9 – 87
B	86.9 – 84
B-	83.9 – 80
C+	79.9 – 77
C	76.9 – 74
C-	73.9 – 70
D	69 – 60
F	Below 60

### Information about the University and the School or Department, Plagiarism and Dishonesty

Help Desk:

Plagiarism: Academic Regulations and Dishonesty Policy for this Class

Plagiarism is the representation of someone else's words, ideas, or work as one's own without attribution. Plagiarism may involve using someone else's wording without using quotation marks—a distinctive name, a phrase, a sentence, or an entire passage or essay. Misrepresenting sources is another form of plagiarism. The issue of plagiarism applies to

any type of work, including exams, papers, or other writing, computer programs, art, music, photography, video, and other media. For purposes of this class, clear evidence of plagiarism related to the required class paper will mean automatic dismissal from this course. Students are encouraged to disclose plagiarism or dishonesty by fellow students to the Professor either anonymously or in person.

### Acknowledgements

The United Nations Office on Drugs and Crime would like to thank Keith Henderson, Adjunct Professor at American University, Washington School of Law for his valuable assistance in developing this course.

### Modules overview

#### **Module I: Corruption as a Global Threat: Causes**

Key Issues/Topics: Forms of corruption; causes of corruption; the impact of corruption at a local national and international level;

Some of the main issues/topics to be covered include:

- Introduction to corruption, including its evolving definition, its basic forms and its manifestations and costs (political, economic, democratic and legal)
- The causes of corruption that arise in different national contexts, with a particular emphasis on corruption in an emerging development context
- The diverse nature and forms of corruption: grand and petty corruption; criminal and civil; state capture and public and private sector corruption
- Costs of corruption globally and on a national level. Discussion of country case studies demonstrating the impact of corruption.
- The wider impact of corruption on key rule of law institutions including the judiciary and law enforcement agencies
- How corruption became a global problem, the international nature of most major corruption offences.
- Mini lecture, video and open class discussion and debate on a global corruption and case study on justice and what is the right thing to do?

Emerging/breaking topics, issues and scandals are openly discussed/debated

#### **Module II: The United Nations Convention Against Corruption (UNCAC) as a response to the global threat of Corruption**

Chapters 1-8: Summary Overview of Articles 1-71

Key Issues/Topics: Background to the development of the UNCAC; Overview of how the UNCAC seeks to address the global corruption phenomenon; Looking at the UNCAC through a good governance and rule of law lens.

Some of the main topics covered are:

- Brief history of the evolution of the global anti-corruption movement, including key international anti-corruption conventions/treaties, non-governmental organizations and international organizations
- UNCAC's unique legal and institutional framework for addressing and preventing

corruption and simultaneously promoting good governance and the rule of law/human rights (A1)

- UNCAC's Purpose, Terms and Scope
- Definitions: UNCAC's terminology and definitions of corruption offenses (A2)
- The role of key stakeholders in supporting the implementation of UNCAC, including the public sector, private sector and civil society (A13)
- UNCAC's emphasis on engaging all relevant stakeholders in national and international anti-corruption efforts
- UNCAC implementation and enforcement issues, including an introduction to the UNCAC Implementation Review Mechanism

Emerging/breaking topics, issues and scandals are openly discussed and debated.

### **Module III - Prevention: Good Governance and the Rule of Law**

Chapter 2: Articles 1 - 14 (with emphasis on A6 – 9)

Key Issues/Topics: Rule of law; good governance; civil service reform; codes of conduct; conflicts of interest; transparency and accountability.

Some of the main issues/topics to be covered include:

- Promoting the key principles of transparency and accountability in public administration
- Considering, as a whole, the wide range of good governance measures that can be taken to reduce corruption in public administration (Arts. 7 – 13)
- Promoting civil service reform and integrity (A7, 8)
- Promoting the adoption of codes of conduct, ethics disclosure and conflict of interest laws for public officials (A8, 9)
- Promoting access to financial disclosure statements made by public officials (Art 8)
- Promoting integrity in justice and prosecutorial authorities (Art 11)

Emerging/breaking topics, issues and scandals are openly discussed/debated.

### **Module IV - Prevention: Public Participation, Open Government and Education**

Chapter 2: Article 13 (and related Articles 8 &10)

Key Issues/Topics: Open Government Laws and Policies; The Role of Civil Society; Public Monitoring & Reporting

Some of the main issues/topics to be covered include:

- Accessing government information/data (A13)
- Transparency in the government decision-making process and in public administration, particularly public budgets and expenditures (A8)
- Legislating prevention-oriented measures, including access to information laws and policies protecting and promoting corruption reporting and freedom of expression rights (A10)
- Promoting public awareness and public education through anti-corruption bodies and through the development of school and university curricula (A 6 & 13)
- Seeking, receiving, publishing and disseminating information related to corruption (A13)

- Issuing public independent audits and adopting global accounting standards

Emerging/breaking topics, issues and scandals are openly discussed/debated.

## **Module V - Preventing Corruption in the Private Sector**

Chapter 2: Articles 12, 21, 22, 23, 24, 26, 39 & 40

Key Issues/Topics: Bribery of Foreign Government Officials; Criminal Liability for False Financial Disclosure; National and International Law Enforcement Cooperation, Asset Recovery and Money Laundering

Some of the main issues/topics to be covered include:

- Adopting global private sector internal accounting and auditing standards and financial disclosure statements (A12)
- Adopting codes of conduct and addressing conflict of interest in the private sector (A12)
- Requiring transparent corporate legal identities (A12)
- Preventing conflicts of interest by regulating the professional activities of former public officials.
- Adopting criminal sanctions for bribery, embezzlement, concealment, within the private sector - such as in the private procurement process (A21, 22, 24)
- Participating in law enforcement cooperation on a range of corruption issues, including money laundering and bank secrecy (A12, 14, 39 & 40)
- Placing requirements on financial institutions and other entities to report “suspicious transactions” and money laundering (A23)
- Enforcing criminal liability for bribery of foreign government officials and false financial disclosures in international business transactions (A21)
- Establishing corporate legal liability for UNCAC criminal, civil or administrative offenses (A26)

Emerging/breaking topics, issues and scandals are openly discussed/debated.

## **Module VI - Prevention: Whistleblowing and the role of the Media in Reporting Corruption**

Chapter 2: Articles 8, 10, 12, 13 (and the UDHR A19)

Key Issues/Topics: transparent decision-making; access to information; whistleblowing and anti-corruption reporting protection; civil society participation and justice systems with integrity

Some of the main issues/topics include:

- Promoting open and anonymous internal and external whistleblowing (A8, 13)
- Promoting incentives for reporting on corruption and whistleblowers, witnesses, experts and victims in the public and private sectors, including protection (A32 & 33 and see reading materials)
- Protecting the right to seek, receive, publish and disseminate corruption information (A13 and the UDHR)
- Requiring periodic anti-corruption reports on public administration and financial reporting reports from the public and private sectors (A 10)
- Linking monitoring and reporting and the rule of law -- fair and effective enforcement

of the law (reading materials)

Emerging/breaking topics, issues and scandals are openly discussed/debated.

## **Module VII Prevention: Corruption in Justice, Prosecutorial and Anti-Corruption Institutions**

Chapter 2: Article 11 (and related UDHR A10)

Key Issues/Topics: judicial and prosecutorial corruption; judicial and prosecutorial independence; law enforcement corruption; anti-corruption authorities corruption; justice sector transparency; justice sector accountability; judicial enforcement; anti-corruption institution/authority corruption; international and national judicial cooperation and human rights

[This crosscutting article relates and supports many articles throughout all chapters of the UNCAC, including those related to prevention, law enforcement, cooperation, technical assistance, asset recovery, implementation and universal human rights].

Some of the main issues/topics to be covered include:

- Measuring the scope and nature of justice and prosecutorial sector corruption from both an UNCAC implementation and rule of law perspective (A11&UDHR A10)
- Linking judicial integrity and independence as promoted by the UNCAC with fair, effective and efficient enforcement of universal human rights in the UDHR (A11 & UDHR A10)
- Linking human rights prevention and fair and effective enforcement and corruption within the justice sector (courts) (A11 & UDHR A10)
- Consider the relevance of UNCAC's corruption prevention and criminal law mandates to the prevention of corruption in law enforcement and anti-corruption authorities (including the police and the ministries of justice and security) (A11 & A5-65 and UDHR A10)
- Addressing justice and prosecutorial corruption through international cooperation and asset recovery, as mandated by the UNCAC (A11 & 46-63)
- Linking to the UNCAC and UDHR mandates on the independence of judicial, law enforcement and anti-corruption authorities with the prevention of justice sector corruption (A6 & 11&UDHR A10)

Emerging/breaking topics/issues/scandals are openly discussed/debated.

## **Module VIII Prevention: Public Procurement and Financial Management**

Chapter 2: Articles 5-13 (with emphasis on A9)

Key Issues/topics: public and private sector corruption, civil service integrity, transparency, accountability.

Some of the main issues/topics to be covered include:

- Mandating transparency in public procurement and financial management processes (A9)
- Promoting integrity in the civil service and public officials (A7, 8 & 9))
- Promoting accountability and the rule of law in the public procurement and financial management process (A9 and related A6, 9 & 11)
- Using technology and E-government to prevent corruption in public procurement and financial management processes (reading materials)

- Calculating the cost of public procurement corruption to governments, businesses, society and citizens (reading materials)
- Using methodologies to analyze corruption and its risks within the public procurement process step-by-step through a value chain and the identification of best practices (reading materials)
- Promoting civil society and private sector monitoring and reporting and public/private partnerships (A5, 9,10,11&13 and reading materials)

Emerging/breaking topics, issues and scandals openly discussed/debated.

### **Module IX Prevention: Money Laundering**

Chapters 2 and 3: Articles 14, 15, 16, 23, 37, 40, 46, 51, 52 & 58

Key Issues/topics: addressing and preventing Money Laundering; money laundering/corruption and criminal predicate offenses and FIU's and suspicious transactions

Some of the main issues/topics to be covered include:

- Requiring financial institutions and other entities to have AML preventive measures in place and to report on "suspicious transactions" (A14 & 58)
- Promoting financial intelligence units (FIUs) (A14 & 58)
- Requiring state parties to include a comprehensive range of crimes as predicate offenses to money laundering (A14 & 23)
- Requiring national and international cooperation to prevent and combat money-laundering (A39, 43, 44, 46, 48 and A14)
- Requiring cooperation between the law enforcement community and the financial sector
- Requiring fair and effective enforcement of money laundering laws and policies by a law enforcement community with integrity (A11)

Emerging/breaking topics, issues and scandals openly discussed/debated.

### **Module X - Key Criminalized Offenses and Enforcement**

Chapter 3: Articles 1-42

Key Issues: public sector bribery; private sector bribery; embezzlement; illicit enrichment; justice sector integrity, organized crime and enforcement.

Some of the main issues/topics to be covered include:

- Preventing and addressing public and private sector bribery within national and international context (A15, 16, 20)
- Explaining the selection and definitions of key criminalized corruption offenses mandated under the UNCAC
- Best practices examples of legislative reform enacted by States parties to implement the requirements of the Convention
- Calculating and minimizing your legal criminal and civil risks for violating a country's foreign Bribery law (A63)
- Preventing and addressing Embezzlement and Illicit Enrichment (A17, 20, 22)
- Calculating and minimizing legal criminal and civil risks for Embezzlement and Illicit Enrichment

- Linking-up the crimes of Bribery, Embezzlement and Illicit Enrichment with Asset Seizure and Confiscation laws/UNCAC mandates(A31)
- Preventing and addressing corruption in the justice sector is key to UNCAC implementation and enforcement success (A11)
- Gauging the international scope of and precedents in the US Foreign Corrupt Practices Act (A16)

Emerging/breaking topics, issues and scandals openly discussed/debated.

### **Module XI - UNCAC Law Enforcement Provisions and Human Rights**

Chapter 3: Articles 25, 32, 33, 34, 36, 37 & 39 and related Articles 5, 6, 8, 10, 11 & 13 & the UDHR A10 &19)

Key Issues: protection for victims, witnesses, reporting persons, whistleblowers, defense lawyers, justice system officials, journalists and bloggers, corruption and organized crime and the fair and effective enforcement of human rights

Some of the main issues/topics covered include:

- Exploring the role of specialized anti-corruption authorities in the enforcement of anti-corruption legislation.
- Linking human rights related issues, laws, policies and good governance in the UDHR and the UNCAC law enforcement provisions, (A 8, 10, 13, 25, 32, 33)
- Linking UNCAC provisions related to the independence of justice and anti-corruption authorities with the effective enforcement of corruption offences. (A5, 6, 11 & 36)
- Linking fair and effective enforcement of human rights and the fair and effective implementation of anti-crime/anti-corruption conventions, laws, regulations and policies (A11, 30, 34 & 35)

Emerging/breaking topics, issues and scandals openly discussed/debated.

### **Module XII - Cooperation between National Authorities, Public Officials and the Private Sector**

Chapters 3 & 4: Articles 38, 39, 40, 42 (and related articles 6, 11, 12 & 13 and UDHR A10)

Key Issues: Mutual legal assistance; bank secrecy; national law enforcement and public/private sector cooperation and legal jurisdiction

Some of the main issues/topics to be covered include:

- Promoting formal and informal coordination and cooperation between national authorities, law enforcement authorities and public officials and /private sector cooperation -- particularly in the financial system (A39, 48 & 11, 12, 13 & 14)
- Establishing legal jurisdiction over UNCAC offenses (A42)
- Reporting acts of corruption to the national and international law enforcement community and relevant government authorities safely (A32, 33, 38, 39, 43 & 11)
- Scaling bank secrecy walls through enhanced law enforcement cooperation, mutual legal assistance, whistleblowing and information networking (A39, 40, 46, & 11 -13)

Emerging/breaking topics, issues and scandals openly discussed/debated.

### **Module XIII - International Cooperation and Mutual Legal Assistance**

Chapter 4: Articles 43 & 46 (and related A44, 46, 47, 48 & 54 & 10 – 13 and UDHR A10)

Key Issues: international law enforcement cooperation; extradition; legal basis for mutual legal assistance; dual criminality; private sector cooperation; access to information from law enforcement and international organizations; reporting corruption to the law enforcement community and law enforcement community integrity

Some of the main issues/topics to be covered include:

- Requiring international law enforcement cooperation, in relation to mutual legal assistance and extradition. (A14, 43-50 & 54 & 11&13)
- Rendering extradition and mutual legal assistance under the UNCAC where no country-to-country treaty exists (A46)
- Taking a flexible approach to the requirement of dual criminality as required under the UNCAC (A46)
- Requiring formal and informal coordination and good governance mechanisms to promote international cooperation and public/private sector cooperation (A43-50 & 11-13)
- Promoting justice, prosecutorial and anti-corruption authorities integrity within international law enforcement cooperation context (A11 and UDHR A10)

Emerging/breaking topics, issues and scandals openly discussed/debated.

#### **Module XIV - International Law Enforcement Cooperation and Asset Recovery**

Chapter V: Articles 50 – 58 (and related Articles 6, 11, 13, 14, 31, 38, 40 and 43 and UDHR A10)

Key Issues: International and national cooperation/asset recovery; civil forfeiture; money laundering and financial intelligence units (FIU's); corruption reporting to other State parties; return and disposal of stolen State assets

Some of the main issues/topics to be covered include:

- Requiring national and international cooperation among law enforcement, judicial and regulatory institutions on asset recover and money laundering (A52 & 14)
- Requiring related laws and procedures that allow for civil forfeiture (A53)
- Requiring cooperation to assist in the recovery of stolen assets of another UNCAC State (A55)
- Requiring laws and procedures that allow for the return of State assets (A57)
- Promoting the establishment of financial intelligence units (FIUs –A 14 & 58)
- Promoting Integrity in the justice, prosecutorial and anti-corruption authorities as a precondition for effective international cooperation on asset recovery (A6, 10 & UDHR A10)

Emerging/breaking topics, issues and scandals openly discussed/debate.

#### **Module XV - UNCAC Summary and Implementation Issues**

UNCAC Chapters: Chapters I – VIII: Articles 1-71

Key Issues: Corruption prevention; criminal law; national international law enforcement cooperation; asset recovery; corruption in the justice/enforcement community and universal human rights

Main Topics:

- Identifying and discussing the main challenges in the domestic implementation by States Parties of the requirements of the UNCAC.
- Analyzing areas of reform where the greatest progress has been made following the adoption of UNCAC.
- Summarizing and considering the key elements of the UNCAC in relation to prevention, criminalization, international cooperation and asset recovery;
- UNCAC articles related to justice, institutional integrity and fair, effective and efficient enforcement;
- Considering the mechanisms available, including the UNCAC Implementation Review Mechanism to assist State Parties in their implementation of the Convention;
- Career opportunities in the corruption, good governance and rule of law spheres.

Written/online Exam and/or Research Paper and/or Course Certificate (options)

Course Evaluation

# 1



## Corruption as a Global Threat: Causes, Forms and Costs

### **i** Introduction/ Thesis for Class Discussion and Debate

This module opens the course by introducing students to the issue of corruption from a local, national and international perspective. While corruption is often defined as the “abuse of entrusted power for private gain”, it can take a wide range of forms and students in this module will be asked to discuss and consider the different types of activities that they consider as constituting corrupt acts. Students will be asked to discuss and debate what corruption means through the eyes of various stakeholders, focusing in particular on countries where corruption has had a negative impact on the rule of law. Students will also be encouraged to begin considering how corruption has been defined in national laws and in international instruments such as the UNCAC, the OECD Anti-Bribery Convention, and the Council of Europe Conventions. The development of the international anti-corruption legal framework will be addressed in more detail in Module II.

Having addressed the question of how corruption is defined, students will consider its causes and effects. A wide variety of factors can lead to corruption becoming commonplace in particular contexts. A combination of low risks due to a lack of law enforcement, significant incentives due to low pay levels or unemployment, and high potential benefits due to the considerable size of the illicit gains to be made, can lead to corruption becoming commonplace.

Finally, the effects and costs of corruption are as diverse as its causes. While the pure financial cost of embezzlement and bribery will often be the focus of the headlines, the actual economic and social impact of systemic corruption is much harder to assess. In countries that are seeking to support the rule of law and reinforce democratic institutions, corruption can have a particularly damaging effect. Conducting their own research into instances of corruption in their own country, students will look at the broader impact corruption can have on a country’s ability to govern for the benefit of its citizens.

In considering these issues, students will be introduced to the latest tools and best resources for the purpose of analysing and calculating the full cost of corruption including the UNODC Tools and Resources for Anti-Corruption Knowledge Portal.

### **k** Key Issues

Forms of corruption; causes of corruption; the impact of corruption at a local national and international level.

### **b** UNCAC Articles

Chapter 3: Articles 15-25; mandatory & non-mandatory criminal and civil offenses



Finally, students will consider why corruption is now being addressed at the international level and why the effects of corruption in one country can be felt around the globe. Recognition of the global impact of corruption on security, the rule of law and the democratic legitimacy of governments has led to agreement amongst States that it can only effectively be addressed through a truly international response.

### Main Topics

- Introduction to corruption, including its evolving definition, its basic forms and its manifestations and costs (political, economic, democratic and legal)
- The causes of corruption that arise in different national contexts, with a particular emphasis on corruption in an emerging development context
- The diverse nature and forms of corruption: grand and petty corruption; criminal and civil; state capture and public and private sector corruption
- Costs of corruption globally and on a national level. Discussion of country case studies demonstrating the impact of corruption.
- The wider impact of corruption on key rule of law institutions including the judiciary and law enforcement agencies
- How corruption became a global problem, the international nature of most major corruption offences.
- Mini lecture, video and open class discussion and debate on a global corruption and case study on justice and what is the right thing to do?

### Key Lesson

Clearly defining corruption and understanding its costs to various stakeholders is a key precondition for preventing and addressing corruption and related human rights abuses.

### Learning Goals

- To introduce the student to the historical and evolving concept of corruption and its current legal definition under relatively new international instruments, such as the UNCAC.
- To introduce students to some of the key sources to turn to for purposes of analyzing the legal definition and impact of corruption laws on various stakeholders both internationally and domestically.
- To introduce the student to some of the legal and philosophical issues that should be undertaken when confronted with the question as to “what is the right thing to do.” The student will be queried as to what should the values and analytical process be for defining corruption and determining the right thing to do from the perspective of all key stakeholders.

### Class Assignment/ Main Tasks

*Please read the Required readings and selected Recommended readings and think about the issues raised in each (from both a private and public sector perspective).*

1. Read/Identify: From the required and recommended reading and prepare short answers to the following questions:
  - What are three of the most common causes of corruption?
  - To what extent is it possible to measure the amount of corruption occurring in a country?





- To what extent is it possible to measure the impact of corruption?
2. Research/Identify: Using the research tools listed below and your own research, summarize in two pages the key corruption challenges facing your own country, including your own experiences.
  3. Read/Identify: From the reading in Corruption and Human Rights, Making the Connection, consider the following questions:
    - How can corruption lead to the violation of human rights?
    - To what extent can measures aimed at protecting human rights also support the prevention of corruption?

## Resources

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### Required Reading

Rose-Ackerman, S. (1999). Corruption and Government, Corruption and Peacebuilding edited by Dominik Zaum, Christine Cheng , pp46-61.

Rose-Ackerman, S., Corruption: Greed Culture and the State, Yale Law Journal Online, Volume 120, 2010, pp. 125-140. <http://yalelawjournal.org/the-yale-law-journal-pocket-part/international-law/corruption:-greed,-culture,-and-the-state/>

Corruption and Human Rights, Making the Connection, pp. 5-30. [http://www.ichrp.org/files/reports/40/131\\_web.pdf](http://www.ichrp.org/files/reports/40/131_web.pdf)

Summary review of the actions constituting corruption under key international and regional instruments, including the UNCAC (2003), the IACAC (1996), the COE CAC (1999), AUCPC (2003) and the ADB/OECD ACI (2000). (See Bibliography).

Transparency International Global Corruption Report 2007 – Corruption in the Judicial System, [http://issuu.com/transparencyinternational/docs/global\\_corruption\\_report\\_2007\\_english?mode=window&backgroundcolor=%23222222](http://issuu.com/transparencyinternational/docs/global_corruption_report_2007_english?mode=window&backgroundcolor=%23222222)

### Articles and Media

Wasow, B., A (very) Brief History of Corruption, The Globalist – the daily online magazine on the global economy, politics and culture, March 10, 2011, <https://www.theglobalist.com/a-very-brief-history-of-corruption/>

### Recommended Readings & Academic/Scholarly Articles & Books

European Commission- Centre for the Study of Democracy, Examining the Links between Organized Crime and Corruption, 2010, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/doc\\_centre/crime/docs/study\\_on\\_links\\_between\\_organised\\_crime\\_and\\_corruption\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/doc_centre/crime/docs/study_on_links_between_organised_crime_and_corruption_en.pdf)

Justice - - What's The Right Thing To Do? Sandel, M. Lectures 1 & 2. Justice --What's The Right Thing To Do? (2009). Chapter 1 -- Doing the Right Thing.

### Useful Websites

<https://track.unodc.org/LegalLibrary/Pages/home.aspx>

UNODC website on the United Nations Convention against Corruption. Overview. Retrieved December 10, 2012 from <http://www.unodc.org/unodc/en/treaties/CAC/index.html>

The U4 Anti-Corruption Resource Centre has a number of resources ( <http://www.u4.no> )

Transparency International also has a number of resources: (<http://www.transparency.org>)

### Quiz and Questions for Class Discussion

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1. What is the current consensus definition of corruption embedded in various regional and international instruments? Does this definition include mandatory and non-mandatory crimes and civil actions? How about emerging best practices?
2. Which state and non-state institutions are most detrimentally impacted by corruption in developing countries? How about developed countries?
3. Does corruption have more of a detrimental impact in countries where corruption is endemic?
4. Who are the key anti-corruption stakeholders?
5. What institutions are necessary to fighting and preventing corruption?
6. Is the rule of law essential to addressing corruption fairly and effectively? What is the potential impact of corruption on the rule of law?
7. Can human rights abuses be prevented or addressed fairly and effectively if the justice system is endemically corrupt?



# 2



## Introduction to the United Nations Convention against Corruption

### Introduction/Thesis for Class Discussion and Debate

The main purpose of this module is to introduce the new global framework for addressing and preventing corruption under the United Nations Convention Against Corruption (UNCAC) and to provoke discussion on the range of inter-related values embedded within the Convention, including transparency, accountability, integrity, justice and cooperation. Questions related to how to define and prioritize different forms of corruption and how to decide “what the right thing to do when confronted with corruption are also discussed and analyzed throughout the course.

A closely related second purpose is to introduce and debate the holistic methodology captured within the UNCAC framework that can be used to identify and analyze the increased risks and costs of both public and private sector corruption through the lens of multiple stakeholders.

A third purpose is to also introduce the student to the global phenomenon of corruption, including a growing consensus as to how to define, prioritize, prevent and address the problem and how to measure its myriad quantifiable and hidden costs. A brief history of the evolution of the anti-corruption legal framework embedded in the UNCAC is also discussed, including references to key international anti-corruption conventions, such as those of the Organization of American States, the Organization for Economic Development and Cooperation, the Council of Europe and the African Union. This module will also note the important role that emerging technologies and civil society groups like Transparency International play in preventing and reducing the risk and cost of corruption to multiple stakeholders.

Recent passage of the UNCAC has for the first time established minimum legal and governance anti-corruption norms and transparency and accountability principles for virtually all countries. Understanding the potential impact these new universal norms and principles will have on key public and private governance and corruption issues within country, sectoral and institutional context will be very important for all stakeholders. Hopefully this module will plant the seeds for a longer fertile discussion.

The Scope of this module will primarily focus on key UNCAC Articles relating to

### Key Issues

Introduction to the UNCAC: Strengths and Weaknesses.

### UNCAC Articles

Chapters 1-8: Summary Overview of Articles 1-71



corruption crimes and key institutional corruption problems common to the 165+ countries that have ratified the Convention. For the purposes of this module, as well as this course, “corruption” will be defined to include all of the crimes the UNCAC requires signatory countries to pass and enforce right now, as well as those it recommends for serious consideration. While the full range of acts that constitute corruption is still an evolving concept within different country contexts, the UNCAC effectively captures the current global consensus that certain acts are deemed to be corrupt in virtually all countries. Legal harmonization will promote more effective and efficient national and international law enforcement cooperation and enforcement of the law. It will also promote a shared set of public and private sector business values that will help promote global economic growth and more efficient markets.

The module and the course more generally, will also include discussion and analysis of a range of emerging laws, policies, principles, values and best practices referenced in the UNCAC and how many evolved over time through the passage of regional and international anti-corruption conventions/treaties. The measures in all of these conventions are geared towards promoting more transparency, accountability and oversight across both the public and private sectors, including the regulatory and contract procurement processes, as well as more public dialogue, participation and access to information.

Finally, in this module and throughout the course, it is important for students to try and analyze all of the issues discussed through the lens of multiple stakeholders and disciplines, including business enterprises, human rights groups, government officials, justice and law enforcement officials, donors, international organizations, NGOs/CSOs, the media, the general public, and last but not least, the poor and disenfranchised. It is also important for students to have a basic understanding of what international law is and the important growing role that international conventions and treaties play in globalization and international cooperation.

**Anti-Corruption Conventions and Treaties.** Many key provisions of the UNCAC are embedded in regional and international conventions/treaties passed in the last two decades, although the UNCAC is unique in that it is the broadest and only truly global anti-corruption treaty. It also has novel provisions, such as those related to asset recovery and mandatory international law enforcement cooperation that set it apart from the others.

- (i) Inter-American Convention Against Corruption (OAS-1996);
- (ii) Organization of Economic Development and Cooperation’s Convention on Combatting Bribery of Foreign Public Officials in International Transactions (OECD-1999);
- (iii) Council of Europe Convention Against Corruption (COE-1999);
- (iv) African Union Convention on Preventing and Controlling Corruption (AU – 2003) and
- (v) Asian Development Bank/OECD Anti-Corruption Initiative for Asia and the Pacific (ADB/OECD – 2000).

**UNCAC’s Mandatory Criminal Measures.** States parties to the UNCAC must now include the following offences in their criminal legislation:

- (i) active and passive bribery of national public officials (A15);
- (ii) embezzlement or misappropriation by a public official (A17);
- (iii) laundering of proceeds of a crime (A23);
- (iv) obstruction of justice (A25);
- (v) assisting or instigating corruption (A27).

**UNCAC’s Non-Mandatory Criminal Measures.** State Parties are required to consider criminalizing:

- (i) passive bribery of foreign public officials and officials of public international





- organizations (A16);
- (ii) abuse of functions (A19);
- (iii) illicit enrichment (A20);
- (iv) active and private bribery in the private sector (A21);
- (v) embezzlement of property in the private sector (A22);
- (vi) concealment (A24);
- (vii) obstruction of justice (A25)
- (viii) any attempt to commit, or preparation for, an offense established under the UNCAC and
- (ix) a long statute of limitations.

**Non-Criminal measures.** In addition, State parties are required or encouraged to pass or adopt a wide range of non-criminal measures, laws, administrative regulations and government policies designed to promote the implementation of the UNCAC fairly and effectively, including:

- (i) freezing, seizure and confiscation of proceeds of crimes related to the UNCAC (A31);
- (ii) protection of witnesses, experts and victims (A32);
- (iii) protection of reporting persons (A33);
- (iv) establishment of independent authorities specialized in combatting corruption and both domestic and international law enforcement cooperation (A37);
- (v) cooperation between national authorities (A38);
- (vi) cooperation between national authorities and entities of the private sector -- particularly financial institutions (A39);
- (vii) curtailment of bank secrecy (A40);
- (viii) extradition (A43);
- (ix) mutual legal assistance (A44);
- (x) measures to allow for the appropriate use of special investigative techniques (A50);
- (xi) establishing financial intelligence units (A14) and
- (xii) asset recovery (A51).

**Good governance practices include:**

- (i) open government laws --such as income and asset disclosure access to information and whistleblowing (A8, 9, 12 & 13);
- (ii) institutional integrity issues -- such as corruption in the justice and prosecutorial authorities and the anti-corruption commission/unit (A11); and
- (iii) international law enforcement cooperation issues -- such as money laundering and asset recovery (A14 & 51-59).

 **Main Topics**

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The main topics covered are the broad inter-related issues of corruption, governance and the rule of law and the main purpose, terms and scope of the UNCAC (A1-4)

- Introduction to the global corruption phenomenon, including its basic forms, manifestations and costs (political, socio-economic, legal and cultural)
- Brief history of the evolution of the global anti-corruption movement, including key

international anti-corruption conventions/treaties, non-governmental organizations and international organizations

- UNCAC's unique legal and institutional framework for addressing and preventing corruption and simultaneously promoting good governance and the rule of law/human rights (A1)
- UNCAC terminology and definitions of civil and criminal corruption offenses (A2)
- Risks and opportunities for key stakeholders in the public and private sector
- Implementation and enforcement issues from a rule of law perspective

Emerging topics and issues open discussion

## Key Lessons

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- Understanding the requirements of the UNCAC is of up-most importance to the public and private sectors, the international community and to multiple civil society stakeholders.
- A wide variety of challenges in implementing the UNCAC exist within different country contexts. Understanding how the Articles of the Convention are closely-linked and cross-cutting, as well as which ones serve as the foundation for others, is key to successfully meeting its requirements and thereby reducing the risks and cost of corruption, enforcing universal human rights and promoting good governance practices.

## Learning Goals

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- To have a general understanding of the history and importance of international law and regional and global anti-corruption conventions/treaties.
- To have a global summary overview of key criminal and good governance provisions of the UNCAC as they relate to both the private and public sectors.
- To have critical knowledge of the nature, scope and cost of global corruption
- To have critical knowledge of key sources to turn to for the purposes of analyzing UNCAC Articles and their potential impact on both the public and private sector.

## Class Assignment/Main Tasks

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1. In addition to the Required readings and selected Recommended readings of interest, do your own independent research with an eye towards developing a systematic research methodology for on-going research in this course and work in this field. Be able to identify key research resources that include best practices frameworks, country compliance reports and empirical data and surveys from various stakeholders. Be able to articulate, step-by-step, the general research methodology you would employ for country and sectoral research.
2. After you have completed Task 1 and 2 be able to identify the key resources you would turn to for purposes of: (i) analyzing country compliance with the UNCAC; (ii) the scope and nature of corruption in a specific country and (iii) the costs and risks of corruption from both a public and private sector sectoral perspective.
3. Develop a 3 to 5 page Power Point presentation for the CEO of BAE noting all key UNCAC related issues that arose in the BAE case.
4. Read the introduction to the UNODC Legislative Guide (cited below) and become familiar with how it is organized and how to use it as a general reference document. The Guide should be consulted for technical guidance on key issues raised in each class module.





## Resources

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### Required Reading

UNODC Legislative Guide for the Implementation of the UNCAC. New York, NY: United Nations. Retrieved June 7, 2017 from [https://www.unodc.org/pdf/corruption/CoC\\_LegislativeGuide.pdf](https://www.unodc.org/pdf/corruption/CoC_LegislativeGuide.pdf)

UNODC. Technical Guide to the United Nations Convention against Corruption. (2009). Vienna: United Nations Office on Drugs and Crime. Retrieved December 10, 2012 from [http://www.unodc.org/documents/corruption/Technical\\_Guide\\_UNCAC.pdf](http://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf)

Hardoon, D. (Sept. 18, 2012). Barriers to preventing corruption: what do business people say? Transparency International. (<http://blog.transparency.org/2012/09/18/barriers-to-preventing-corruption-what-do-businesspeople-say/>)

IBA Legal Projects. (n.d.). Defining Corruption. Retrieved March 20, 2013 from <http://www.track.unodc.org/Academia/Documents/IBA%20Defining%20corruption.pdf>

Cleveland, M. et al. (2009). Trends in the International Fight Against Corruption. Journal of Business Ethics, 90(2), pp. 199-244. Retrieved March 21, 2013 from <http://link.springer.com/article/10.1007%2Fs10551-010-0383-7?LI=true>

Mungiu-Pippidi, A. (2011). Contextual Choices in Fighting Corruption: Lessons Learned. Berlin, Oslo, Norway: NORAD – Norwegian Agency for Development Cooperation. Retrieved June 7, 2017 from <https://www.norad.no/om-bistand/publikasjon/2011/contextual-choices-in-fighting-corruption-lessons-learned/>

Pope, Jeremy (2000), Confronting Corruption: The Elements of a National Integrity System (TI Source Book). Berlin: Germany: Transparency International. Retrieved March 21, 2013 from <http://archive.transparency.org/publications/sourcebook>

Posadas, A., Combatting Corruption under International Law, Duke Journal of Comparative and International Law, 10(2), pp. 345-414. Retrieved March 21, 2013 from <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1220&context=djcil>

Sporckin, S. (1997). Worldwide Banning of Schmiergeld: A Look at the Foreign Corrupt Practices Act on its Twentieth Birthday, The Northwestern Journal of International Law & Business, 18(2), 269-281. Retrieved December, 10, 2012 from <http://www.heinonline.org.proxy.wcl.american.edu/HOL/Page?handle=hein.journals/nwji1b18&id=9&collection=journals&index=journals/nwjilb>

Rose-Ackerman, S. (1999). Corruption and Government: Causes, Consequences and Reforms. New York: Cambridge University Press

Wasow, B. (Mar. 10, 2011). A (Very) Brief History of Corruption. The Globalist. Retrieved March 21, 2013 from <http://www.theglobalist.com/storyid.aspx?StoryId=9025>

### Recommended Reading & Academic/Scholarly Articles & Books

African Union Convention on Preventing and Combating Corruption ([https://www.au.int/web/sites/default/files/treaties/7786-file-african\\_union\\_convention\\_preventing\\_combating\\_corruption.pdf](https://www.au.int/web/sites/default/files/treaties/7786-file-african_union_convention_preventing_combating_corruption.pdf)).

Council of Europe. (2009). Criminal Law Convention on Corruption – Explanatory Report (ETS No. 173). Retrieved December, 10, 2012 from <http://www.conventions.coe.int/Treaty/EN/Reports/Html/173.htm>

Council of Europe. (1997). Resolution (97) 24 on the Twenty Guiding Principles for the Fight Against Corruption. Retrieved March 21, 2013 from [http://www.coe.int/t/dghl/monitoring/greco/documents/Resolution\(97\)24\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/documents/Resolution(97)24_EN.pdf)

ICC Commission on Corporate Responsibility and Anti-Corruption. (1996). Rules of

Conduct to Combat Extortion and Bribery. Paris, France: International Chamber of Commerce (ICC). Retrieved December, 10, 2012 from [http://www.iccwbo.org/Advocacy-Codes-and-Rules/Document-centre/1996/ICC-Rules-of-Conduct-to-Combat-Extortion-and-Bribery-in-International-Business-Transactions-\(1996-Edition\)/](http://www.iccwbo.org/Advocacy-Codes-and-Rules/Document-centre/1996/ICC-Rules-of-Conduct-to-Combat-Extortion-and-Bribery-in-International-Business-Transactions-(1996-Edition)/)

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Organisation for Economic Co-Operation and Development. (2012). International Investment. Retrieved December, 10, 2012 from <http://www.oecd.org/daf/internationalinvestment/>

Henderson, K., (2006). Half Way Home But a Long Way to Go: Reflections of an International Development and Business Practitioner Through a Rule of Law and Anti-Corruption Lens. Singapore: Asia-Pacific Economic Cooperation. Retrieved December 10, 2012 from <http://dspace.cigilibrary.org/jspui/handle/123456789/12665>

Hin, Koh Tek. (2012). National Anticorruption Strategies: The Singapore Experience. Resources Material Series No. 86, Visiting Experts' Papers, 14th UNAFEI UNCAC Training Programme. Retrieved March 21, 2013 from [http://www.unafei.or.jp/english/pdf/RS\\_No86/No86\\_00All.pdf](http://www.unafei.or.jp/english/pdf/RS_No86/No86_00All.pdf)

Johnson, S. (1998). The Internet Changes Everything: Revolutionizing Public Participation and Access to Government Information through the Internet. Administrative Law Review, 50(2), 277-388. Retrieved December, 10, 2012 from <http://www.wcl.american.edu/journal/alr/50/50-2johnson.pdf>

Vaughn, R. (2012). Sources and Failures of Whistleblower Laws. London, England: Edgar Elgar Press.

Vincke, F. & Heimann, F., 2005. Combating Extortion and Bribery: ICC Rules of Conduct and Recommendations. Paris, France: International Chamber of Commerce. Retrieved December, 10, 2012 from <http://www.u4.no/recommended-reading/combating-extortion-and-bribery-icc-rules-of-conduct-and-recommendations/>

### **Academic/Scholarly Articles & Books:**

Argandoña, A. (2005). Corruption and Companies: The Use of Facilitating Payments. Journal of Business Ethics, 60, 251-264.

Atbani, F. (2007). The Prevention of Financial Crime Within an Islamic Legal Framework. Economic Affairs, 27(1), 27-33.

Boersma, M., Basic Issues, in Corruption: a Violation of Human Rights and a Crime under International Law?, School of Human Rights Research, 56(1), 25-5.

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Cassese, A. (2004). International Law. (2nd ed.). New York: Oxford University Press.





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Universal Declaration of Human Rights (<http://www.un.org/en/documents/udhr/index.shtml>) .

De Jaegere, S. (2012). Principles for Anti-Corruption Agencies. *Jindal Journal of Public Policy*, 1(1), 79-120. Retrieved June 7, 2017 from <http://www.pogar.org/publications/ac/2012/publications/Principles%20for%20ACA%20a%20muel%20De%20Jaegere.pdf>

Evans, M. (2010). *International Law*. (3rd ed). New York: Oxford University Press. Available for purchase from <http://www.amazon.com/International-Law-Malcolm-Evans/dp/019956566X>

Nicholls, C., Daniel, T., Bacarese, A., and Hatchard, J. (2011). *Corruption and Misuse of Public Office* (2nd ed.). New York: Oxford University Press. Available for purchase from <http://ukcatalogue.oup.com/product/9780199577279.do#.UUqQMLWe58E>

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Slingerland, W., *Trading in Influence: Corruption Revisited*. Presented at the EGPA Study Group on Ethics and Integrity of Governance, Toulouse, Sept. 8-10, 2010. *Academic Public Administration Studies Archive*, No. 245. Retrieved March 20, 2013 from [http://www.law.kuleuven.be/integriteit/egpa/egpa2010/slingerland\\_trading-in-influence.pdf](http://www.law.kuleuven.be/integriteit/egpa/egpa2010/slingerland_trading-in-influence.pdf)

Sorenson, J. (2012). Ideals without Illusions: Corruption and the Future of Democratic North Africa. *Northwestern Journal of International Human Rights*, 10(4), 202-211. Retrieved March 21, 2013 from <http://www.law.northwestern.edu/journals/JIHR/>

Vienna Convention on the Law of Treaties. (May 23, 1969). 1155 U.N.T.S. 331, 8 I.L.M. 679 (1969). Retrieved June 7, 2017 from <https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>

Wrage, A., *Bribery and Extortion: Undermining Business, Governments and Security* (2007). Westport, Conn.: Praeger Security International.

### Case Studies

The Case studies will be prepared in class and they are the following:

PBS. (2009). *Black Money* [Video webcast]. *Frontline*. Retrieved December 16, 2012 from <http://www.pbs.org/wgbh/pages/frontline/blackmoney/>

### Videos

WGBH. (2009). *Spotlight: The Victims of Corruption* [Video webcast]. *Frontline*. Retrieved December 16, 2012 from <http://www.pbs.org/frontlineworld/stories/bribe/2009/04/niger-delta-more-coverage-on-theregion/html>

### Useful Websites & Tools

United Nations Development Programme has a number of interpretive resources

(<http://www.undp.org>)

UNODC website on the United Nations Convention against Corruption. Overview. Retrieved December 10, 2012 from <http://www.unodc.org/unodc/en/treaties/CAC/index.html>

The u4 Anti-Corruption Resource Centre has a number of resources ( <http://www.u4.no> )

Transparency International. (2009). The Anti-Corruption Plain Language Guide. Berlin, Germany: Transparency International. Retrieved December 12, 2012 from [http://www.transparency.org/whatwedo/pub/the\\_anti\\_corruption\\_plain\\_language\\_guide](http://www.transparency.org/whatwedo/pub/the_anti_corruption_plain_language_guide)

Public Governance (n.d.). Organisation for Co-operation and Development OECD. Retrieved December 12, 2012 from <http://www.oecd.org/governance/>

Transparency & Open Government. (n.d.). The White House. Retrieved December 10, 2012 from [http://www.whitehouse.gov/the\\_press\\_office/TransparencyandOpenGovernment/](http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/)

Governance. The World Bank. Retrieved December 12, 2012 from <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTGOVANTICORR/0,,menuPK:3036107~pagePK:149018~piPK:149093~theSitePK:3035864,00.html>

Transparency International also has a number of resources: (<http://www.transparency.org>)

Global Integrity has a website with a great deal of relevant information (<http://www.globalintegrity.com>)

See: Useful Websites in Bibliography



# 3



## Prevention: Rule of Law and Good Governance

### **i** Introduction / Thesis for Class Discussion and Debate

Lessons learned from all regions and all countries over the last twenty years or so since the global anti-corruption movement was launched make it clear that preventing and addressing corruption effectively requires transparent and accountable decision-making process in both the public and private sectors and fair and effective enforcement

These lessons also tell us that many of the countries that have made the most progress in addressing corruption are those that have also supported the development of a rule of law culture, public engagement and public access to information.

The UNCAC framework includes important inter-related legal and good governance mandates and recommendations that encompass all of these transparency and accountability elements. It promotes a holistic approach to addressing and preventing corruption that when implemented will ultimately reduce the multi-dimensional large cost of corruption to societies, businesses and citizens alike.

One of the main goals of this module is to introduce the concepts of transparency and accountability from both a theoretical and practical perspective – but through a unique UNCAC implementation prism. This means these concepts need to be explored, country-by-country, sector-by-sector and institution-by-institution, through real-world examples and case studies.

It also means that these issues need to be explored from the perspective of all key stakeholders as well as through a technological lens, including large and small businesses and corporate officials, entrepreneurs, different professions and sectors, key public institutions and officials, civil servants, civil society at large and the rich, poor and disenfranchised.

If these two cross-cutting concepts can be explained and understood after this module and course, then the essential and universal theoretical and practical foundation for thinking about how to evaluate the risks and costs of corruption and how to address and prevent it is forever intellectually in place.

### **k** Key Issues

Rule of law; transparency; access to information; civil service reform, codes of conduct; whistleblowing; public procurement and management of public finances

### **b** UNCAC Articles

Chapter 2: Articles 1 -14 (Summary of A1-14 with highlights on A7, 8 & 9)





## Main Topics

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- Promoting passage and implementation access to government information
- Facilitating corruption reporting (whistleblowing) and protecting freedom of expression rights(A10)
- Promoting civil service reform (A7, 8)
- Promoting passage and enforcement of codes of conduct, ethics disclosure and conflict of interest laws for public officials and the civil service (A8, 9) Promoting public financial management - transparent budgets, revenues and expenditures (A9)
- Promoting integrity in justice and prosecutorial authorities (related A11)
- Emerging topics and issues discussed and debated

## Key Lessons

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- A justice system with integrity is key to the universal right to fair, effective and efficient enforcement of anti-corruption laws and universal human rights, including contract and property rights.
- An open government built around transparency and accountability good governance principles, is key to anti-corruption success and to promoting a rule of law culture.
- Meaningful civil society participation and public access to information, has proven to be one of the best prescriptions for preventing and reducing corruption and to promoting public trust in democratic governance and free market institutions.

## Learning Goals

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- To be able to visualize the UNCAC as a global framework or guidepost for preventing and addressing corruption in a holistic cross-sectoral, cross-country manner.
- To be able to identify and critically analyze transparency and accountability concepts within country, sectoral and institutional UNCAC context.
- To see the UNCAC as a potential global guidepost for promoting many key elements of a rule of law good governance culture.
- To see the UNCAC as a potential global guidepost for promoting the enforcement of key human rights, such as the right to free expression and justice with integrity, fairly, effectively and efficiently.
- To see the upsides and downsides to the use of IT to prevent and address corruption in a range of public and private sector areas.

## Class Assignment/Main Tasks

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*Please read the Required readings and select Recommended readings and think about the issues raised in each (from both a private and public sector perspective).*

1. Be able to define a rule of law society in one sentence and then identify provisions of the UNCAC relevant to promoting one.
2. Be able to identify at least five key lessons learned from rule of law and anti-corruption promotion in the developing world over the last 10 years.
3. Be able to articulate on one page the relevance of the rule of law to sustainable economic and political development and preventing and addressing corruption.
4. Be able to list three challenges related to the implementation of e-government and open



government laws, such as those related to access to information, income and asset disclosure, whistle blowing, codes of conduct and conflict of interest.<sup>8</sup> Be able to identify the sources to turn to for good governance IT practices and successful case studies related to the procurement and regulatory process.

## Resources

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### Required Reading

Carothers, T. (2006). The Rule-of-Law Revival. In Carothers, T., Promoting the Rule of Law Abroad: In Search of Knowledge. Washington, DC: Carnegie Endowment for International Peace. Retrieved December, 10, 2012, from <http://www.carnegieendowment.org/files/CarothersChapter11.pdf>

Chan, T. (2000). Corruption Prevention - The Hong Kong Experience. Hong Kong, China: Independent Commission against Corruption. Retrieved December, 10, 2012, from [http://www.unafei.or.jp/english/pdf/PDF\\_rms/no56/56-26.pdf](http://www.unafei.or.jp/english/pdf/PDF_rms/no56/56-26.pdf)

Chene, M. (2009). Good Practice in Whistleblowing Protection Legislation (WPL) (U4 Expert Answers). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved December, 10, 2012, from <http://www.u4.no/publications/good-practice-in-whistleblowing-protection-legislation-wpl/>

Hardoon, D. (2012). Barriers to preventing corruption: what do businesspeople say? Accountability, Politics and government, Private sector. Retrieved December, 10, 2012, from <http://blog.transparency.org/2012/09/18/barriers-to-preventing-corruption-what-do-businesspeople-say/>

Johnston, M. (2007). Understanding the Private Side of Corruption: New Kinds of Transparency, New Roles for Donors (U4 Brief 2007:6). Paris, France: U4 Anti-Corruption Resource Center. Retrieved December, 10, 2012, from <http://www.u4.no/publications/understanding-the-private-side-of-corruption-new-kinds-of-transparency-new-roles-for-donors/>

Nazakat, S. (2012). Social Media & Investigative Journalism. In Winkelman, S. (Ed.). The Social Media (R)evolution: Asian Perspectives on New Media. Singapore: Konrad-Adenauer-Stiftung | Media Programme Asia. Retrieved December, 10, 2012, from [http://www.kas.de/wf/doc/kas\\_31322-1522-2-30.pdf?1206150615060656](http://www.kas.de/wf/doc/kas_31322-1522-2-30.pdf?1206150615060656)

Stolen Asset Recovery Initiative. (2012). Public Office, Private Interests: Accountability through Income and Asset Disclosure. Washington, DC: Stolen Asset Recovery Initiative. Retrieved June 7, 2017, from <http://documents.worldbank.org/curated/en/734201468152086402/pdf/676270PUB0EPI0067882B09780821394526.pdf>

Transparency International, (2012). Shining a Light on the World's Biggest Companies. Transparency International. Retrieved December, 10, 2012, from <http://transparency.org/news/feature/shining-a-light-on-the-worlds-biggest-companies>

### Recommended Reading

Please quickly review or skim some of the following references for more information on a given subject or issue or for a deeper understanding of how these issues play-out in practice in different country contexts. These materials will provide you with more theoretical and practical background information, more case studies and more how-to tools. They will also deepen your knowledge and understanding of how many of the subjects and issues raised relate to each other.

United Nations Economic & Social Council Commission on Crime Prevention and

Criminal Justice. (2002). Implementation of the International Code of Conduct for Public Officials (E/CN.15/2002/6/Add.1). Retrieved December, 10, 2012, from <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan039934.pdf>

Ackerman, J. (2006) The Global Explosion of Freedom of Information Laws. (Information Regulation: Controlling the flow of information to and from Administrative Agencies). *Administrative Law Review*, 58(1), 85-130. Retrieved December, 10, 2012, from <http://www.heinonline.org.proxy.wcl.american.edu/HOL/Page?handle=hein.journals/adm in58&id=93&collection=journals&index=journals/admin>

Carson, A., Baetz, M., & McGill, S. (2008). Codes of conduct in the private sector: A review of the academic literature from 1987 to 2007. Toronto, ON: Canadian Centre for Ethics & Corporate Policy. Retrieved December, 10, 2012, from [http://www.ethicscentre.ca/EN/resources/ethicscentre\\_codes\\_april08.pdf](http://www.ethicscentre.ca/EN/resources/ethicscentre_codes_april08.pdf)

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Curtin University of Technology. {2007}. Multilateral Development Bank: International Survey of E-Procurement Systems. Retrieved June 7, 2017, from <http://www.unpcdc.org/media/2658/international%20survey%20of%20e-procurement%20systems.pdf>

Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010). Retrieved December, 10, 2012, from <http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf>

Elena, S., Buruiana, P., Autheman, V. & Henderson, K., (2004). Global Best Practices: Income and Asset Disclosure Requirements for Judges: Lessons Learned from Eastern Europe and Latin America. Washington, D.C.: International Foundation for Electoral Systems. Retrieved June 7, 2017, from [http://leader.viitorul.org/public/607/en/whitepaper\\_3\\_final.pdf](http://leader.viitorul.org/public/607/en/whitepaper_3_final.pdf)

Haidar, J.I. (2012). The Impact of Business Regulatory Reforms on Economic Growth. *Journal of the Japanese and International Economies*, 26(3). Retrieved December, 10, 2012, from <http://dx.doi.org/10.1016/j.jjie.2012.05.004>

Henderson, K. (2005). Globalizing the Rule of Law through Cooperation and Implementation of the UNCAC. Paper presented at the Biennial Conference on the Law of the World. Beijing: China.

Henderson, K. (2005). A Regional Strategy for Promoting Independent Media and Free Expression in the Middle East and North Africa. Washington, DC: International Foundation for Electoral Systems (IFES). Retrieved December, 10, 2012, from <http://www.ifes.org/Content/Publications/White-Papers/2005/A-Regional-Strategy-for-Promoting-a-Free-Media-and-Freedom-of-Expression-in-the-Middle-East-and-Nor.aspx>

ICC Commission on Corporate Responsibility and Anti-corruption, 2011. ICC Rules on Combating Corruption (2011 ed.). Paris, France: International Chamber of Commerce. Retrieved June 7, 2017 from <https://iccwbo.org/publication/icc-rules-on-combating-corruption/>

Johnson, S. (1998). The Internet Changes Everything: Revolutionizing Public Participation and Access to Government Information through the Internet. *Administrative Law Review*, 50(2), 277-388. Retrieved December, 10, 2012, from <http://www.wcl.american.edu/journal/alr/50/50-2johnson.pdf>

Kaufmann, D. (2002). Transparency, Incentives and Prevention (TIP) for Corruption Control and Good Governance: Empirical Findings, Practical Lessons, and Strategies for Action based on International Experience. Background paper for the Qinghua University-Carnegie Conference on Economic Reform and Good Governance: Fighting Corruption in





Transition Economies, Beijing, China. Retrieved June 7, 2017, from [https://www.researchgate.net/profile/Daniel\\_Kaufmann1/publication/255621519\\_Transparency\\_Incentives\\_and\\_Prevention\\_TIP\\_for\\_Corruption\\_Control\\_and\\_Good\\_Governance/links/564bf05308ae020ae9f85a20/Transparency-Incentives-and-Prevention-TIP-for-Corruption-Control-and-Good-Governance.pdf](https://www.researchgate.net/profile/Daniel_Kaufmann1/publication/255621519_Transparency_Incentives_and_Prevention_TIP_for_Corruption_Control_and_Good_Governance/links/564bf05308ae020ae9f85a20/Transparency-Incentives-and-Prevention-TIP-for-Corruption-Control-and-Good-Governance.pdf)

Organisation for Economic Co-operation (2007). Integrity in Public Procurement: Good Practice from A to Z. Paris, France: OECD Publishing. Retrieved December, 10, 2012, from <http://www.oecd.org/development/aideffectiveness/38588964.pdf>

Sarbanes/Oxley, Pub. L. 107-204, 116 Stat. 745 (2002). Retrieved December, 10, 2012, from <http://www.sec.gov/about/laws/soa2002.pdf>

Smyth, F. (2012). Journalist Security Guide. New York, NY: Committee to Protect Journalists. Retrieved December, 10, 2012, from <http://cpj.org/reports/2012/04/journalist-security-guide.php>

The International Consortium of Investigative Journalists. (2012). Guide to International Freedom of Information Laws. Washington, D.C.: The International Consortium of Investigative Journalists. Retrieved December, 10, 2012, from <http://www.icij.org/resources/2012/04/freedom-of-information>

Osse, A. (2011). Handbook on Police Accountability, Oversight and Integrity (UN Pub. No. E.11.IV.5). Geneva, Switzerland: United Nations Office on Drugs & Crime. Retrieved December, 10, 2012, from [http://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/PoliceAccountability\\_Oversight\\_and\\_Integrity\\_10-57991\\_Ebook.pdf](http://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/PoliceAccountability_Oversight_and_Integrity_10-57991_Ebook.pdf)

Vaughn, R., Devine, T., Henderson, K. (2003). The Whistleblower Statute Prepared for the Organization of American States and the Global Legal Revolution Protecting Whistleblowers. *George Washington International Law Review*, 35(4) 857-902. Retrieved December, 10, 2012, from <http://www.heinonline.org.proxy.wcl.american.edu/HOL/Page?handle=hein.journals/gwilr35&id=871&collection=journals&index=journals/gwilr>

Whitton, H. (2009). Beyond the code of conduct: Building ethical competence in public officials. (U4 Brief 2009:19). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved December, 10, 2012, from <http://www.u4.no/publications/beyond-the-code-of-conduct-building-ethical-competence-in-public-officials/>

### Case Studies

House of Commons. (2012). News International and Phone-hacking (Eleventh Report of Session 2010-12). London: The Stationery Office. Retrieved December 16, 2012, from <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmcomeds/903/903i.pdf>

Examines the scope and impact of bribery among the media and the law enforcement community (police).

WGBH Educational Foundation. (2012). Murdoch's Scandal. *Frontline*. Retrieved December 16, 2012, from <http://www.pbs.org/wgbh/pages/frontline/murdochs-scandal/>

### Videos

Public Service Broadcasting Trust. (n.d.). Accounts and Accountability. Right to Information Movement in Rajasthan (AUD-EV/CI/INF/UAP/0124). [Video webcast]. UNESCO. Retrieved December 16, 2012, from [http://www.unesco.org/archives/multimedia/index.php?s=films\\_details&id\\_page=33&id\\_film=1990](http://www.unesco.org/archives/multimedia/index.php?s=films_details&id_page=33&id_film=1990)



## Useful Websites

The website of the UN Global Compact has information on public awareness and open government: <http://www.unglobalcompact.org/>

Committee to Protect Journalists blog has articles on the topic of public awareness and open government (<http://www.cpj.org/blog>).

The Tools & Resources section of the Committee to Protect Journalists website has information on public awareness and open government: <https://www.cpj.org/>

The International Consortium of Investigative Journalists website also discusses open government (<http://www.icij.org>).

International Chamber of Commerce has articles and resources discussing open government and public awareness: <http://www.iccwbo.org>

The Organisation of Co-operation and Development website is a good source for information regarding open government and public awareness: <http://www.oecd.org/govt/ethics/>

OECD. (2005). Managing Conflict of Interest in the Public Sector: A Tool Kit. Paris: France: Organisation for Co-operation and Development (OECD). Retrieved December 12, 2012, from <http://www.oecd.org/gov/fightingcorruptioninthepublicsector/49107986.pdf>

BIAC Anti-Bribery Resource Guide. (2012, June). Paris, France: Business and Industry Advisory Committee to the OECD (BIAC). Retrieved June 7, 2017, from <http://biac.org/focus-areas/the-fight-against-corruption/>

The Anti-Corruption Business Portal has 64 country profiles including a free e-learning course and a country risk tool (<http://www.business-anti-corruption.com>).

## Useful Tools/Frameworks

TI Corruption Perception Index is a great tool from Transparency International (<http://cpi.transparency.org/cpi2012/>).

Office of Democracy and Government. (2002). Guidance for promoting judicial independence and impartiality—Revised Edition (Doc. ID No. PN-ACM-007). Washington, DC: US AID – Office of Democracy & Governance. Retrieved June 7, 2017, from [http://pdf.usaid.gov/pdf\\_docs/pnacm007.pdf](http://pdf.usaid.gov/pdf_docs/pnacm007.pdf)

The TI Sourcebook has country specific reports (<http://archive.transparency.org/publications/sourcebook>).

Transparency International. (n.d.). The TI Annual Global Corruption Report. Retrieved December 8, 2012 from <http://www.transparency.org/whatwedo/publications/doc/gcr/>

Transparency International. (n.d.). TI Bribe Payers' Index. Retrieved December 10, 2012, from <http://www.transparency.org/research/bpi/overview>

Open Budget Initiative focuses on open government (<http://internationalbudget.org/what-we-do/major-ibp-initiatives/open-budget-initiative/>).

OECD has a page dedicated to Ethics & Corruption in the Public Sector (<http://www.oecd.org/gov/fightingcorruptioninthepublicsector/>).

OECD. (2009). OECD Principles for Integrity in Public Procurement. Retrieved June 7, 2017, from <http://www.oecd.org/gov/ethics/48994520.pdf>

Doing Business includes annual country rankings of the ease or difficulty of the regulatory process country-by-country (<http://www.doingbusiness.org/>)

The OECD Good Practice Guidance on Internal Controls, Ethics and Compliance (<http://www.oecd.org/investment/briberyininternationalbusiness/anti-briberyconvention/44884389.pdf>)



The OECD Recommendations of the Council for Furthering Combatting Bribery of Foreign Government Officials in International Business Transactions (<http://www.cgu.gov.br/conferenciabrocde/arquivos/English-2009-Recommendation-of-the-Council.pdf>)

### Quiz and Questions for Class Discussion

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1. How many UNCAC legislative and prevention mandates relate to promoting the right to freedom of expression?
2. How many UNCAC “shall or may consider” provisions (recommended laws or good governance practices) relate to promoting access to information?
3. Has your country passed all of the UNCAC mandated and recommended anti-corruption laws and policies?
4. Does your country have an access to information law that includes well defined exceptions?
5. Does your country require a whistleblower system that includes an anonymous reporting mechanism for both the public and private sector?
6. Does your country make income and asset disclosure statements of high level public officials accessible to the public and media?
7. Does your country’s public procurement code conform to international best practices?

# 4



## Prevention: Public Participation, Open Government and Education

### Introduction/ Thesis for Class Discussion and Debate

Governments cannot fight corruption alone. Public awareness of the risks and impact of corruption and public participation in the development and implementation of the measures taken to fight it are key to any successful anti-corruption effort. While government action and leadership is essential, public engagement on this issue is equally important. Civil society organizations such as Transparency International, young lawyer associations and many other forms and types of non-governmental groups have demonstrated the ability to make a significant impact in the fight against corruption, particularly as regards the raising of awareness amongst the public of both its existence and negative consequences.

This module builds on some of the key principles and concepts of transparency, accountability, good governance and the rule of law that were discussed in Module II. It attempts to deepen the discussion on how governments can engage the public in the fight against corruption and, specifically, how providing open access to government information and delivering effective anti-corruption education are essential first steps in this process. All of these issues are addressed through case studies and lessons learned from comparative research.

The international movement for access to information has grown rapidly over the last decade and presently represents one of the most dynamic and relevant areas in corruption prevention reforms. Ten years ago only (number) countries had specific laws that provided a mechanism for members of the public to access official government information. Today that number has increased to (number) and is rapidly growing. Furthermore, the range of information that the public can access under such laws is also expanding. Whereas older laws put in place broad exemptions to the right of access to information, modern and progressive legislation in this area start from the presumption that all information should be released, subject to strictly defined exceptions.

Supporters of such laws argue that access to information laws can have an impact on corruption in a number of ways. Firstly, requests for information by journalists and

### Key Issues

public awareness; public participation; good governance; access to information; public education; civil service reform; codes of conduct; public financial disclosure; public monitoring & reporting

### UNCAC Articles

Chapter 2: Articles 12, 13 (and related articles 6-11 & 63)





members of the public can, and have in the past, led to the uncovering of corruption offences. A specific example of this came in the United Kingdom in the Parliamentary Expenses Scandal which was uncovered largely as a result of repeated requests for information made by journalists under the UK Freedom of Information Act. This case will be examined in detail in Module V (Whistleblowing and the role of Journalists).

Secondly, access to information laws can, over time, change the attitude of government officials towards greater transparency in public administration and thereby reduce the areas of government in which corrupt acts can take place hidden from public scrutiny. The operation of freedom of information laws can reduce the willingness of public officials to withhold information because they know that a potential court process can result where they attempt to do so without reasonable grounds. Additionally, once information begins to be released under such legislation, public officials may realize that the fears of doing so proved unfounded. Students will be asked to consider international trends in relation to access to information legislation and to compare this with the approach adopted in their own country.

Anti-corruption and integrity education, from the primary level all the way through to post-graduate study level is also an area in which many countries are making significant reforms. Ethics and citizenship classes for younger students emphasizing the importance of fairness, openness and trust have become increasingly popular over the last ten years with some (in India for example) showing a lasting impact on the behavior and expectations of individuals in their dealings with government. Higher education institutions such as universities and business schools are also now reacting to an increased need by employers, both in the public and private sector, for employees that have been educated in relation to the risks and impact of corruption. This course itself is a reflection of increased interest in this area.

Students will be asked to briefly consider some good practice examples from States in this area and to give thought to if and how such courses can have a real, lasting impact on the behavior of individuals. As part of this module students will also be asked to think creatively and innovatively to conceptualize a national anti-corruption awareness-raising campaign.

Article 13 of the UNCAC is the key article that requires States Parties to engage with non-governmental bodies in the fight against corruption, to provide access to government information and to educate the public regarding the impact of corruption. This article will therefore provide the focus when students consider how the Convention addresses these issues. Students should however note that all provisions of the Convention are interlinked and mutually supportive and should seek to explore how the requirements of other parts of the Convention reinforce the message of Article 13 that governments need to engage with the public and provide them with easy access to information.

Other articles that students may wish to consider in this regard include articles 8, 10, 12, and 63, all of which encourage States to promote public awareness and public participation in the fight against corruption. Experience tells us that the successful implementation of one article of the Convention is much more likely if coordinated measures are also taken to implement the requirements of other related articles. This is a general truth applicable in relation to the implementation of the whole of UNCAC and international conventions more broadly. Thus, students should constantly ask themselves the question, in this module and all others, how various articles of the UNCAC relate to each other and how the measures that States take to implement them should be linked, prioritized or sequenced.

It is argued by many anti-corruption experts that that until measures such as those required under Article 13 are fully implemented, meaning that the public is engaged and empowered in the fight against corruption through access to information and education, other UNCAC articles, such as those considered in Module II (asset declarations for example under article 8), will likely have little impact. As students complete the readings in this module and think about the range of UNCAC articles related to public awareness, critical consideration should be given to how the encouragement of public participation in the fight against

corruption and engagement by government with civil society also support the implementation of other anti-corruption reforms.

Specific areas that students should give consideration to in this regard include measures to enhance the integrity of public institutions (see Module II), measures to prevent corruption in with the private sector (see Module IV) and policies aimed at facilitating the accurate and effective reporting of corruption by media organisations (Module V).

### Main Topics

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- Public awareness and public participation (A13)
- Public education campaigns and school and university curricula (A13)
- Public reporting on corruption and access to government and private sector information (A 10, 12 & 13)
- Public participation in the government decision-making process (A13, 63)
- Access to public sector budgets and transparent revenues and expenditures (A8) and private sector financial disclosure (A12)

Emerging topics and issues discussed and debated

### Key Lessons

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- Governments cannot effectively address or prevent corruption without public awareness and strong support from non-governmental stakeholders.
- Recent global multi-disciplinary empirical research spanning the last 15 years indicates a number of countries may have achieved some success on the anti-corruption front because they made passage and implementation of access to information and open government laws a high priority.
- It is important for a broad spectrum of society to be aware of the costs and risks of corruption or the demand for change will not be enough to overcome those benefiting from corruption. This includes citizens, businesses, advocacy groups, the media, think tanks and academia, as well as whistleblowers, defense lawyers, prosecutors, judges and anti-corruption fighters.
- Systematic monitoring and reporting frameworks designed to promote public awareness in targeted institutions and key government decision-making processes are a key to success.
- The right to freedom of expression, including being able to report on corruption without fear of retribution is critical to anti-corruption success.
- Promoting transparent budgets and independent audits and financial information, and promoting public access to information in relation to revenues and expenditures in high priority areas such as health, education and natural resources, is key to preventing corruption.

### Learning Goals

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- To help students think more strategically and inclusively in targeted UNCAC reform areas related to institutions, laws and treaties, processes, decision making and citizen participation;
- To help students see the interrelationship and co-dependency of many anti-corruption laws, policies and issues and
- To show students how to access and effectively utilize some of the best participatory monitoring and reporting frameworks and methodologies for engaging policymakers,





citizens and businesses and promoting targeted UNCAC reforms.

### Class Assignment/Main Tasks

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1. After your required reading do your own independent research on the global movement to pass and implement open government and access to information laws. Be able to identify some good practice examples of such laws or regulations, with particular focus on how they are implemented in practice. [One useful resource is UNODC's TRACK Legal Library: <http://www.unodc.org/TRACK> ].
2. Be able to identify some of the best sources to turn to for information related to public awareness on the UNCAC and other international and regional conventions with similar mandates.
3. Choose a case study of your choice and write a 3 to 5 page White Paper outlining the key public awareness, transparency and access to information issues touched upon and include a section noting which UNCAC articles are most relevant to these issues.

### Resources

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#### Required Reading

Global Agenda Council on the Future of Government. (2011). *The Future of Government: Lessons Learned from Around the World*. New York, NY: World Economic Forum. Retrieved December 13, 2012 from [www.weforum.org/reports/future-government](http://www.weforum.org/reports/future-government)

Henderson, K. (2008). *A Wake-Up Call to the Human Rights and Anti-Corruption Communities: Addressing and Preventing Judicial Corruption and Promoting Fair and Effective Enforcement of the Law Alongside Civil Society Empowerment and Oversight, Through Systematic Monitoring and Reporting is Key to Implementing Myriad Provisions of the UDHR and the UNCAC*. Paper presented at the 13th Annual Transparency International Anti-Corruption Conference, Athens, Greece. Retrieved June 7, 2017 from <https://www.wcl.american.edu/faculty/henderson/AWakeUpCall.pdf>

Kolstad, I. & Wiig, A. (2009). Is Transparency the Key to Reducing Corruption In Resource-Rich Countries?. *World Development*, 37(3), 521-532. Retrieved December 10, 2012 from <http://dx.doi.org.proxy.wcl.american.edu/10.1016/j.worlddev.2008.07.002>

Labelle, H. (2012, February 16). *The role of civil society in the fight against corruption*. Speech presented at the Hotel Meliá, Santo Domingo, Dominican Republic. Retrieved December 11, 2012 from

[http://www.transparency.org/news/speech/the\\_role\\_of\\_civil\\_society\\_in\\_the\\_fight\\_against\\_corruption](http://www.transparency.org/news/speech/the_role_of_civil_society_in_the_fight_against_corruption)

The OECD Anti-Bribery Convention PHASE 3 Country Monitoring of the OECD Anti-Bribery Convention includes lessons learned from 37 countries (<http://www.oecd.org/daf/briberyininternationalbusiness/anti-briberyconvention/phase3countrymonitoringoftheoecdanti-briberyconvention.htm>).

Transparency in reporting on anti-corruption (TRAC): a report on corporate practices. (2009). Berlin, Germany: Transparency International. Retrieved December 12, 2012 from [http://archive.transparency.org/policy\\_research/surveys\\_indices/trac](http://archive.transparency.org/policy_research/surveys_indices/trac)

#### Recommended Reading & Academic /Scholarly Articles & Books

Ackerman, J. (2006) *The Global Explosion of Freedom of Information Laws. (Information Regulation: Controlling the flow of information to and from Administrative Agencies)*.

Administrative Law Review, 58(1), 85-130. Retrieved December, 10, 2012 from <http://www.heinonline.org.proxy.wcl.american.edu/HOL/Page?handle=hein.journals/adm in58&id=93&collection=journals&index=journals/admin>

Benito, B. and Bastida, F. (2009). Budget Transparency, Fiscal Performance, and Political Turnout: An International Approach. *Public Administration Review*, 69(3), 403-417. Retrieved December, 10, 2012 from <http://proxyau.wrlc.org/login?url=http://search.proquest.com.proxy.wcl.american.edu/doc view/197182736?accountid=8285>

Doing Business 2012 is an annual global report monitoring and reporting country progress on making the regulatory process more efficient, archives are available (<http://doingbusiness.org/reports/global-reports/doing-business-2013>)

Ramkumar, V. (ed.). (2008). *Our Money, Our Responsibility: A Citizen's Guide to Monitoring Government Expenditures*. Washington, DC: International Budget Partnership (IBP). Retrieved December 10, 2012 from <http://internationalbudget.org/library/publications/guides/our-money-our-responsibility/>

### Academic/Scholarly Articles & Books:

Breit, E. (2010). On the (Re)Construction of Corruption in the Media: A critical Discursive Analysis. *Journal of Business Ethics*, 92(4), 619-635.

Khayatt, A., The Arab Anti-Corruption Organization. *Contemporary Arab Affairs*, 1, 471-477.

Nichols, C. and Daniel, T., Bacarese, A. and Hatchard, J., (2011). *Corruption and the Misuse of Public Office*. New York: Oxford University Press.

Rothstein, B. (2011). Anti-Corruption: The Indirect 'Big Bang' Approach. *Review of International Political Economy*, 18(2), 228-250. Retrieved June 7, 2017 from [https://www.researchgate.net/publication/233058668\\_Anti-corruption\\_The\\_indirect\\_%27big\\_bang%27\\_approach](https://www.researchgate.net/publication/233058668_Anti-corruption_The_indirect_%27big_bang%27_approach)

Setiyono, B., McLeod, R.H. (2010). Civil Society's Organisations' Contribution to the Anti-Corruption Movement in Indonesia. *Bulletin of Indonesian Economic Studies*, 46(3), 347-370. Retrieved March 21, 2013 from <http://www.tandfonline.com/doi/abs/10.1080/00074918.2010.522504>

### Case Studies

The Case studies are to be prepared to discuss in class and prepare a one page outline/list noting key corruption prevention issues raised in each case study and the relevant UNCAC article.

#### *Public/Private Partnerships/Coalition Building (Bulgaria):*

Coalition 2000. (2005). Sofia, Bulgaria: Center for the Study of Democracy. Retrieved December 16, 2012 from <http://www.csd.bg/artShow.php?id=5100>

Includes case studies on reforms related to privatization, public procurement and law enforcement.

#### *Gender Participation/Equality (Timor Leste)*

Yamagiwa, K. (2012). *The Best Practices and Lessons Learned on the "MDG-F Joint Programme: Supporting Gender Equality and Women's Rights in Timor-Leste"*. New York: UNDP Evaluation Resource Centre. Retrieved December 16, 2012 from <http://erc.undp.org/evaluationadmin/downloaddocument.html?docid=5972>





7 case studies focused on participation, budgets, outreach, referral mechanisms and the police.

*Social Accountability (Turkey, Philippines and Indonesia)*

Supporting Social Accountability in the Middle East and North Africa: Lessons Learned from Past Political and Economic Transitions. (2011). Washington, D.C.: The World Bank. Retrieved December 16, 2012 from [http://siteresources.worldbank.org/INTMENA/Resources/Supporting\\_Social\\_Accountability\\_MENA\\_ENG.pdf](http://siteresources.worldbank.org/INTMENA/Resources/Supporting_Social_Accountability_MENA_ENG.pdf)

Case studies on transparency, accountability and participation (Turkey, Philippines & Indonesia)

*Access to Information (Jamaica)*

Neuman, L. (Ed.). (2002). Fostering Transparency and Preventing Corruption in Jamaica. Atlanta, GA: The Carter Center. Retrieved December 16, 2012 from <http://www.cartercenter.org/documents/1038.pdf>

*Budgetary Information/Education (Uganda)*

Hubbard, P. (2007). Putting the Power of Transparency in Context: Information's Role in Reducing Corruption in Uganda's Education Sector (Center for global Development Working Paper 136). Retrieved December 16, 2012 from <http://www.cgdev.org/content/publications/detail/15050/>

### Videos

Global Agenda Council on the Future of Government. (2011). The Future of Government: Lessons Learned from Around the World.[Video Webcast]. New York, NY: World Economic Forum. Retrieved June 7, 2017 from <https://www.youtube.com/watch?v=VgJ0GEPsWR8>

Public Service Broadcasting Trust. (n.d.). Accounts and Accountability. Right to Information Movement in Rajasthan (AUD-EV/CI/INF/UAP/0124). [Video webcast]. UNESCO. Retrieved December 16, 2012 from [http://www.unesco.org/archives/multimedia/index.php?s=films\\_details&id\\_page=33&id\\_film=1990](http://www.unesco.org/archives/multimedia/index.php?s=films_details&id_page=33&id_film=1990)

### Useful Websites

See Course Bibliography

### Quiz and Questions for Class Discussion

1. What are some of the key open government measures promoted under the UNCAC?
2. What three areas does your country rank the lowest in regionally in the 2012 Doing Business Report?
3. How many principles against corruption are found in the UN Global Compact?
4. How many UNCAC countries have passed access to information laws?

# 5



## Preventing Corruption in the Private Sector

### Introduction/ Thesis for Class Discussion and Debate

The importance of the role of the private sector in addressing and preventing corruption cannot be overstated. Recent passage and on-going implementation of the UNCAC is slowly but surely creating a new harmonized national and global legal framework for doing business. Being able to visualize and analyze this landscape, within varied country contexts, and understand how to measure and minimize the costs and risks of corruption, is now critical knowledge for both business practitioners and their advisors. Toward this end, knowing the essential elements of good corporate governance and corporate compliance programs becomes all the more important.

Today there is a wealth of resources, tools and global policy and legal frameworks to help guide businesses through the emerging global corruption legal framework. Understanding the full scope and content of the UNCAC will help steer businesses down the legal and ethical roads required to ensure they operate legally and ethically. Staying on this road will benefit businesses and consumers alike, including reducing the cost of doing business as well as the price of consumer products and services. It will also provide businesses the framework needed to support good government, stable political environments, and the rule of law.

This class will give students some of the critical knowledge needed to meaningfully contribute to these new opportunities while identifying the compliance risks posed by the new 21st Century legal and ethical landscape.

### Key Issues

bribery of foreign government officials;  
criminal liability for false financial disclosure; law enforcement cooperation and money laundering

### UNCAC Articles

Chapter 2: Articles 12, 21, 22, 23, 24, 26, 39 & 40

### Main Topics

- Adopting global private sector internal accounting and auditing standards and financial disclosure statements (A12)
- Adopting codes of conduct and conflict of interest in the private sector (A12)
- Requiring transparent corporate legal identities (A12)





- Establishing corporate legal liability for UNCAC criminal, civil or administrative offenses (A26)
- Adopting criminal sanctions for bribery, embezzlement, concealment, within the private sector - such as in the private procurement process (A21, 22, 24)
- Participating in law enforcement cooperation on a range of corruption issues, including money laundering and bank secrecy (A12, 14, 39 & 40)
- Enforcing criminal liability for failure to report “suspicious transactions” and money laundering (A23)
- Enforcing criminal liability for bribery of foreign government officials and false financial disclosures in international business transactions (A21)

Emerging topics and issues discussed and debated

### Key Lessons

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- Many UNCAC good governance and prevention practices for the public sector addressed in previous modules are equally important in theory and practice for the private sector (Examples include enhanced auditing and accounting standards, adequate auditing controls, the prevention of bribery and money laundering and public financial disclosures).
- Corruption in the public sector and corruption in the private sector are interrelated and interdependent. To fully address corruption in the public sector, efforts must also be made to address the practices of private sector bodies.
- Enforcement of anti-corruption laws related to the private sector has not previously been a high priority in many countries, with the focus principally on enforcement of laws applicable to the public sector.
- Providing safe internal and external mechanisms and incentives for reporting acts of corruption is an essential prevention and accountability tool in the private sector.
- Cooperation with the international law enforcement community on a range of corruption fronts is key to reducing corruption in both the private and public sectors.
- Access to government information laws, policies and mechanisms is an important tool for both the private and public sectors.
- Promoting integrity in the private sector must involve transparent policies on hiring, promotion, demotion and dismissal of staff.

### Learning Goals

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- To understand the role and responsibility of the private sector in preventing corruption and promoting good governance and the rule of law
- To know the emerging global legal, ethical and compliance landscape and governance best practices relevant to private sector bribery.
- To know how to identify and analyze key issues and research resources, through a multi-faceted research methodology, relevant to the cost of corruption within the private sector.
- To know how to analyze private sector anti-corruption compliance programs from an UNCAC perspective.

### Class Assignment/Main Tasks

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1. Go to (<http://thefightagainstcorruption.unglobalcompact.org/>) and complete the six short modules available.

2. This gives an overview of how the UNCAC is relevant to the private sector. The introduction video in particular gives a good overview of the UN Global Compact and the relevance of the Convention to the private sector..
3. Look closely at Article 21, 22 and 26 of the UNCAC and compare them with the relevant provisions of the UK Bribery Act, US Foreign Corrupt Practices Act and the legislation of your own country. To what extent does their approach to private sector bribery differ? Draft a one-page note outlining the key differences and similarities between them.
4. Please be able to identify the main elements of a business compliance program that incorporates the key relevant provisions of the UNCAC.
5. Consider the key UNCAC provisions, good governance requirements and other issues raised in the Siemens case study below. With reference to relevant provisions of the UNCAC, draft a two-page briefing for the Siemens' compliance department outlining in basic terms the steps that senior management could take in order to prevent an incident like this from happening again.



## Resources

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### Required Reading

UNIDO/UNODC. (2007). Corruption Prevention to Foster SME Development (Volume I). Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from [http://www.unido.org/fileadmin/media/documents/pdf/Services\\_Modules/csr\\_corruption\\_publication.pdf](http://www.unido.org/fileadmin/media/documents/pdf/Services_Modules/csr_corruption_publication.pdf)

ADB/OECD Anti-Corruption Initiative for Asia and the Pacific. (2008). Codes of Conduct in the Private Sector. In *Managing Conflict of Interest Frameworks, Tools, and Instruments for Preventing, Detecting and Managing Conflict of Interest*. Proceedings of the 5th Regional Seminar on making international anti-corruption standards operational held in Jakarta, Indonesia. Paris: Organisation for Economic Co-operation and Development, Asian Development Bank. Retrieved December 19, 2012 from <http://www.oecd.org/site/adboecdanti-corruptioninitiative/40838870.pdf>

ADB/OECD Anti-Corruption Initiative for Asia and the Pacific (Eds). (2009). Working Together to Combat Corruption: International and Regional Initiatives. In *Strategies for Business, Government and Civil Society to Fight Corruption in Asia and the Pacific* (Ch. 5). Proceedings of the 6th Regional Anti-Corruption Conference for Asia and the Pacific Held in Singapore Paris: Organisation for Economic Co-operation and Development, Asian Development Bank. Retrieved December 19, 2012 from <http://www.oecd-ilibrary.org/docserver/download/2809011e.pdf?expires=1356026795&id=id&acname=ocid194320&checksum=847A02A4EF384E2E27ECF7D85C8E8825>

Carr, I. (2011). The UK Bribery Act 2010, Business Integrity and Whistleblowers. In Vandekerckhove, W. & Lewis, D. (Eds.), *Whistleblowing and Democratic Value*. London: International Whistleblowing Research Network. Retrieved June 7, 2017 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1998293&download=yes](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1998293&download=yes)

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The Giffen Case. (2007). In J. Campos & S. Pradhan. *The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level* (Index 203-211). Washington, DC: The International Bank for Reconstruction and Development /The World Bank. Retrieved December 15, 2012 from <http://www.u4.no/recommended-reading/the-many-faces-of-corruption-tracking-vulnerabilities-at-the-sector-level/>

Governance and Internal Control: A Best Practice Checklist for use by Small and Medium



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<http://www.u4.no/publications/understanding-the-private-side-of-corruption-new-kinds-of-transparency-new-roles-for-donors/>

Kowalczyk-Hoyer, B. (2012). Transparency in Corporate Reporting: Assessing the World's Largest Companies. Berlin, Germany: Transparency International. Retrieved December 19, 2012 from  
[http://www.transparency.org/whatwedo/pub/transparency\\_in\\_corporate\\_reporting\\_assessing\\_the\\_worlds\\_largest\\_companies](http://www.transparency.org/whatwedo/pub/transparency_in_corporate_reporting_assessing_the_worlds_largest_companies)

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OECD, Guidelines for Multinational Enterprises, a resource document with specific reference to the Chapter on Bribery and Corruption, 2011  
<http://www.oecd.org/corporate/mne/1922428.pdf>

Resource Guide to the Foreign Corrupt Practices Act  
<https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2015/01/16/guide.pdf>

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<http://www.transparency.org/research/bpi/>

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[http://archive.transparency.org/publications/publications/policy\\_positions/pp\\_3\\_2009\\_corp\\_gov](http://archive.transparency.org/publications/publications/policy_positions/pp_3_2009_corp_gov)

### Recommended Reading & Academic /Scholarly Articles & Books

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<http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf>

Academic/Scholarly Articles & Books:

Backer, L.C. (2011). Private Actors and Public Governance Beyond the State: The Multinational Corporation, the Financial Stability Board, and the Global Governance Order. *Indiana Journal of Global Legal Studies*, 18(2), 751-802

Banistar, D. (2011). Whistleblowing: International Standards and Developments. In I. Sandoval (ed.), *Corruption and Transparency: Debating the Frontiers between State, Market and Society*. Washington, D.C.: World Bank-Institute for Social Research. Retrieved March 21, 2013 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1753180](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1753180)

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Discusses the nexus between corruption, bribery and human rights in China, Thailand and Cambodia.

Du, S., Bhattacharya, C.B. and Sen, S. (2010). Maximizing Business Returns to Corporate Social Responsibility (CSR): the Role of CSR Communication. *International Journal of Management Reviews*, 12(1), pp. 8-19. Retrieved March 21, 2013 from <http://onlinelibrary.wiley.com/doi/10.1111/j.1468-2370.2009.00276.x/abstract>

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Rodriguez, P., Siegel, D. S., Hillman, A. (2006). Three lenses on the multinational enterprises: politics, corruption, and corporate social responsibility. *Journal of International Business Studies*, 37(6), pp. 733-746.

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Transparency International. Business Principles for Countering Bribery ([http://www.transparency.org/whatwedo/tools/business\\_principles\\_for\\_countering\\_bribery/11](http://www.transparency.org/whatwedo/tools/business_principles_for_countering_bribery/11))

UN Global Compact & Transparency International. (2009). Reporting Guidance on the Tenth Principle against Corruption. New York, NY: United Nations Global Compact (UNGC). Retrieved December 10, 2012 from [http://www.unglobalcompact.org/docs/issues\\_doc/Anti-Corruption/UNGC\\_AntiCorruptionReporting.pdf](http://www.unglobalcompact.org/docs/issues_doc/Anti-Corruption/UNGC_AntiCorruptionReporting.pdf)

Wood, D.J. (2010). Measuring Corporate Social Performance: A Review. *International Journal of Management Reviews*, 12(1), pp. 1-5.

### Case Studies

WGBH. (2009). Portrait of Whistleblower: How One Man Decided to Expose the Truth. *Frontline*. Retrieved December 16, 2012 from <http://www.pbs.org/frontlineworld/stories/bribe/2009/02/portrait-of-a-whistleblower.html>

### Videos

WGBH. (2009). Spotlight: The Victims of Corruption [Video webcast]. *Frontline*. Retrieved June 7, 2017 from [https://www.youtube.com/watch?v=zqaX\\_PXQ3BQ](https://www.youtube.com/watch?v=zqaX_PXQ3BQ)

Village Square. (2009). The Halliburton Case and Corruption in Nigeria. Retrieved December 17, 2012 from <http://www.youtube.com/watch?v=IhcmwCpf4PY>

## Useful Websites

The Fight against Corruption is an e-learning tool for the private sector on the UNCAC and the 10th Principle ( <http://thefightagainstcorruption.unglobalcompact.org> ).

The OECD Good Practice Guidance on Internal Controls, Ethics and Compliance ( <http://www.oecd.org/investment/briberyininternationalbusiness/anti-briberyconvention/44884389.pdf> )

The OECD Recommendations of the Council for Furthering Combatting Bribery of Foreign Government Officials in International Business Transactions ( <http://www.cgu.gov.br/conferenciabrocde/arquivos/English-2009-Recommendation-of-the-Council.pdf> )

U4 Anti-Corruption Resource Centre Private Sector Theme ( <http://www.u4.no/themes/private-sector/> )

RESIST: Resisting Social Extortion and Solicitation in International Transactions. (2011). New York: United Nations Global Compact Office. Retrieved December 19, 2012 from [http://www3.weforum.org/docs/WEF\\_PACI\\_RESIST\\_Report\\_2011.pdf](http://www3.weforum.org/docs/WEF_PACI_RESIST_Report_2011.pdf)

Anti-Bribery Resource Guide. (2012). Paris: Business & Industry Advisory Committee to the OECD (BIAC). Retrieved June 7, 2017 from <http://biac.org/focus-areas/the-fight-against-corruption/>

Anti-Corruption Research Network ( <http://www.corruptionresearchnetwork.org> )

APEC. (2007). APEC Anti-Corruption Code of Conduct for Business. Singapore: Asian-Pacific Economic Cooperation. Retrieved December 20, 2012 from [http://www.apec.org/Groups/SOM-Steering-Committee-on-Economic-and-Technical-Cooperation/Task-Groups/~/\\_media/Files/Groups/ACT/07\\_act\\_codebrochure.ashx](http://www.apec.org/Groups/SOM-Steering-Committee-on-Economic-and-Technical-Cooperation/Task-Groups/~/_media/Files/Groups/ACT/07_act_codebrochure.ashx)

Foreign Corrupt Practices Act Blog ( <http://www.fcpaprofessor.com/> ).

## Quiz and Questions for Class Discussion

1. How many of the provisions of the UNCAC directly or indirectly have relevance to the private sector?
2. How many victims of corruption are there in the Nigeria case study?
3. How many different types of public and private sector actors were involved in the Siemens's case in Germany?
4. What kind of whistleblowing mechanisms does the UNCAC require to be made available in the public and private sector?



# 6



## Prevention: Whistleblowing and the Role of the Media in Reporting Corruption

### Introduction/ Thesis for Class Discussion and Debate

This module will address the crucial role played by individuals who come forward with reports of acts of corruption and by journalists who report on such acts. Without the actions of individual ‘whistleblowers’ some of the largest corruption scandals of the past decade would not have been uncovered. Similarly, if journalists are unable to carry out their work in investigating and reporting on corruption allegations, an environments in which public officials and those working in the private sector feel at liberty to carry out corrupt acts can quickly be engendered.

In recognition of this vital role, the UNCAC requires States parties to put in place measures that facilitate the making of reports of acts of corruption, protect those who do come forward, and allow journalists the freedom to report on such allegations. In both of these areas, States parties have adopted a wide range of measures in order to meet the requirements of the Convention.

In relation to whistleblowers, measures adopted can be split into two core categories: (i) measures aimed at encouraging and facilitating reports and (ii) measures aimed at protecting those who do come forward. Common measures adopted by States include the imposition of a legal obligation to report where an individual suspects an act of corruption has taken place; the establishment of central bodies to which such reports can be made such as the Corruption Report Centre in the Republic of Korea or the Office of Public Ethics in Costa Rica; the establishment of specific anti-corruption report hotlines and on-line reporting mechanisms; and the provision of training to staff in order to raise awareness of the avenues available to them to provide reports.

As regards the role of the media in collecting and disseminating information on corruption, the recent example of the expenses scandal in the United Kingdom has demonstrated how measures put in place to enhance transparency in public administration, such as freedom of information laws, can support the work of journalists in uncovering corruption. Students will be asked in this module to consider what governments can do, and should avoid doing, in order to provide a supportive environment for journalists to carry out their work effectively. Consideration will also be given to what legitimate limits, if any, can be placed

### Key Issues

individual reporting and whistleblowing; the role of the media; balancing corruption reporting and the right to privacy; access to information; public participation; public trust;

### UNCAC Articles

Articles 8, 10, 12, 13 and 32



on such reporting on grounds such as individual privacy, national defense and public order.

### Main Topics

- Promoting open and anonymous internal and external whistleblowing (A8, 13)
- Promoting incentives for reporting on corruption and whistleblowers, witnesses, experts and victims in the public and private sectors, including protection (A32 & 33 and see reading materials)
- Protecting the right to seek, receive, publish and disseminate corruption information (A13 and the UDHR)
- Requiring periodic anti-corruption reports on public administration and financial reporting reports from the public and private sectors (A 10)
- Linking monitoring and reporting and the rule of law -- fair and effective enforcement of the law (reading materials)

### Key Lessons

- Facilitating the reporting of acts of corruption both by those working within organizations where corrupt acts are taking place and by the media more generally are central to any effective approach to the prevention of corruption.
- Laws and procedures should be put in place by States to protect those who want to come forward to report acts of corruption. Efforts should also be made to ensure that all public officials are aware of the mechanisms available for reporting such acts.
- Public access to government information and a transparent public administration facilitates the reporting of acts of corruption in the public sector by the media.
- Without these kind of laws, practices and governance principles the ability to promote public trust in government is significantly reduced.

### Learning Goals

- Learn and understand key UNCAC mandates in relation to the protection of whistleblowers and the role of the media in reporting acts of corruption;
- Learn how to identify, access and use transparency tools to promote public participation and whistleblowing;
- Learn how key UNCAC transparency-oriented mandates, good governance practices and principles mutually support and interact with each other and thereby promote accountability;
- Learn how to access and creatively use a number of assessment tools and monitoring and reporting mechanisms to address corruption in various sectors, institutions and country contexts and
- Be able to articulate some of the key measures adopted in recent times by States parties to facilitate the reporting of acts of corruption and

### Class Assignment/Main Tasks

1. Be able to discuss the key measures that States can put in place in order to facilitate the reporting of acts of corruption and protect those who do come forward with such reports.
2. From your own research identify one case example in which a report made by a whistleblower, whether in the public or private sector, has led to the uncovering of systemic corruption within an organization.





3. Be able to discuss how key transparency-oriented provisions of the UNCAC support the media and in reporting on alleged acts of corruption, including provisions related to access to information and transparency in public administration.
4. Be able to discuss the balance that governments must strike between enhancing transparency in public administration and respecting the privacy and protecting the reputation of individual members of the public. Specifically, consider what impact criminal defamation laws have on the ability of journalists to publish corruption allegations.
5. Research the laws of the country you are studying on and assess them against the requirements of the Convention and the good practices identified in the reading materials for this module. How could such measures be improved in your country?

## Resources

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### Required Reading

UNODC, Reporting on Corruption: A Resource Tool for Governments and Journalists, 2013 (pages 1 – 49) [http://www.unodc.org/documents/corruption/Publications/2014/13-87497\\_Ebook.pdf](http://www.unodc.org/documents/corruption/Publications/2014/13-87497_Ebook.pdf)

UNODC, Conflicts of interest, reporting acts of corruption and asset declarations, particularly in the context of articles 7-9 of the Convention (pages 14 – 19) <http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2012-August-27-29/V1254431e.pdf#page=14>

Banisar, D. (2011). Whistleblowing: International Standards and Developments. In Sandoval, I. (ed.). Corruption and Transparency: Debating the Frontiers between State Market and Society. Washington, D.C.: World Bank-Institute for Social Research, UNAM. Retrieved December 8, 2012 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1753180](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1753180)

Chene, M. (2009). Good Practice in Whistleblowing Protection Legislation (WPL) (U4 Expert Answers). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved December, 10, 2012 from <http://www.u4.no/publications/good-practice-in-whistleblowing-protection-legislation-wpl/>

Gratton, G. (2012). The Sound of Silence: Anti-Defamation Law and Political Corruption. UNSW Australian School of Business Research Paper No. 2012ECON21. Retrieved March 21, 2013 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2028738](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2028738)

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### Recommended Reading & Academic /Scholarly Articles & Books

Smyth, F. (2012). Journalist Security Guide. New York, NY: Committee to Protect Journalists. Retrieved December, 10, 2012 from <http://cpj.org/reports/2012/04/journalist-security-guide.php>

The International Consortium of Investigative Journalists. (2012). Guide to International Freedom of Information Laws. Washington, D.C.: The International Consortium of Investigative Journalists. Retrieved December, 10, 2012 from

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Almeida, H. (2012, February 8). Oil Corruption Menaces Angola, Nigeria, Global Witness says. *Bloomberg BusinessWeek*. Retrieved from <http://businessnews.com.ng/2012/02/08/oil-corruption-may-threaten-angola-nigeria-global-witness-says/>

Ala'i, P. (2008). The WTO and the Anti-Corruption Movement. *Loyola University-Chicago International Law Review*, 6(1), 259-278. Retrieved from [http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1060&context=facsch\\_lawrev](http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1060&context=facsch_lawrev)

Article 19. (2010, December 2). Wikileaks and the US Embassy Cables. Retrieved December 8, 2012 from <http://www.article19.org/resources.php/resource/1675/en/wikileaks-and-the-us-e>

Assaf, S. & Henderson, K. (2007). Comparative Report on the State of the Media in Egypt, Jordan, Lebanon and Morocco. Washington, DC: International Foundation for Electoral Systems (IFES). Retrieved June 7, 2017 from [http://www.ifes.org/sites/default/files/media\\_comparative\\_report\\_final.pdf](http://www.ifes.org/sites/default/files/media_comparative_report_final.pdf)

Banisar, D. (2006). Freedom of Information around the World 2006: A Global Survey of Access to Government Information Laws. Washington, DC: freedominfo.org. Retrieved December 7, 2012 from [http://www.freedominfo.org/documents/global\\_survey2004.pdf](http://www.freedominfo.org/documents/global_survey2004.pdf)

Bertot, J.C., Jaeger, P.T. & Grimes, J.M. Using ICTs to create a culture of transparency: E-government and social media as openness and anti-corruption tools for societies. *Government Information Quarterly*, 27(3), pp. 264-271. Retrieved December 14, 2012 from <http://dx.doi.org.proxy.wcl.american.edu/10.1016/j.giq.2010.03.001>

Carlitz, R. (2012). Improving Transparency and Accountability in The Budget Process: An Assessment Of Recent Initiatives. England: Division for International Development. <http://www.dfid.gov.uk/r4d/Output/188632/Default.aspx>

Global Witness. (2012, April). Dealing with Disclosure: Improved transparency in decision-making over large scale land acquisitions, allocations and investments. London, England: Global Witness/Oakland, CA: The Oakland Institute/Rome, Italy: International Land Coalition Secretariat. Retrieved December 8, 2012 from [http://www.globalwitness.org/sites/default/files/library/Dealing\\_with\\_disclosure\\_1.pdf](http://www.globalwitness.org/sites/default/files/library/Dealing_with_disclosure_1.pdf)

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Hartman, L., et al. Translating corporate culture around the world: A cross-cultural analysis of whistleblowing as an example of how to say and do the right thing. *POLITEIA*, 105(93), pp. 255-272. Retrieved December 10, 2012 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1444187](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1444187)

Henderson, K. (2005). A Regional Strategy for Promoting Independent Media and Free Expression in the Middle East and North Africa. Washington, DC: International Foundation for Electoral Systems (IFES). Retrieved June 7, 2017 from [http://www.ifes.org/sites/default/files/whitepaper\\_7\\_freedom\\_of\\_press\\_mena.pdf](http://www.ifes.org/sites/default/files/whitepaper_7_freedom_of_press_mena.pdf)





Horsley, J. (n.d.). China Adopts First Nationwide Open Government Information Regulations. New Haven, CT: Yale Law School | The China Center. Retrieved June 7, 2017 from [https://law.yale.edu/system/files/documents/pdf/Intellectual\\_Life/Ch\\_China\\_Adopts\\_1st\\_OGI\\_Regulations.pdf](https://law.yale.edu/system/files/documents/pdf/Intellectual_Life/Ch_China_Adopts_1st_OGI_Regulations.pdf)

International Budget Partnership. (n.d.). Open Budget Survey. Retrieved December 7, 2012 from <http://internationalbudget.org/what-we-do/open-budget-survey/>

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Myers, K. & Mohammed, A. (2012). A Short Guide to Parliamentary Oversight of the Oil and Gas Sector for the Parliament of Ghana. New York, NY: Revenue Watch Institute. Retrieved June 7, 2017 from <https://www.agora-parl.org/sites/default/files/pc-mps-short-guide-on-oil-gas.pdf>

Roberts, A. (2010). A Great and Revolutionary Law? The First Four Years of India's right to Information Act. *Public Administration Review*, 70(6). Retrieved December 8, 2012 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1527858](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1527858)

Saunders, A. (2011). A Guide for Civil Society on the 2011 EITI Rules. New York, NY: Revenue Watch Institute. Retrieved December 9, 2012 from <http://www.revenuewatch.org/publications/guide-civil-society-2011-eiti-rules>

Tshauridu, E. (2011). Whistleblowing management is risk management. In D. Lewis & Wim. Vandekerckhove (Ed.). *Whistleblowing and Democratic Values*. The International Whistleblowing Research Network. Retrieved December 8, 2012 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1998293](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1998293)

Open source e-book covering many important issues.

UK: Government promises defamation reform but backslides on expression and surveillance. (2012, May 11). London, England; Article 19. Retrieved from <http://www.article19.org/resources.php/resource/3164/en/uk:-government-promises-defamation-reform-but-backslides-on-expression-and-surveillance>

Vaughn, R., Devine, T., Henderson, K. (2003). The Whistleblower Statute Prepared for the Organization of American States and the Global Legal Revolution Protecting Whistleblowers. *George Washington International Law Review*, 35(4) 857-902. Retrieved December, 10, 2012 from <http://www.heinonline.org.proxy.wcl.american.edu/HOL/Page?handle=hein.journals/gwilr35&id=871&collection=journals&index=journals/gwilr>

#### **Academic/Scholarly Articles & Books:**

Gratton, G. (2012). *the Sound of Silence: Anti-Defamation Law and Political Corruption*. UNSW Australian School of Business Research Paper No. 2012ECON21. Retrieved March 21, 2013 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2028738](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2028738)

Kleinhempel, M. (2011). *Whistle-Blowing (technical note)*. Buenos Aires: IAE, Business School, Universidad Austral.

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<https://www.norad.no/om-bistand/publikasjon/2011/contextual-choices-in-fighting-corruption-lessons-learned/>

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Neuman, L. & Calland, R. (2007). Making the Access to Information Law Work: The Challenges of Implementation. In Florini, A. (Ed.). *The Right to Know* (pp. 179-213). New York: Columbia University Press. Retrieved December 7, 2012 from [http://www.cartercenter.org/resources/pdfs/peace/americas/making\\_theLaw\\_work.pdf](http://www.cartercenter.org/resources/pdfs/peace/americas/making_theLaw_work.pdf)

Stachowicz-Stanusch, A. (2010). *Organizational Immunity to Corruption. Building Theoretical and Research Foundations*. Charlotte, N.C.: Information Age Publishing.

## Videos

Article 19: <http://www.youthforhumanrights.org/what-are-human-rights/videos/freedom-of-expression.html>.

Witness Protection Law Launched to Protect Whistleblowers (Video Webcast). Retrieved December, 17, 2012 from <http://www.youtube.com/watch?v=oj159V-G-YE>

WGBH. (2009). Portrait of Whistleblower: How One Man Decided to Expose the Truth. Frontline. Retrieved December 16, 2012 from <http://www.pbs.org/frontlineworld/stories/bribe/2009/02/portrait-of-a-whistleblower.html>

## Useful Websites

Committee to Protect Journalists blog has articles on the topic of public awareness and open government (<http://www.cpj.org/blog>)

The Tools & Resources section of the Committee to Protect Journalists website has information on public awareness and open government: <https://www.cpj.org/>

The International Consortium of Investigative Journalists website also discusses open government (<http://www.icij.org>)

United Nations Development Programme (UNDP). Democratic Governance and peacebuilding. Retrieved June 7, 2017 from

<http://www.undp.org/content/undp/en/home/ourwork/democratic-governance-and-peacebuilding/overview.html>

Article 19 is an excellent UK global website on access to information laws and issues (<http://www.article19.org>)

FOIA Net has a selective biography of academic literature, overviews and comparative analysis regarding freedom of information law and practice (<http://www.foianet.org>)

Collaboration on Government Secrecy, USA is hosted by the Washington College of Law (<http://www.wcl.american.edu/lawandgov/cgs/>)

The Public Expenditure and Financial Accountability Program (PEFA) of the World Bank assesses countries' public expenditures, procurement and financial accountability mechanisms (<http://www.pefa.org>)

IMF. (2007). IMF Code of Good Practices for Financial Transparency. Washington, D.C.: International Monetary Fund (IMF). Retrieved December 10, 2012 from <http://www.imf.org/external/np/pp/2007/eng/051507c.pdf>





The Center for Studies on Freedom of Expression and Access to Information is run by faculty at Palermo University School of Law (<http://www.palermo.edu/cele/english/access-to-information.html>).

WikiLeaks (<http://www.wikileaks.org>)

The TI Sourcebook discusses the right to information (<http://archive.transparency.org/publications/sourcebook>)

# 7



## Prevention: Justice Sector Corruption and Human Rights

### **i** Introduction/ Thesis for Class Discussion and Debate

This module is focused on the addressing corruption in the justice sector and on the vital role that the judiciary and prosecution services must play in combating corruption more broadly.

The UNCAC is the first global treaty to expressly acknowledge the global problem of corruption in judicial and prosecution services and the first to require countries to make addressing it a high priority reform. While the Universal Declaration of Human Rights (1948) made human rights and an independent judiciary a universal right, it did not acknowledge justice sector corruption as an important barrier to the fair and effective implementation and enforcement of domestic laws. It is this impartial application of criminal legislation that is essential if corruption is to be addressed effectively, particularly in countries where the problem is endemic. The UNCAC, in Article 11, explicitly recognizes the importance of ensuring the integrity of both judicial and prosecutorial bodies as an essential step in the effective enforcement of anti-corruption laws.

One of the most important historical and contemporary lessons learned from a political, economic, human rights or anti-corruption perspective, is that a justice system with integrity is key to addressing corruption and promoting human rights and sustainable economic development. From 18th century Scotland, 19th century America and Denmark, 20th century Hong Kong, Singapore and Poland to 21st century Georgia and South Korea, countries that have had or made promoting a rule of law culture one of their highest priorities have generally had the most overall success.

To a large extent, the fair and equitable implementation of these two global treaties, as well as various regional anti-corruption, human rights and economic-oriented treaties, all depend on the existence of an independent justice system with integrity.

The Bangalore Principles on Judicial Conduct, promulgated under the auspices of the UNODC in 2002, and follow-on UNODC commentary (2007), is a good global guidepost

### **🔑** Key Issues

judicial corruption; law enforcement corruption; judicial independence; justice sector transparency; justice sector accountability; judicial enforcement; anti-corruption institution/authority corruption; international and national judicial cooperation

### **📖** UNCAC Articles

Chapter 2: Article 11 (and related UDHR A10 & 19)





or framework for analysis, discussion and action in relation to Article 11 UNCAC and the relevant provisions of the UDHR.

This module attempts to introduce the student to some of the key issues and topics related to justice sector corruption raised in the UNCAC, and to a lesser degree the UDHR and other international treaties. Students are also briefly exposed to how this issue relates to and impacts on other UNCAC articles and regarding law enforcement and national and international cooperation.

At the end of this lesson students should see the issue of judicial integrity as a crosscutting global issue that is central to addressing corruption more broadly at a national level.

### Main Topics

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- The scope and nature of justice sector corruption from both an UNCAC implementation and rule of law perspective.
- Linkages between the need to address justice sector corruption in the UNCAC and the fair, effective and efficient enforcement of universal human rights in the UDHR
- The causal connection between human rights abuses and justice sector corruption
- Links between the implementation and enforcement of the UNCAC's corruption prevention and criminal laws and UNCAC's justice sector corruption mandate.
- Links between issues related to judicial independence and justice sector corruption under the UNCAC and UDHR

### Key Lessons

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- This issue is still almost a taboo topic in many countries.
- Addressing and preventing justice sector corruption is only a recently acknowledged global phenomenon that has been rarely discussed or researched and rarely addressed in many UNCAC and UDHR countries.
- Addressing corruption in justice and law-enforcement institutions is a prerequisite for addressing corruption in other parts of the public and private sector.
- This issue also needs to become a higher priority on the global policy reform agenda.

### Learning Goals

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- To help students learn how to research, analyze and quantify the cost and crosscutting multiple impacts of justice sector corruption on fundamental human rights, including property and human rights, freedom of expression and fair and equitable justice, good governance and law enforcement cooperation
- To provide students the knowledge, tools and methodological skills necessary to analyze, address and prevent corruption within key components of the justice system, including among judges, prosecutors, police, investigators, ministers of justice and anti-corruption commissions
- To arm students with the analytical skills and awareness of some of the key global resources and oversight monitoring and reporting mechanisms (both governmental and non-governmental) needed to support implementation of Article 13 of the UNCAC

### Class Assignment/Main Tasks

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1. Please read the articles below with an eye towards understanding the difference that endemic justice sector corruption has on (i) both socio-economic and political

development (ii) the ability of a country to address and prevent corruption and hold corrupt actors accountable; (iii) the ability of governments, individuals, civil society groups and businesses to protect and prevent their fundamental rights under the UDHR and to access fair and effective justice and (iv) the ability of a country to promote a rule of law culture.

2. You should be able to identify at least one anti-corruption framework for analyzing the causes, cost and depth of corruption within a country's justice system and one framework for promoting high priority justice sector reforms. Choose the country of your choice from the GCR 2007 Report and try to apply this framework to the analysis in the Report.
3. Choose any three country reports in the GCR 2007 Report and write a one page paper summarizing, in your opinion, the 3 most important corruption problems these judiciaries shared in common.

Fujimori case study. Please see the assignment in the Fujimori case study below. Please focus on identifying key issues related to corruption within the Peruvian judiciary and law enforcement community and international cooperation.

## Resources

### Required Reading

The Bangalore Principles of Judicial Conduct (E/CN.4/2003/65). (2002). Geneva, Switzerland: United Nations office on Drugs and Crime Retrieved from [http://www.unodc.org/pdf/corruption/bangalore\\_e.pdf](http://www.unodc.org/pdf/corruption/bangalore_e.pdf)

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### Case Studies

Fujimori/Peru (see cite Videos below). Also undertake your own independent research and prepare a 3 to 5 page Lessons-Learned Memorandum for the current Prosecutor General of Peru. Include a one page Addendum outlining your research methodology.





## Videos

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## Useful Websites

See Bibliography

## Quiz and Questions for Class Discussion

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1. How many universal crimes and good governance reforms under the UNCAC, including international law enforcement cooperation, can be fairly and effectively implemented without an independent judiciary and justice system with integrity?
2. How many rights guaranteed under the UDHR, including the right to freedom of expression, can be fairly and effectively implemented without an independent judiciary and justice system with integrity?
3. Does your country have a governmental or non-governmental systematic monitoring and reporting mechanism to promote an independent judiciary or address and prevent systematic corruption in the justice sector?
4. Does your country's laws, including income and asset disclosure for the judiciary, and do your judicial code of ethics, conform to the laws and ethics rules for judges and prosecutors recommended in the UNCAC.
5. How many historical and contemporary anti-corruption achieving countries in "Contextual Choices" have or are promoting a rule of law culture?
6. According to Global Integrity's 2012 country report, what are the key reasons why a country's anti-corruption agency fails to enforce their anti-corruption laws or fulfill the public's expectations?

# 8



## Prevention: Public and Private Sector Procurement

### **i** Introduction/ Thesis for Class Discussion and Debate

Corruption in the public procurement process is one of the biggest drivers of corruption in virtually every country in the world. The apparent and hidden costs of this form of corruption should be a high priority concern for all stakeholders. Globally, bribery in government procurement is estimated to add at least 10-20% to the value of the contract. Others estimate it to add as much as 30% in some sectors, such as defense, construction and natural resources.

Whatever the right numbers are, no country can afford not to take action, particularly in high priority sectors. The full impact corruption has on the quality of services and products delivered, including public health and safety, makes the human cost potentially much higher than any bribe.

This module is focused mainly on how to make the public procurement process more transparent, competitive and objective through the implementation of model laws and good governance practices related to public procurement mandated and recommended in UNCAC Articles 5, 6, 7, 8, 9, 11, 12 and 14.

While the UNCAC mandate relates to the public sector, it also includes a number of transparency recommendations that relate to the procurement process purely within or more closely related to the private sector. Students should therefore note that many of the same issues and good governance practices raised in this module also relate to the procurement process within the private-to-private and non-profit sectors, which is similarly subject to corruption. However, because of time limitations, that important area will necessarily have to be explored more deeply through independent research.

Addressing and preventing corruption in the public procurement process should be a high priority in virtually any country context for a number of reasons, including: (i) the amount of public money and degree of corruption involved (by some estimates public procurement represents 15% to 20% of the world's GDP -- or at least \$4 trillion per year); (ii) it is crosscutting across sectors and public agencies; (iii) it has a significant negative impact on

### **🔑** Key Issues

Transparency in the public procurement process; accountability in the process; E-government; the cost of public procurement corruption to governments, businesses and society and analyzing corruption and its risks within the public procurement process step-by-step.

### **📖** UNCAC Articles

Chapter 2: Articles 5, 6, 7, 8, 9, 11, 12 and 14





economic growth and trade and investment (including small, medium and large national and international business enterprises, as well as women, minorities and the poor); (iv) it increases the price for and reduces the quantity and quality of public goods and services and (v) it is one of the main vehicles used to perpetuate corrupt networks and a culture of bribery.

As implementation of the UNCAC progresses in countries around the world, public and private sector actors engaging in public procurement bribery and corruption are now taking greater legal and political risks. For public officials and civil servants, as well as the private sector, knowing what these risks are and how to prevent or minimize them through good governance practices, is now more important than ever.

### Main Topics

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The main topics covered are: Public and Private Corruption, Transparency and Accountability.

### Key Lessons

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- Making reducing corruption within the public procurement process a high priority for both the public and private sectors is key to addressing high level and low level corruption, promoting a culture of integrity in public administration, and establishing a competitive economic playing field.
- Now that modern and comprehensive procurement and corruption laws are emerging globally, the challenge is how to implement and enforce them fairly and effectively.
- Increased transparency and accountability, including through E-Governance, access to information and open government systems, as well as the involvement of civil society organizations and the media, are also playing an increasingly important role in preventing and reducing corruption in public procurement.
- Both governmental and non-governmental oversight are key to anti-corruption success and accurate risk analysis in relation to public procurement.

### Learning Goals

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- To introduce and help students analyze the three key steps in the public procurement process and the opportunities for corruption at each of these stages;
- To provide students with some of the cutting-edge tools, resources and country success stories related to how to calculate the cost of and reduce corruption in each stage of the public procurement process and
- To help students critically analyze UNCAC provisions in relation to public procurement and explore good practice examples of implementation by State parties to the Convention.

### Class Assignment/Main Tasks

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1. Be able to identify key resources and materials for the purpose of analyzing corruption risks in the public procurement process, placing a particular focus on the UN model procurement law.
2. Be able to identify key reports and research outlining key issues, case studies, tools, lessons learned reports, model E-governance programs and best public procurement practices guidelines.
3. Be able to identify and critically discuss five corruption scandals related to the public

procurement process (in whole or in part).

4. In the BAE scandal, how many country's public procurement and anti-bribery/corruption laws were broken and what was the total cost of the BAE corruption case (to the country in question and to the company/subsidiary, the bribers, the bribes and citizens)?

## Resources

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Spotlight on Publications: Public Procurement and Disclosure of Public Officials' Personal Assets is a website from Evidence and Lessons from Latin America (ELLA) that covers many important human rights, gender and accountability issues in Latin America. (<http://ella.practicalaction.org/node/1005>)

Ware, T., et al. (2007). Corruption in Public Procurement: A Perennial Challenge. In J. Campos & S. Pradhan. The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level (pp. 295-334). Washington, DC: The International Bank for Reconstruction and Development / The World Bank. Retrieved December 14, 2012 from <http://www.u4.no/recommended-reading/the-many-faces-of-corruption-tracking-vulnerabilities-at-the-sector-level/>

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Comprehensive global training manual that includes case studies, good governance practices and all key corruption issues spanning numerous countries.

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Survey on 34 OECD member countries and Brazil, Egypt and Ukraine using E-procurement.

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## Case Studies

### *Bangladesh*

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### *Iraq*

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Discusses BAE systems bribery in the public procurement process.

## Useful Websites

OECD. (n.d.). Procurement Toolbox. Retrieved December 10, 2012 from <http://www.oecd.org/governance/procurement/toolbox/indexoftoolsbyprocurementcycle.htm>

The Procurement Law Academic Network offers an Index of tools for each phase of the procurement cycle (<http://www.planpublicprocurement.org/>)

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The 6 P's: Public-Private Partnership for Probity in Public Procurement ([http://www.siemens.com/sustainability/de/themenfelder/compliance/collective-action/integrity-initiative/unodc-anti-corruptions-academy\\_6p.htm](http://www.siemens.com/sustainability/de/themenfelder/compliance/collective-action/integrity-initiative/unodc-anti-corruptions-academy_6p.htm))

### Quiz and Questions for Class Discussion

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1. The following are quiz and questions for class discussion:
2. How many mandated UNCAC and the OECD Anti-Bribery Convention criminal laws was BAE potentially charged with violating in Black Money?
3. How much in country criminal fines related to these laws is BAE potentially liable for in the countries where BAE was bribing country officials for contract awards?
4. How many other provisions of the UNCAC are relevant to the BAE scandal?
5. How many prevention-oriented warning indicators or yellow flags in the bidding process could help you identify opportunities for corruption in a typical public procurement transaction (Many Faces of Corruption)?
6. How many prevention-oriented warning indicators or yellow flags in the contract administration process could help you identify opportunities for corruption in a typical public procurement transaction (Many Faces of Corruption)?
7. What are some of the key lessons learned and good governance practices to prevent or reduce bribery and corruption in the public procurement process?
8. In which countries has E-Procurement been most successful in reducing bribery and corruption?

# 9



## Prevention of Money Laundering

### Introduction/ Thesis for Class Discussion and Debate

At the beginning of the 21st century, addressing and preventing money laundering through enhanced law enforcement and international cooperation has become a high global priority for countries, businesses and the international law enforcement community. New conventions, laws, institutions and reporting requirements, coupled with new forms of technology and enhanced international law enforcement cooperation policies and procedures, as mandated by the UNCAC, provide new opportunities to cut off the flow of dirty money.

The UNCAC's articles aimed at fighting money laundering relate to both the preventive measures that can be put in place to identify and trace the proceeds of crime and the criminal offences that States should introduce to punish those involved. In doing so, the Convention seeks to enhance public and private sector financial disclosure and reporting as well as international cooperation within and between the public and private sectors. It is essential that this issue is addressed by all States as virtually every major corrupt activity will give rise to the need to hide the proceeds and turn it from dirty to what looks like clean money.

Some estimate that around \$500 billion of this amount is laundered from the poorer and less developed countries through fraud, corruption or trafficking (and estimates are that \$20 to \$40 billion of this amount is literally stolen or embezzled by high level public officials and laundered across country borders). Another \$500 billion, or so, is laundered by transnational organized crime networks (although the funds of these groups are often linked).

As will be seen in some of the readings, case studies, documentaries and videos below, many of the poorer countries, which suffer from capital flight the most, are ironically actually rich in natural resources; however, the vast majority suffer from the "natural resource curse" (extractive sectors account for \$3.5 trillion in revenues or about 5% of total Global GDP).

Money laundering makes crime pay off. It undermines and distorts government budgets and free and competitive markets and it exacerbates poverty. It also gives criminal

### Key Issues

addressing and preventing money laundering; money laundering/corruption and criminal predicate offenses

### UNCAC Articles

Chapter 2: Articles 14, 15, 16, 23, 37, 40, 46, 51, 52, 58





networks undue economic and political power, particularly in small economies, and makes financing for terrorism easy. Money laundering also undermines confidence in democratic governance and the international financial community, including important international institutions.

This unit seeks to analyze what States can do to combat it and how the UNCAC can help by providing an international framework.

### Main Topics

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Preventive measures (CDD, KYC, record keeping); suspicious transactions reporting; internal and external reporting; national and international cooperation and fair and effective enforcement with integrity

### Key Lessons

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- Preventing and addressing money laundering will also help to combat a wide range of crime including corruption.
- Preventing and addressing money laundering will also promote confidence in democratic governance, financial and business markets.
- Preventing and addressing money laundering will also enhance law enforcement cooperation on a wide range of fronts -- including bribery, embezzlement, asset recovery, illicit enrichment, transnational crime, human rights, trade and investment, national security and terrorism.

### Learning Goals

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- To help students understand the strong links between money laundering and corruption and the importance of addressing money laundering in anti-corruption frameworks, namely the implementation and enforcement of corruption laws, policies and good governance practices as mandated under the UNCAC.
- To give students the knowledge and analytical tools needed to analyze and articulate the impact of money laundering on various stakeholders within country context, including countries rich in natural resources.
- To help students see that those involved in the commission of corruption offences and money laundering, maintain or expand their wealth, power and influence by seeking to undermine systems of justice.
- To give students a clear picture of the key international legal frameworks and institutions involved in the battle against money laundering.

### Class Assignment/Main Tasks

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1. As you read through the recommended readings and case studies and as you watch the videos and documentaries be able to identify the various mechanisms and institutions used to launder money generated from underlying criminal source(s).
2. You should be able to cite all of the UNCAC articles that come into play, directly or indirectly, including criminal laws, institutions, mechanisms and policies, in a case study of your choice.
3. In that or another case study be able to identify at least three money laundering global best practices sources and three barriers to fair and effective international law enforcement cooperation on the money laundering front.
4. Review Annex 1 in the FATF Report (2011) and identify the number of source and

destination countries, the typical government official involved and the most frequent nature of corruption or crime committed. Also identify how to identify how many cases involved corporate vehicles, shell companies and foreign accounts.

5. Kazakhgate case study: Please do your own Internet research and find the judge's final decision in this case and the way in which the bribery money from the secret Swiss bank account was ultimately distributed. Do you agree with the judge's decision and what were the issues in the litigation? What laws under the UNCAC were broken (theoretically)? Did or would implementation of the EITI initiative made a difference? What are the key issues now in terms of the way the bribery money is being spent?

## Resources

### Required Reading

Laundering the Proceeds of Corruption. (2011). Paris, France: Financial Action Task Force (FATF-GAFI). Retrieved December 10, 2012 from <http://www.fatf-gafi.org/media/fatf/documents/reports/Laundering%20the%20Proceeds%20of%20Corruption.pdf>

Billon, P. (2011). Extractive Sectors and Illicit Financial Flows: What Role for Revenue Governance Initiatives?. (U4 Issue October 2011 No 13). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved December 10, 2012 from <http://www.cmi.no/publications/file/4248-extractive-sectors-and-illicit-financial-flows.pdf>

Carney, J. & Harker, F. (2011, February 7). Do Whistleblower Provisions Cover Money Laundering? A Dodd-Frank Special Report. The National Law Journal. Retrieved June 7, 2017 from

[https://www.bakerlaw.com/files/Uploads/Documents/News/Articles/LITIGATION/2011/NLJ\\_Carney\\_Harker\\_February-2011.pdf](https://www.bakerlaw.com/files/Uploads/Documents/News/Articles/LITIGATION/2011/NLJ_Carney_Harker_February-2011.pdf)

Chalkin, D. (2010). International Anti-Money Laundering Laws: Improving External Accountability of Political Leaders (U4 Brief 2010:4). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved December 10, 2012 from <http://www.u4.no/publications/international-anti-money-laundering-laws-improving-external-accountability-of-political-leaders-2/>

Chene, M. (2008). Mutual Legal Assistance and Money Laundering (U4 Expert Answer). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved, December 10, 2012 from <http://www.u4.no/publications/mutual-legal-assistance-treaties-and-money-laundering>

Greenberg, T., et al. (2009). Stolen Asset Recovery - Politically Exposed Persons: A Policy Paper on Strengthening Preventive Measures. Washington, D.C.: The International Bank for Reconstruction and Development/the World Bank. Retrieved, December 10, 2012 from <http://siteresources.worldbank.org/EXTSARI/Resources/5570284-1257172052492/PEPs-ful.pdf?resourceurlname=PEPs-ful.pdf>

Palmer, R. (2009). Profiting from Corruption: The Role and Responsibility of Financial Institutions (U4 Brief December 2009 No. 31). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved December 10, 2012 from <http://www.u4.no/publications/profitting-from-corruption-the-role-and-responsibility-of-financial-institutions-2/>

Rappaport, Liz. (2012, August 15). Bank Settles Iran Money Case. Wall Street Journal. Retrieved December 10, 2012 from <http://online.wsj.com/article/SB10000872396390444318104577589380427559426.html>

Reed, Q. & Fontana, A. (2011). Corruption and Illicit Financial Flows (UF Issue 2011:2).





Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved December 10, 2012 from <http://www.u4.no/publications/corruption-and-illicit-financial-flows-the-limits-and-possibilities-of-current-approaches-2/>

Steger, I. (2012, August 15). Tallying up U.S. Regulators' Money Laundering Fines. WSJ Deal Journal. Retrieved December 12, 2012 from <http://blogs.wsj.com/deals/2012/08/15/tallying-up-u-s-regulators-money-laundering-fines/>

U.S. Government Accountability Office. (1998, October). Raul Salinas, Citibank, and Alleged Money Laundering. Retrieved December 10, 2012 from <http://gao.gov/archive/1999/os99001.pdf>

### Recommended Reading & Academic /Scholarly Articles & Books

UNODC & IMF. (2005). UNODC and IMF Model-Legislation on Money-Laundering and Financing of Terrorism. Retrieved December 17, 2012 from <http://www.unodc.org/unodc/en/money-laundering/Model-Legislation.html?ref=menuaside>

UNODC Division for Treaty Affairs, (2006). UNODC Legislative Guide for the Implementation of the UNCAC. New York, NY: United Nations. Retrieved June 7, 2017 from [https://www.unodc.org/pdf/corruption/CoC\\_LegislativeGuide.pdf](https://www.unodc.org/pdf/corruption/CoC_LegislativeGuide.pdf)

Council of Europe. (1990). Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. Retrieved December 10, 2012 from <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=141&CL=ENG>

In Focus: Foreign Corruption. (2011, May). The SAR Activity Review Trends, Tips & Issues, Issue 19. Retrieved December 11, 2012 from [http://www.fincen.gov/news\\_room/rp/files/sar\\_tti\\_19.pdf](http://www.fincen.gov/news_room/rp/files/sar_tti_19.pdf)

International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation. (2012). Paris, France: Financial Action Task Force (FATF). Retrieved June 7, 2017 from [http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF\\_Recommendations.pdf](http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf)

The Misuse of Corporate Vehicles, Including Trust and Company Service Providers. (2006, October 13). Paris, France: Financial Action Task Force (FATF-GAFI). Retrieved December 10, 2012 from <http://www.fatf-gafi.org/media/fatf/documents/reports/Misuse%20of%20Corporate%20Vehicles%20including%20Trusts%20and%20Company%20Services%20Providers.pdf>

### Academic/Scholarly Articles & Books:

Bricknell, S., McCusker, R., Chadwick, H., Rees, D. (2011). Money laundering and terrorism financing risks to Australian non-profit organizations. Australian Institute of Criminology Reports, Research and Public Policy series, No. 114. Retrieved March 21, 2013 from <http://www.aic.gov.au/documents/7/3/9/%7B73997C4D-79B3-46B1-8D09-4AFC93E675F5%7Drpp114.pdf>

Goel, R.K., Mehrotra, A.N. (2012). Financial Payment Instrument and Corruption. Applied Financial Economics, 22(11), pp. 877-886.

Levi, M. et al. (2007). Money Laundering and Corruption. In Campos, J.E. and Pradhan, S. (eds.), The Many Faces of Corruption (pp. 389-426). Washington, D.C.: The World Bank Publishing. Retrieved March 21, 2013 from <http://www.u4.no/recommended-reading/the-many-faces-of-corruption-tracking-vulnerabilities-at-the-sector-level/>

Reed, Q., Fontana, A. (2011). Corruption and Illicit Financial Flows: The Limits and Possibilities of Current Approaches (u4 Issue, No. 2). Bergen, Norway: u4 Anti-Corruption Resource Centre. Retrieved March 21, 2013 from

<http://www.u4.no/publications/corruption-and-illicit-financial-flows-the-limits-and-possibilities-of-current-approaches-2/>

Kim-Kwang, R.C. (2010). Challenges in Dealing with Politically Exposed Persons. Trends and Issues in crime and Criminal Justices, 386, pp. 1-6

Chêne, M. (2008). Mutual Legal Assistance Treaties and Money Laundering (u4 Expert Answer). Bergen, Norway: u4 Anti-Corruption Resource Centre. Retrieved March 21, 2013 from <http://www.u4.no/publications/mutual-legal-assistance-treaties-and-money-laundering/>

Tian, X., Lo. V.I. (2009). Conviction and Punishment. Public Management Review, 11(2), pp.155-172.

UNODC Manual on the Risk of Money Laundering through Financial Instruments, Users and Employees of Financial Institutions. (2010). Bogota, Columbia: UNODC. Retrieved June 7, 2017 from [https://www.unodc.org/documents/colombia/2013/diciembre/Risk\\_of\\_Money\\_Laundering\\_version\\_1.pdf](https://www.unodc.org/documents/colombia/2013/diciembre/Risk_of_Money_Laundering_version_1.pdf)

OECD Good Practices, Guidance and on Internal Control, Ethics and Compliance. (2010). Paris, France: OECD Council. Retrieved March 21, 2013 from <http://www.oecd.org/daf/anti-bribery/anti-briberyconvention/44884389.pdf>

Kowalczyk-Hoyer, Barbara. (2012). Transparency in Corporate Reporting – Assessing the World’s Largest Companies. Berlin, Germany: Transparency International. Retrieved March 21, 2013 from [http://transparency.org/whatwedo/pub/transparency\\_in\\_corporate\\_reporting\\_assessing\\_the\\_worlds\\_largest\\_companies](http://transparency.org/whatwedo/pub/transparency_in_corporate_reporting_assessing_the_worlds_largest_companies)

Laundering the Proceeds of Corruption. (2011). Paris, France: Financial Action Task Force (FATF-GAFI). Retrieved March 21, 2013 from <http://www.fatf-gafi.org/media/fatf/documents/reports/Laundering%20the%20Proceeds%20of%20Corruption.pdf>

### Case Studies

Grand Corruption Case Inventory. (2011). In Laundering the Proceeds of Corruption (47-50). Paris, France: Financial Action Task Force (FATF-GAFI). Retrieved December 10, 2012 from <http://www.fatf-gafi.org/media/fatf/documents/reports/Laundering%20the%20Proceeds%20of%20Corruption.pdf>

The Giffen Case. (2007). In J. Campos & S. Pradhan. The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level (Index 203-211). Washington, DC: The International Bank for Reconstruction and Development /The World Bank. Retrieved December 15, 2012 from <http://www.u4.no/recommended-reading/the-many-faces-of-corruption-tracking-vulnerabilities-at-the-sector-level/>

### Videos

CNBC. (2012). CNBC Special: The Story behind the Filthy Rich [Video Webcast]. Retrieved December 16, 2012 from [http://www.moneycontrol.com/video/special-videos/cnbc-special-the-story-the-filthy-rich\\_685239.html](http://www.moneycontrol.com/video/special-videos/cnbc-special-the-story-the-filthy-rich_685239.html)

### Useful Websites

The UNODC Tools & Publications pages includes model laws on cooperation, MLA





Writers Tools the Handbook on Legal Extradition and a digest of organized crime cases (<http://unodc.org/unodc/en/organized-crime/tools-and-publications.html>)

See Bibliography.

### Quiz and Questions for Class Discussion

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1. How many successful PEPs cases have there been since 1965 (successful prosecutions).
2. How many PEPs cases involved crimes now mandated under the UNCAC?
3. How many treaties and official recommendations or guidelines deal with money laundering in whole or in part?
4. Are whistleblowers reporting on money laundering protected under the UNCAC mandates or recommendations?
5. What are three key gaps that have hampered EITI's effectiveness the most?
6. What other international NGO's have been most engaged on issues related to revenues and expenditures in the natural resource sector?
7. How many countries have implemented the FAFT Recommendations effectively?

# 10



## Key Criminalized Offenses and Enforcement

### Introduction/ Thesis for Class Discussion and Debate

For the first time, bribery and a number of other high priority corruption offences mandated under the UNCAC are now considered crimes virtually everywhere. This is an important legal and ethical development with global socio-economic and political ramifications.

While the UNCAC articles on this subject build on a wealth of important experience of other international and domestic laws such as the OECD Anti-Bribery Convention and the U.S. Foreign Corrupt Practices Act, the UNCAC is the first global treaty to tackle this high priority crime from both a demand and supply side perspective.

It is also the first to have worldwide geographic reach – now 165 developing and developed countries and counting. This makes the bribery of public officials, a broadly defined concept in the UNCAC, a universal crime.

Bribery and corruption within the public and private sectors go hand-in-hand. Most research to-date indicates that it is probably the most common mechanism or tool used to engage in corruption.

The amount of global bribery just from the private to the public sector is conservatively estimated to be about USD \$1 trillion by the World Bank. This does not include bribery purely within the private sector or embezzlement or theft by public officials, and a range of other forms of corruption within both the public and private sectors. (Of this amount as much as USD \$200 billion relates to bribes within the public procurement process).

Bribery and corruption acts like a regressive tax and it disproportionately impacts smaller enterprises. Generally, research indicates that reducing corruption and improving the rule of law can make a difference in about 3% per year in the annual growth for enterprises and it can increase a country's growth rate between 2 and 4% per annum.

The UNCAC also mandates countries to criminalize embezzlement, misappropriation and diversion of property by public officials. It also mandates that countries pass laws to allow for the freezing, seizure and confiscation of assets resulting from UNCAC related crimes

### Key Issues

active and passive public sector bribery; private sector bribery; embezzlement; illicit enrichment; justice, prosecutorial and law enforcement sector integrity and enforcement

### UNCAC Articles

Chapter 3: Articles 15, 16, 17, 20, 22, 31, 32 & 33 (& related Articles 11, 13, 14)





and to protect witnesses, experts and victims in corruption cases. At the same time, the UNCAC encourages countries to consider making illicit enrichment of public officials and bribery and embezzlement done purely within the private sector crimes.

The harmonizing effect of the UNCAC on domestic anti-corruption legislation makes knowledge of and legal compliance with UNCAC-related laws and good governance principles more important than ever.

This unit will introduce to students the key corruption offences defined under the UNCAC and consider how a number of States have sought to implement these requirements in their domestic criminal legislation. By the end of this unit, students should have an understanding of the wide variety of corrupt conduct that States must criminalize as a result of the UNCAC and be able to critically analyze the attempts of a number of countries, including their own, to do so.

### Main Topics

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- How to prevent and address public and private sector bribery within national and international context (A15, 16, 20).
- How to calculate and minimize your legal criminal and civil risks for violating a country's foreign Bribery law. (readings)
- How to prevent and address Embezzlement and Illicit Enrichment (A17, 20, 22).
- How to calculate and minimize legal criminal and civil risks for Embezzlement and Illicit Enrichment (readings).
- How to link-up the crimes of Bribery, Embezzlement and Illicit Enrichment with Asset Seizure and Confiscation laws (A31).
- Why protecting witnesses, experts and victims and protection to persons who report on corruption is so important (A32 & 33 & readings).
- Why preventing and addressing corruption in the justice, prosecutorial and law enforcement sector is key to UNCAC implementation and enforcement success (A11).
- Examining examples of domestic anti-corruption criminal legislation such as the US Foreign Corrupt Practices Act and the UK Bribery Act 2012 (A16)

### Key Lessons

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- Corruption acts as an unofficial tax on consumers and producers and those living in poverty and those with the least economic and political power. There is a growing body of research that shows it also reduces the level of investment and growth, including direct foreign investment by adding costs and creating uncertainty and that it reduces the amount of government funding for core programs, such as health, education and the environment.
- In dynamic economies with strong institutions, bribery and corruption is minimized and manageable, in fragile countries with weak or corrupt institutions it is insupportable and unmanageable.
- There is now global agreement that both the giving and receiving of a bribe is a crime. This is demonstrated in Article 15 UNCAC.
- Corruption is not however limited to the crime of bribery, there are a wide range of other offences which constitute acts of corruption such as embezzlement, trading in influence, money laundering and illicit enrichment.
- This increase in domestic laws under which bribers and bribe-takers can be held to account, means that States also require effective justice systems with integrity in order to implement this new legislation.
- It also means new and more comprehensive monitoring, reporting and compliance

systems for governments, businesses and civil society are needed.

### Learning Goals

- To give students an analytic picture of the scope, depth and relationship of key laws and good governance practices embedded in the UNCAC.
- To help students see the potential the UNCAC has, if implemented in practice, to change the global landscape for doing business, promoting public and private sector integrity, reducing crime and corruption and promoting a rule of law culture.
- To illustrate through case studies how bribery and other forms of corruption addressed by the UNCAC occurs in the real world - across sectors, borders and countries.
- To show students how to access and use the tools, mechanisms and good governance practices necessary to prevent and address bribery and other key crimes and to minimize risk through compliance programs.
- To show students how to access and use the tools, resources and methodologies needed to calculate the short and long-term costs and risks of bribery and other forms of crime and corruption.

### Class Assignment/Main Tasks

1. Read and analyze UNCAC Articles 15, 16 and 21 related articles in the UNCAC Legislative Guide and be able to distinguish between active and passive bribery and public sector bribery from private sector bribery done exclusively within the private sector. Also be able to give an example of each.
2. Read all Articles from 15 to 25 and related sections in the UNCAC Legislative Guide and be able to identify all mandatory and all non-mandatory crimes under the UNCAC. Be able to identify their links, if any, with the crime of money laundering as well as how and why effective enforcement of these crimes will require implementation of the UNCAC mandates related to the promotion of national and international law enforcement cooperation and justice systems with integrity.
3. Identify the number of countries and companies (including subsidiaries and shell companies) involved in the Siemens case study and the total amount of bribes involved. Also be able to identify the main mechanisms used to transmit the bribes and the number of UNCAC-related laws that may have been broken in the case.
4. Identify and briefly describe three significant corruption cases brought under the domestic legislation of your country (To be done through personal research and study).
5. Write a 4 to 6 page briefing note for the CEO of Walmart, outlining the state of international law related to bribes, facilitation payments and gifts, including references to good corporate governance compliance practices.
6. In the four case studies below what common UNCAC criminal laws were violated in each case and what criminal laws were any prosecutions or final judgments based upon?

### Resources

#### Required Reading

UNODC. Legislative Guide for the Implementation of the UNCAC (2006). Chapter III New York, NY: United Nations. Retrieved June 7, 2017 from [https://www.unodc.org/pdf/corruption/CoC\\_LegislativeGuide.pdf](https://www.unodc.org/pdf/corruption/CoC_LegislativeGuide.pdf)

Jennett, V. (2007). Summaries of Literature on the Costs of Corruption (U4 Expert Answer). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved December 14, 2012 from <http://www.u4.no/publications/summaries-of-literature-on-costs-of-corruption/>





Nawaz, F. (2009). Tracking the Progress of Grand Corruption Cases: Best Practices and Indicators (u4 Expert Answer). Bergen, Norway: u4 Anti-Corruption Resource Centre. Retrieved December 14, 2012 from <http://www.u4.no/publications/tracking-the-progress-of-grand-corruption-cases-best-practices-and-indicators/>

OECD Council. (2010). Good Practice Guidance on Internal Controls, Ethics and Compliance. Paris, France: Organisation for Economic Co-operation and Development. Retrieved December 13, 2012 from <http://www.oecd.org/investment/briberyininternationalbusiness/anti-briberyconvention/44884389.pdf>

Siemens Changes its Culture: No More Bribes. (2012, May 1). NPR. Retrieved December 14, 2012 from <http://m.npr.org/story/151745671?url=/2012/05/01/151745671/companies-can-recovery-from-bribery-scandals>

Transparency International. (1999-2011). Bribe Payers Index. Retrieved December 14, 2012 from <http://www.transparency.org/research/bpi/>

Transparency International. (2007). Executive Summary: Key Judicial Corruption Problems. In Global Corruption Report 2007. Berlin, Germany: Transparency International (7 p.). Retrieved December 10, 2012 from [http://archive.transparency.org/publications/gcr/gcr\\_2007#summary](http://archive.transparency.org/publications/gcr/gcr_2007#summary)

UK Serious Fraud Office. (2011, March 30). Bribery Act: Prosecution Guidance Published. Retrieved June 7, 2017 from <https://www.sfo.gov.uk/publications/guidance-policy-and-protocols/bribery-act-guidance/>

World Bank. (2011). Enterprise Surveys. Retrieved December 14, 2012 from <http://www.enterprisesurveys.org/> or <http://data.worldbank.org/data-catalog/enterprise-surveys>

The World Bank. (n.d.). Six Questions on the Cost of Corruption with World Bank Governance Director Daniel Kaufman. Retrieved December 12, 2012 from <http://go.worldbank.org/KQH743GKF1>

## Case Studies

### BAE/UK

PBS. (2009). Black Money [Video webcast]. Frontline. Retrieved December 16, 2012 from <http://www.pbs.org/wgbh/pages/frontline/blackmoney/>

### Siemens/Germany/Global

Schubert, S. (2009, February 13). At Siemens, Bribery Was Just a Line Item. FrontlineWorld. Retrieved December 17, 2012 from <http://www.pbs.org/frontlineworld/stories/bribe/2009/02/at-siemens-bribery-was-just-a-line-item.html>

### Mobil/Kazakhstan

RFE/IRL. (2010). After Seven Years, ‘Kazakhgate’ Scandal Ends with Minor Indictment. Radio Free Europe Radio Liberty. Retrieved December 27, 2012 from [http://www.rferl.org/content/After\\_Seven\\_Years\\_Kazakhgate\\_Scandal\\_Ends\\_With\\_Minor\\_Indictment\\_/2123800.html](http://www.rferl.org/content/After_Seven_Years_Kazakhgate_Scandal_Ends_With_Minor_Indictment_/2123800.html)

Time for Transparency: Coming Clean on Oil, Mining and Gas Revenues. (2004, March). London/Washington, DC: Global Witness. Retrieved December 17, 2012 from <http://reliefweb.int/report/angola/time-transparency-coming-clean-oil-mining-and-gas-revenues>

### Walmart/Mexico

Barstow, D. (2012). Vast Mexico Bribery Case Hushed Up by Wal-Mart After a Top-Level Struggle. New York Times. Retrieved December 17, 2012 from <http://www.nytimes.com/2012/04/22/business/at-wal-mart-in-mexico-a-bribe-inquiry-silenced.html?smid=tw-nytimes&seid=auto>

## Videos

### BAE/UK

View the video documentary on the BAE/Siemens scandal and be able to identify the UNCAC offences committed:

PBS. (2009). Black Money [Video webcast]. Frontline. Retrieved December 16, 2012 from <http://www.pbs.org/wgbh/pages/frontline/blackmoney/>

## Useful Websites

Corruption Currents, the Wall Street Journal blog gives a comprehensive survey of recent developments in corruption (<http://blogs.wsj.com/corruption-currents/>)

The OpenAir Blog uses text and video messaging to capture corruption issues (<http://www.openairblog.com/>)

TRACK is the UNODC's anti-corruption portal with a well-organized library of local corruption laws linked to each article of the UNCAC ([http://www.unodc.org/documents/corruption/TRACK/11-83315\\_flyer\\_Final\\_cb.pdf](http://www.unodc.org/documents/corruption/TRACK/11-83315_flyer_Final_cb.pdf))

The Group of States against Corruption (GRECO) has country monitoring reports on priority corruption issues in 48 states ([http://www.coe.int/t/dghl/monitoring/greco/evaluations/index\\_en.asp](http://www.coe.int/t/dghl/monitoring/greco/evaluations/index_en.asp))

The OAS Anti-Corruption portal of the Americas has model corruption laws, training programs and tools and country strategic plans from the African Union Advisory Board on Corruption (<http://www.oas.org/juridico/english/fightcur.html>)

TRAC, Trace International's free due diligence information platform screens corporate registration documents against international watch lists and shares due diligence business information (<https://www.tracnumber.com/StaticPages/Home.aspx>)

Brooks, J., et al. (2012). Assurance Framework for Corporate Anti-Bribery Programs: Building Robust Anti-Bribery Prevention Programs. Retrieved December 10, 2012 from [http://www.transparency.org/whatwedo/pub/assurance\\_framework\\_for\\_corporate\\_anti\\_bribery\\_programmes](http://www.transparency.org/whatwedo/pub/assurance_framework_for_corporate_anti_bribery_programmes)

BIAC Task Force. (2012). Anti-Bribery Resource Guide. Paris: Business & Industry Advisory Committee to the OECD. Retrieved June 7, 2017 from <http://biac.org/focus-areas/the-fight-against-corruption/>

International Chamber of Commerce. (2011). ICC Rules on Combatting Corruption. Retrieved June 7, 2017. From <https://iccwbo.org/publication/icc-rules-on-combatting-corruption/>

The UNODC Tools & Publications pages includes model laws on cooperation, MLA Writers Tools the Handbook on Legal Extradition and a digest of organized crime cases (<http://unodc.org/unodc/en/organized-crime/tools-and-publications.html>)

u4 gives an overview of anti-corruption conventions on its website (<http://www.u4.no/themes/>)

The FCPA Blog is an Anti-Corruption Compliance Portal (<http://www.fcablog.com/>)

The Justice Department gives an overview of the Foreign Corrupt Practices Act on its





website (<http://www.justice.gov/criminal/fraud/fcpa/>)

### Quiz and Questions for Class Discussion

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1. What are some of the most common UNCAC-related criminal laws that were infringed in the 4 case studies presented?
2. What are some of the most common barriers to the effective and fair enforcement of the criminal laws recommended under the UNCAC?
3. What are facilitation payments and are they permitted under the US FCPA and the UNCAC?
4. Why is it important that corporate bodies, and individuals working in them, are aware of the requirements of international instruments such as the UNCAC?
5. How does the UK Bribery Act deal with the concept of corporate liability for corruption offences? What do you think of this approach?

# 11



## Criminalized Offenses, Corruption Prevention and Human Rights

### **i** Introduction/ Thesis for Class Discussion and Debate

Preventing and addressing corruption and enforcing the law fairly, effectively and efficiently is interlinked with the protection and promotion of human rights. The UNCAC's holistic approach to addressing corruption also embraces a human-rights based approach to fair and effective law enforcement.

One of the main goals of this module is to help students link-up issues of common interest to both the anti-corruption and human rights communities and to highlight human rights oriented provisions of the UNCAC. Another goal is to illustrate, through lessons learned, why the UNCAC's implementation is key to the fair and effective implementation of other important conventions related to corruption, crime, terrorism and human rights -- past and future. This module is integral to and builds on all previous and subsequent modules in this course.

UNCAC mandated and recommended laws and policies that are grounded in justice systems with integrity, universal human rights and democratic values (guaranteed under the 1948 Universal Declaration of Human Rights) are all discussed and analyzed together.

Specific UNCAC laws, policies and issues covered include legal protection for: (i) victims; (ii) witnesses; (iii) whistle blowers; (iv) people who report on corruption; (vi) experts; (vii) journalists, teachers, students, bloggers and others; (viii) defense lawyers; and (ix) prosecutors, judges and other officials in the justice system.

Other important UNCAC laws, policies and issues covered relate to those involved in obstructing justice, organized crime networks and the cross-cutting all-important issue of independent anti-corruption, prosecutorial and justice systems with integrity.

This unit will seek to explore the important mechanisms that must be put in place by States

### **🔑** Key Issues

protection for victims, witnesses, reporting persons, whistleblowers, justice system officials, journalists and bloggers; compensation for damages; the fair and effective enforcement of human rights through independent anti-corruption authorities and justice and prosecutorial systems with integrity and evidentiary/human rights issues like illicit enrichment which shift the burden of proof from the prosecutor to the defendant.

### **📖** UNCAC Articles

Articles 32-36 (and related Articles 6, 11, 13, 20, 25 & 33)





parties in order to facilitate the prosecution of the criminal offences discussed in the previous module. In particular, the protection of those reporting acts of corruption and the integrity and independence of those prosecuting and deciding on such cases will be analyzed, with a particular focus on what the UNCAC requires in this regard.

### Main Topics

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- Independent Anti-Corruption authorities with integrity.
- Justice, prosecutorial and law enforcement systems with independence and integrity.
- Fair and effective enforcement of human rights and anti-crime and anti-corruption conventions, laws, regulations and policies, including illicit enrichment.
- Human rights related laws, policies and good governance practices in the UNCAC, including many that relate to the universal right to freedom of expression.

### Key Lessons

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- Fair and effective enforcement of many of the laws, policies, good governance practices and democratic values embedded in the UNCAC complement and support fair and effective enforcement of universal human rights and democratic values guaranteed in the UDHR, including freedom of expression, due process and a fair trial.
- Anti-corruption and prosecutorial authorities and justice systems must be independent institutions governed by enforceable integrity principles and systems of accountability.
- Enforcing some anti-corruption measures fairly and effectively is sometimes a complex balancing act from a human rights perspective, particularly when prosecutorial or investigative institutions are systemically corrupt or politically controlled. Organized crime issues also loom large in many countries. Balancing due process rights against anti-corruption measures properly, like illicit enrichment, is very important. Human rights organizations and defense lawyers have a special role to play in this process.

### Learning Goals

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- To identify and discuss common enforcement problems relevant to the fair and effective implementation of the corruption offences and key universal human rights embedded in the UDHR and the UNCAC.
- To identify, discuss and analyze human rights related provisions of the UNCAC and their close links to other human rights and anti-corruption conventions (such as the UDHR, the African Union Convention on Combatting and Preventing Corruption and the Inter-American Convention Against Corruption).
- To learn where to find, undertake and analyze cutting-edge multi-disciplinary research and to prepare cross-country and cross-sectoral risk analyses on key corruption and human rights issues.

### Class Assignment/Main Tasks

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1. Be able to articulate how implementation and enforcement of key mandates related to the independence and integrity of anti-corruption authorities and institutions in the justice sector are essential to the fair and effective enforcement of the criminal offences and key human rights oriented provisions in the UNCAC and the UDHR.
2. Read and be able to identify key human rights related provisions of the UNCAC, including legal and institutional mandates, laws and good governance practices.
3. Be able to articulate how these independence and integrity institutional mandates relate

to key prevention provisions of the UNCAC (such as public participation, access to information and whistle blowing).

4. Be able to identify at least 5 research resources and a research methodology for purposes of preparing a country (your choice) corruption assessment and risk analysis based on the UNCAC framework (such as enforcement and implementation issues related to key institutions, key laws, key good governance practices and law enforcement cooperation).

## Resources

### Required Reading

Carmona, M.S. (2009). Corruption and Human Rights: Making the Connection. Geneva, Switzerland: International Council on Human Rights Policy, Retrieved December 10, 2012 from [http://www.ichrp.org/files/reports/40/131\\_web.pdf](http://www.ichrp.org/files/reports/40/131_web.pdf)

ELLA: An excellent online knowledgeable sharing/discussion platform for Latin America on a range of issues including human rights, access to information and governance (<http://ella.practicalaction.org/about>)

Henderson, K. (2005). A Regional Strategy for Promoting a Free Media and Freedom of Expression in the Middle East and North Africa. Washington, DC: International Foundation for Electoral Systems. Retrieved June 7, 2017 from [http://www.ifes.org/sites/default/files/whitepaper\\_7\\_freedom\\_of\\_press\\_mena.pdf](http://www.ifes.org/sites/default/files/whitepaper_7_freedom_of_press_mena.pdf)

UN Economic & Social Council. (2012). Corruption Feeds Criminality, Fuels Public Distrust, UN Secretary General Ban Ki-Moon (ECOSOC/6529). Retrieved December 14, 2012 from <http://www.un.org/News/Press/docs/2012/ecosoc6529.doc.htm>

UN Rule of Law (2010). Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice. Retrieved June 7, 2017 from [https://www.un.org/ruleoflaw/files/TJ\\_Guidance\\_Note\\_March\\_2010FINAL.pdf](https://www.un.org/ruleoflaw/files/TJ_Guidance_Note_March_2010FINAL.pdf)

UNODC (2008). UNODC Good practices for the protection of witnesses in criminal proceedings involving organized crime . Retrieved June 7, 2017 from

<http://www.unodc.org/documents/organized-crime/Witness-protection-manual-Feb08.pdf>

Henderson, K. (2008). A Wake-Up Call to the Human Rights and Anti-Corruption Communities: Addressing and Preventing Judicial Corruption and Promoting Fair and Effective Enforcement of the Law Alongside Civil Society Empowerment and Oversight, Through Systematic Monitoring and Reporting is Key to Implementing Myriad Provisions of the UDHR and the UNCAC. Paper presented at the 13th Annual Transparency International Anti-Corruption Conference, Athens, Greece. Retrieved June 7, 2017 from

<https://www.wcl.american.edu/faculty/henderson/AWakeUpCall.pdf>

Human Rights Watch. (2012). World Report 2012: China. Washington, DC: Human Rights Watch. Retrieved December 14, 2012 from <http://www.hrw.org/world-report-2012/world-report-2012-china>

Reporting that defense lawyers representing defendants on corruption charges face prosecution themselves.

Independent Journalists Jailed in Azerbaijan. (2012, August 27). New York: Committee to Protect Journalists. Retrieved December 9, 2012 from

<http://www.unhcr.org/refworld/docid/5040b039c.html>

Nawaz, F. (2012). Overview of Corruption within the Justice Sector and Law Enforcement Agencies in Bangladesh (u4 Expert Answer No. 316). Retrieved December 9, 2012 from <http://www.u4.no/publications/overview-of-corruption-within-the-justice-sector-and-law-enforcement-agencies-in-bangladesh/>





Supporting the fight against Corruption in Asia and the Pacific: The ADB/OECD Anti-Corruption Initiative (<http://www.oecd.org/site/adboecdanti-corruptioninitiative/>)

### Recommended Reading & Academic/Scholarly Articles & Books

Anti-Corruption Strategy for the Legal Profession. (2010). Risks and Threats of Corruption and the Legal Profession. IBA/OECD/UNODC. Retrieved June 7, 2017 from <http://www.oecd.org/corruption/anti-bribery/46137847.pdf>

Article 19. (n.d.). Criminal Defamation. London: Article 19. Retrieved December 14, 2012 from <http://www.article19.org/pages/en/criminal-defamation.html>

Business Anti-Corruption Portal. (2011). China Country Profile, Corruption & Human Rights. Retrieved December 14, 2012 from <http://www.business-anti-corruption.com/en/country-profiles/east-asia-the-pacific/china/show-all/>

Chene, M. (2009). Coordination Mechanisms of Anti-Corruption Institutions. Bergen, Norway: u4 Anti-Corruption Resource Centre. Retrieved December 9, 2012 from <http://www.u4.no/publications/coordination-mechanisms-of-anti-corruption-institutions>

Fisher, M. (2010, December 19). Julian Assange's Lawyers Decry Leak of Assange's Information. The Atlantic Wire. Retrieved December 10, 2012 from <http://www.theatlanticwire.com/politics/2010/12/julian-assange-s-lawyers-decry-leak-of-assange-s-information/18172/>

The Giffen Case. (2007). In J. Campos & S. Pradhan. The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level (Index 203-211). Washington, DC: The International Bank for Reconstruction and Development /The World Bank. Retrieved December 15, 2012 from <http://www.u4.no/recommended-reading/the-many-faces-of-corruption-tracking-vulnerabilities-at-the-sector-level/>

ICC Commission on Corporate Responsibility and Anti-Corruption. (2011). Joint Recommendations to the United Nations Working Group on Business and Human Rights. Paris, France: International Chamber of Commerce (ICC). Retrieved June 7, 2017 from <https://iccwbo.org/publication/joint-recommendations-to-the-united-nations-working-group-on-business-human-rights/>

IFEX. (2011, December 7). Recent Advancements in Criminal Defamation Laws in Africa, Mexico offset by setbacks in Russia. Retrieved December 12, 2012 from [http://www.ifex.org/africa/2011/12/07/criminal\\_defamation\\_roundup/](http://www.ifex.org/africa/2011/12/07/criminal_defamation_roundup/)

The declaration of Table Mountain (2007) identifies criminal defamation and insult laws as among the most severe obstacles to securing the future of the independent press in Africa and the Mexican Supreme Court rules that Freedom of Expression supersedes the right to protect one's honor.

Krueger, A., et al. (2007). Witness Protection in Countries Emerging from Conflict (INPROL Consolidated Response (07-008)). International Network to Promote the Rule of Law (INPROL). Retrieved June 7, 2017 from <http://www.delhihighcourt.nic.in/library/articles/may/Witness%20protection%20in%20countries%20emerging%20from%20conflicts%20.pdf>

Libel, slander and insult laws related to reporting on corruption still on the books in over 150 countries.

Swamy, A., et al. (2009, November). Gender and Corruption (Working Paper #232). College Park, MD: IRIS CENTER – University of Maryland College Park. Retrieved December 20, 2012 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=260062&download=yes](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=260062&download=yes)

TI Secretariat's Policy & Research Department. (2008). Human Rights and Corruption (Working Paper #05/2008). Berlin: Transparency International. Retrieved December 20,

2012 from [http://www.transparency.org/whatwedo/pub/working\\_paper\\_no\\_5\\_2008\\_human\\_rights\\_and\\_corruption](http://www.transparency.org/whatwedo/pub/working_paper_no_5_2008_human_rights_and_corruption)

U4 Anti-Corruption Resource Centre. (2011). Justice Sector. Bergen, Norway: December 10, 2012 from <http://www.u4.no/themes/justice-sector/>

United Nations. (2012). The Corporate Responsibility to Respect Human Rights – An Interpretive Guide (HR/PUB/12/02). New York: United Nations. Retrieved December 9, 2012 from [http://www.ohchr.org/Documents/Publications/HR.PUB.12.2\\_En.pdf](http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf)

UNODC. (n.d.). Cross-Cutting Issues – International Cooperation. In UNODC. Criminal Justice Assessment Toolkit. New York: United Nations. Retrieved from [https://www.unodc.org/pdf/criminal\\_justice/Crime\\_Prevention\\_Assessment\\_Tool.pdf](https://www.unodc.org/pdf/criminal_justice/Crime_Prevention_Assessment_Tool.pdf)

### Academic/Scholarly Articles & Books:

Beare, Margaret E. (1997). Corruption and Organized Crime: Lessons From History. *Crime, Law and Social Change*, 28, pp. 155-172.

Navarro, N.C. (2006). Fighting Corruption: The Peruvian Experience, *Journal of International Criminal Justice*, 4(3), pp. 488-509.

Pendergast, S., et al. (2011). Corruption, Development and the Curse of Natural Resources. *Canadian Journal of Political Science*, 44(2), 411-437. Retrieved December 20, 2012 from <http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=8314357>

Rose, C. (2003). The Application of Human Rights Law to Private Sector Complicity in Government Corruption. *Leiden Journal of International Law*, 24(3), 715-740. Retrieved December 7, 2012 from <https://proxy.wcl.american.edu/login?url=http://journals.cambridge.org/LJL>

Schultz, J. (2009). The UNCAC and Judicial Corruption: Requirements and Avenues for Reform (U4 Brief No. 18). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved March 21, 2013 from <http://www.u4.no/publications/the-uncac-and-judicial-corruption-requirements-and-avenues-for-reform/>

Smith, G.R. (July 28, 2005). Keynote Address: The Importance of Reporting Fraud and Corruption by Public Sector Agencies, Chifly on Northbourne, Canberra. Retrieved March 21, 2013 from [http://www.aic.gov.au/media\\_library/conferences/other/smith\\_russell/2005-07-iir.pdf](http://www.aic.gov.au/media_library/conferences/other/smith_russell/2005-07-iir.pdf)

### Case Studies

*I. Georgia: An Anti-Corruption Success Story in Five Years or Not (2003-2008)?* Georgia is seen by many scholars as one of the most successful contemporary anti-corruption achievers in terms of reducing administrative corruption. While promoting human rights has been a key element in its anti-corruption strategy, recent events have raised concerns among many in this area.

For this assignment you are the Georgia Country Manager at the World Bank. You should begin by reading: Contextual Choices in Fighting Corruption: Lessons Learned (pp. 83-99) and then undertake your own independent research. Write a 5 - 7 page Country Action Memorandum for the new President of the World Bank -- either in support of or in opposition to this hypothesis. Include recommendations as to whether Georgia should receive more World Bank anti-corruption resources and if so what kind. Please include a section in the Introduction to the Action Memorandum your research methodology as well as a Resource Bibliography as an addendum (noting key research that you used for your analysis).

World Bank. (2012). World Bank: Georgia is Anti-Corruption Success Story. Retrieved





December 17, 2012 from <https://reportingproject.net/occrp/index.php/en/ccwatch/cc-watch-briefs/1324-world-bank-georgia-is-anti-corruption-success-story>.

*II. Philippines: Is the UNCAC a Possible Solution?* You are the new Anti-Corruption Czar for the new President of the Philippines. Please read the article below and then do your own independent research. Identify key UNCAC provisions and issues raised and then prioritize them in terms of which ones should be of highest priority. This should be written in summary form in a 3 page Action Plan addressed to the new Filipino President and the new Chief Justice.

See: Philippines: Corrupt Justice (2012): “The Fall of the Mighty and the Rise of Justice in the Philippines”: [http://www.huffingtonpost.com/daniel-wagner/the-fall-of-the-mighty-an\\_b\\_1515638.html](http://www.huffingtonpost.com/daniel-wagner/the-fall-of-the-mighty-an_b_1515638.html)

## Videos

Hanlon, R. (2010). Corporate Social Responsibility, Corruption and Human Rights: Multinational Corporations in China and Southeast Asia. Victoria, BC: University of Victoria | Centre for Asia-Pacific Initiatives. Retrieved December 17, 2012 from <http://vimeo.com/16446541>

Discusses the nexus between corruption, bribery and human rights in China, Thailand and Cambodia.

Witness Protection Law Launched to Protect Whistleblowers (Video Webcast). Retrieved December, 17, 2012 from <http://www.youtube.com/watch?v=oj159V-G-YE>

## Useful Websites

Amnesty International has resources and materials for Human Rights Education (<http://www.amnesty.org/en/human-rights-education/resources>)

U4 has a quick UNCAC guide for ambassadors and other high-level officials and an overview for other aid practitioners, the UNCAC Gap identifies reform priorities and analysis of the UNCAC’s relevance to justice sector reform (<http://www.u4.no/themes/un-convention-against-corruption/>)

The Anti-Corruption Research Network is an online platform for the research community (<http://corruptionresearchnetwork.org/>)

Human Rights watch has information on the human rights aspects of corruption and criminal justice (<http://www.hrw.org>)

Amnesty International also has information on corruption and human rights (<http://www.amnesty.org>)

Article 19 is a leading NGO promoting UDHR’s freedom of expression rights including access to information (<http://www.article19.org>)

UN Global Compact. (n.d.). Guidance Material. Retrieved June 7, 2017 from <https://www.unglobalcompact.org/what-is-gc/our-work/social/human-rights>

Human Rights Documentation Tools are available from the ILGA Europe ([http://www.ilga-europe.org/home/how\\_we\\_work/developing/resources\\_on\\_capacity\\_building/human\\_rights\\_documentation\\_tools](http://www.ilga-europe.org/home/how_we_work/developing/resources_on_capacity_building/human_rights_documentation_tools))

Human rights tools for students covering human rights and the 50th anniversary of the UDHR are now available (<http://www.derechos.net/links/edu/student.html>)

The International Center for Journalists (ICFJ) offers free downloadable tools and training materials on a number of topics, including ([www.icfj.org/resources](http://www.icfj.org/resources))

UN OHCHR. (n.d.). Business & Human Rights. Retrieved December 11, 2012 from <http://www.ohchr.org/EN/Issues/Business/Pages/BusinessIndex.aspx>

ELLA is an excellent online knowledge sharing and discussion platform form Latin America on a range of issues including human rights, access to information and governance (<http://ella.practicalaction.org/about>)

### Quiz and Questions for Class Discussion

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1. How many mandatory laws, policies or good governance recommendations in the UNCAC are related to the right to freedom of expression under the UDHR?
2. How many mandatory laws, policies or good governance recommendations in the UNCAC are related to the right to fair and effective justice under the UDHR?
3. Identify as many countries as you can that allow for anonymous whistleblowing.
4. Is anonymous whistle-blowing considered a good governance practice for countries and companies?
5. In which regions was corruption within the legal profession an issue by over 70% of the law firms surveyed (according to a 2009 global survey/report of the International Bar Association -- Required reading: Risks and threats of corruption and the legal profession).
6. Which countries are considered contemporary anti-corruption achievers (according to research in the Required reading: Contextual Choices)?



# 12



## National and International Law Enforcement Cooperation

### Introduction/ Thesis for Class Discussion and Debate

In the globalization and information technology age of the 21st Century, national and international law enforcement cooperation is more important than ever to civil society and the public and private sector. Without it, addressing and preventing terrorism and transnational crime and corruption is almost impossible.

The UNCAC is ground-breaking in that it is the most comprehensive anti-corruption international treaty to mandate mechanisms and governance processes to promote national and international law enforcement cooperation and information-sharing on a wide range of crime and corruption fronts, including extradition, bank secrecy and mutual legal assistance. It builds on other treaties, such as the United Nations Convention against Transnational Crime and the Criminal Law Convention on Corruption of the Council of Europe but distinctly frames these issues within a holistic implementation context.

And as more and more countries implement key laws and provisions of the UNCAC, demand for more transnational cooperation is only going to grow. Indeed, countries that have ratified the UNCAC are obligated to afford one another the widest possible measure of assistance in investigations, prosecutions and judicial proceedings related to UNCAC offenses.

Another key point is that the UNCAC can itself be used as the basis for mutual legal assistance even if a country does not have a formal bilateral mutual assistance treaty or memorandum of understanding in place with another country. This is an important law enforcement innovation since many countries still lack formal law enforcement treaties and agreements with other States.

Increased assistance between countries in relation to corruption will also require them to enhance coordination among many national institutions and authorities, such as anti-corruption units or commissions and prosecutors, as well as enhanced cooperation with the private sector, on issues like money laundering, reporting corruption to investigative and

### Key Issues

mutual legal assistance; extradition; bank secrecy, whistleblowing, national law enforcement and public/private sector cooperation

### UNCAC Articles

Chapters 3 & 4: Articles 38 - 40, 46, 48 (and closely related Articles 11, 13)



prosecuting authorities and bank secrecy.

For the business sector, enhanced law enforcement cooperation and information-sharing will mean they need to be far more aware of both national and international law when developing and applying their own legal, governance and business decision-making processes.

Institutions related to law enforcement, the judiciary, governance and anti-corruption, will also play a more important role. For both public and private sector officials, implementation of the UNCAC is going to make the cost of being caught or extradited by the law enforcement community for engaging in crime, corruption and terrorism higher and more risky.

For both countries and civil society, these and other UNCAC provisions, such as those related to the recovery of stolen state assets, mean that more stolen or embezzled state assets are likely to be returned to country budgets for essential government programs, such as those related to healthcare and education.

This unit will seek to explore the types of cooperation that needs to be facilitated at a national level in order to effectively investigate and prosecute acts of corruption, with a specific focus on what the UNCAC requires of countries in this regard.

### Main Topics

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- Formal and informal coordination and good governance mechanisms and processes to promote national cooperation and public/private sector cooperation.
- Scaling bank secrecy walls through enhanced law enforcement cooperation, mutual legal assistance, corruption reporting, whistleblowing and information networking.
- Formal and informal coordination and good governance mechanisms and processes to promote international cooperation and public/private sector cooperation.

### Key Lessons

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- National law enforcement cooperation and coordination is an essential ingredient for effective, efficient and fair enforcement of the law and anti-corruption success, as well as on a range of UNCAC related fronts, including money laundering, extradition and mutual legal assistance.
- Information networks, public/private sector information sharing partnerships and a national and international law enforcement and judicial community with integrity are also key to success.

### Class Assignment/Main Tasks

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1. Identify and critically analyze at least three key implementation and lessons learned issues related to investigations involving mutual legal assistance, money laundering or bank secrecy (are the lessons different or the same for these issues?)
2. Identify at least three key judicial enforcement and cooperation issues from a national law enforcement cooperation perspective (under the UNCAC).
3. List at least three key inter-related issues related to fair, efficient and effective mutual legal assistance from both a national and an international law enforcement cooperation perspective (under the UNCAC).
4. List at least three key issues related to national law enforcement cooperation and coordination with anti-corruption authorities.
5. Prepare a 3 to 5 page White Paper summarizing the co-dependency between successful





law enforcement investigations, fair, effective and efficient judicial enforcement of key UNCAC crimes and national law enforcement cooperation.

## Resources

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### Required Reading

UNODC. (2009). Cross-Cutting Issues: Crime Prevention Assessment Tool (UN Pub. HS//1232/09E). New York: United Nations. Retrieved December 12, 2012 from [www.unodc.org/documents/justice-and-prison-reform/09-82502\\_Ebook.pdf](http://www.unodc.org/documents/justice-and-prison-reform/09-82502_Ebook.pdf)

U4, International (and National) Law Enforcement Cooperation: A Critical Assessment, <http://www.u4.no/recommended-reading/international-law-enforcement-cooperation-a-critical-assessment/>

Aenile-Rocha, F.L., et al. (2010). 56 New Extradition and Mutual Legal Assistance Treaties Take Effect throughout Europe and the US. Washington, DC: White & Case. Retrieved December 10, 2012 from <http://www.whitecase.com/alerts-02012010-1/>

Chene, M. (2009). Coordination Mechanisms of Anti-Corruption Institutions. Bergen, Norway: u4 Anti-Corruption Resource Centre. Retrieved December 9, 2012 from <http://www.u4.no/publications/coordination-mechanisms-of-anti-corruption-institutions>

Chene, M. (2011). The Potential of UNCAC to Combat Illicit Financial Flows (u4 Expert Answer No. 276). Bergen, Norway: u4 Anti-Corruption Resource Centre. Retrieved December 11, 2012 from <http://www.u4.no/publications/the-potential-of-uncac-to-combat-illicit-financial-flows-2/>

Global Witness. (2009). Undue Diligence: How Banks Do Business with Corrupt Regimes. London: Global Witness. Retrieved December 12, 2012 from [http://www.undue-diligence.org/Pdf/GW\\_DueDilligence\\_FULL\\_lowres.pdf](http://www.undue-diligence.org/Pdf/GW_DueDilligence_FULL_lowres.pdf)

ICC Fraudnet. (n.d.). Abacha Case Timeline. London: ICC Commercial Crime Services. Retrieved December 12, 2012 from <http://www.icc-ccs.org/home/resources/118-leading-cases/697-abacha-case>

IIP Digital. eJournal USA: Partnerships Against Corruption. (2012, May 25). Washington, D.C.: U.S. Department of State. Retrieved December 9, 2012 from <http://iipdigital.usembassy.gov/st/english/publication/2012/04/201204133782.html#axzz2ExlQCIBA>

Peru Spy Chief's Swiss Millions Frozen; Key Ally Quits. (2000, November 3). Paradis Fiscaux et Judiciaries. Retrieved December 12, 2012 from <http://www.paradisfj.info/spip.php?article426&lang=fr>

U.S. Dept. of Justice. (n.d.). Partnering with Domestic and International Counterparts. Retrieved June 7, 2017 from <https://www.justice.gov/archive/911/counterparts.html>

Includes 10 coordination and information mechanisms for the U.S. law enforcement community.

Wagner, B. & Jacobs, L. (2008). Retooling Law Enforcement to Investigate and Prosecute Entrenched Corruption: Key Criminal Procedure Reforms for Indonesia and Other Nations. *University of Pennsylvania Journal of International Law*, 30(1), 183-265. Retrieved December 11, 2012 from <http://www.heinonline.org/HOL/Page?handle=hein.journals/upjiel30&id=185&collection=journals&index=journals/upjiel>

Read 188-215 & 257 the problem of entrenched corruption and laws needed to require reporting to criminal justice authorities.

### Recommended Reading & Academic/Scholarly Articles & Books

UN Model Treaty on Mutual Assistance in Criminal Matters (UN A/RES/45/117). (1990). New York: United Nations General Assembly. Retrieved December 12, 2012 from <http://www.un.org/documents/ga/res/45/a45r117.htm>

United Nations. (2004). Chapter 14: Questions for Discussion. In UN Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators. New York: United Nations. Retrieved December, 12, 2012 from <http://www.unodc.org/pdf/crime/corruption/Handbook.pdf>

UNODC. (2004). United Nations Convention against Transnational Organized Crime and the Protocols Thereto. Vienna, Switzerland: United Nations Office on Drugs & Crime. Retrieved December 10, 2012 from <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

UNODC. (2004). United Nations Convention against Corruption. Vienna, Switzerland: United Nations Office on Drugs & Crime. Retrieved December 11, 2012 from [http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf)

UNODC. (2009). Cross-Cutting Issues: Crime Prevention Assessment Tool (UN Pub. HS//1232/09E). New York: United Nations. Retrieved December 12, 2012 from [www.unodc.org/documents/justice-and-prison-reform/09-82502\\_Ebook.pdf](http://www.unodc.org/documents/justice-and-prison-reform/09-82502_Ebook.pdf)

Chene, M. (2008). Mutual Legal Assistance and Money Laundering (U4 Expert Answer). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved, December 10, 2012 from <http://www.u4.no/publications/mutual-legal-assistance-treaties-and-money-laundering>

EITI. (2012, November 9). EITI Factsheet. Oslo, Norway: Extractive Industries Transparency Initiative. June 7, 2017 from [https://eiti.org/sites/default/files/documents/document/eiti\\_factsheet\\_en.pdf](https://eiti.org/sites/default/files/documents/document/eiti_factsheet_en.pdf)

FBI. (2012). FBI Information Sharing Report – 2012. Washington, D.C.: U.S. Dept. of Justice – Federal Bureau of Investigation. Retrieved June 7, 2017 from <https://www.fbi.gov/stats-services/publications/national-information-sharing-strategy-1>

Some of the key issues and mechanisms covered in this illuminating report, that might serve as information sharing/cooperation model for many countries, include: (i) optimizing information sharing with Partners to Enable Decision Advantage; (ii) maximizing and Integrating Information Sharing Capabilities; (iii) maximizing and Integrating Capabilities to Share Information; (iv) strengthening the Governance Framework; (v) law enforcement On-Line; (vi) law enforcement National Data Exchange; (vii) the eGuardian System and Suspicious Activity Reporting; (viii) the Terrorist Screening Center; (ix) Chief Information Sharing Officer; (x) Interagency Governance; (xi) CJIS Advisor Board; Promoting a Culture of Responsible Information Sharing and (xii) the FOIA

Independent Commission Against Corruption (ICAC). (n.d.). Protections for Public Officials. Retrieved December 10, 2012 from <http://www.icac.nsw.gov.au/reporting-corruption/blowing-the-whistle/protections-for-public-officials/44>

Kocaoglu, N. & Figari, A. (Eds.). (2006). Using the Right to Information as an Anti-Corruption Tool. Berlin, Germany: Transparency International. Retrieved December 12, 2012 from <http://www.ifap.ru/library/book115.pdf>

Kar, D., et al. (2010). The Absorption of Illicit Financial Flows from Developing Countries: 2002-2006. Washington, DC: Global Financial Integrity. Retrieved June 7, 2017 from <https://financialtransparency.org/reports/gfi-the-absorption-of-illicit-financial-flows-from-developing-countries-2002-2006/>

Nelson, L. (2008). The Legacy of Alberto Fujimori: Is Now a Chance for the Vindication





of Human Rights? Washington, DC: Council on Hemispheric Affairs. Retrieved December 12, 2012 from <http://www.coha.org/the-legacy-of-alberto-fujimori-is-now-a-chance-for-the-vindication-of-human-rights/>.

### Case Studies

#### *Nigeria/Abacha*

Nigeria/Abacha -- the recovery of \$700 million stolen by former President Abacha and his family Please read the Required readings and be prepared to discuss the key national and international law enforcement cooperation, judicial cooperation and legal barriers to the recovery of Abacha's stolen assets then and today. Are the barriers different today than during the investigation? What UNCAC offenses were committed and which law enforcement cooperation and judicial integrity issues/articles are now addressed under the UNCAC? What was the role of the national courts in Nigeria with regard to the extradition of Abacha's sons and what did the courts in Germany rule with regard to the Swiss Government's request to extradite his son? What was the role of the court in Switzerland with regard to the return of over \$700 million dollars to Nigeria?

### Videos

American Documentary, Inc. (2006). The Fall of Fujimori. POV. Retrieved December 16, 2012 from <http://www.pbs.org/pov/falloffujimori/>

### Useful Websites

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The Corruption Resource Network has information on private law and law enforcement corporation (<http://corruptionresearchnetwork.org/>).

### **?** Quiz and Questions for Class Discussion

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1. What are some of the key barriers to fair, efficient and effective coordination within national law enforcement and anti-corruption authorities?
2. Which UNCAC articles are relevant to both the Fujimori and Abacha cases?
3. What are some of the good governance mechanisms used to promote national law enforcement coordination under the UNCAC?
4. What are some of the good governance mechanisms used to promote information sharing between the public and private sectors?
5. What are three of the biggest personal risks related to reporting on corruption or whistleblowing?
6. What subject areas in various UNCAC articles are closely related to bank secrecy?

# 13



## International Law Enforcement Cooperation

### Introduction/ Thesis for Class Discussion and Debate

This module attempts to build upon some of the key national law enforcement cooperation issues covered in Module XI. However, this module focuses more on articles in the UNCAC related to how the UNCAC promotes international law enforcement cooperation on a range of fronts, such as extradition and mutual legal assistance. It also discusses how the UNCAC can be used to break through legal roadblocks to information-sharing and joint investigations, including the key issue of dual criminality.

One of the goals of this module and the prior one is to illustrate that many UNCAC articles can only be implemented fairly, effectively and efficiently if the justice system has integrity and all stakeholders in question can share information at both the national and international levels.

Readings in this and the preceding module demonstrate that law enforcement, prosecutorial and justice sector integrity is key to promoting fair, effective and efficient law enforcement and judicial cooperation, as well as trust within public-private partnerships and in corruption reporting mechanisms. It is also key to protecting universal human rights and promoting a rule of law culture.

Many of these inter-related issues are really only touched upon in this module. They are all worth deeper study, analysis and policy and program development from a country, regional and global perspective.

In the 21st Century, the increasing use of advanced technology and international banking in crime and corruption cases make it more important than ever to make cooperation within and between the law enforcement and judicial communities work, and for issues related to personal privacy to be addressed through global standards and mechanisms.

Some of the key law enforcement cooperation issues discussed in this module include how

### Key Issues

international law enforcement cooperation with international organizations; international law enforcement cooperation between anti-corruption authorities; mutual legal assistance and extradition issues under the UNCAC; dual criminality issues under the UNCAC and cooperation with a law enforcement, prosecutorial and justice sector community that has integrity

### UNCAC Articles

Chapters III & IV: Articles 42, 43 & 48 (and related Articles 11 and 13)





the UNCAC promotes mutual legal assistance and extradition, in particular through the establishment of a common approach to resolving the hurdle of dual criminality.

### Main Topics

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- International cooperation and the dual criminality provisions of the UNCAC
- The UNCAC's role in providing a legal basis for law enforcement cooperation on Mutual Legal Assistance and Extradition
- Justice sector, prosecutorial and law enforcement integrity and international law enforcement cooperation.

### Key Lessons

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- The ability of countries to cooperate in relation to the investigation and prosecution of corruption offences has traditionally been inhibited by a range of hurdles including a lack of legal mechanisms such as extradition treaties and the inability to establish dual criminality (i.e. establish that the crime in relation to which cooperation is needed is a crime in both States).
- The UNCAC, building on previous international agreements, tries to resolve some of these issues by requiring States to put in place legal bases for cooperation and providing a common, and flexible, approach to the issue of dual criminality.
- Civil society and private sector access to crime and corruption information from the law enforcement community and from international organizations is key to law enforcement cooperation, public/private partnerships, corruption reporting and whistleblowing and preventing and fighting corruption.
- Incentives, safeguards and anonymous mechanisms are needed to encourage those who engage, witness or have knowledge of corrupt activities to report or blow the whistle on corruption both internally and externally (in some cases to the law enforcement community).
- Justice sector integrity at the national level, including anti-corruption institutions, is key to fair, effective and efficient international law enforcement cooperation, promoting public-private partnerships, enforcing transnational and national enforcement of treaties and protecting universal rights (such as access to information).
- Fighting cybercrime and tackling corruption problems related to information technology and privacy are key global issues that need global solutions.

### Learning Goals

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- Be able to identify and link-up related provisions of the UNCAC (see previous and subsequent Modules)
- Be able to discuss how the UNCAC can be used to promote cooperation on a range of law enforcement cooperation fronts, including: (i) extradition; (ii) mutual legal assistance.
- Be able to identify how the UNCAC can be used to resolve issues related to dual criminality.
- Be able to identify and discuss the formal and informal networks that are used by law enforcement authorities to request and provide international cooperation in relation to corruption offences.

### Class Assignment/Main Tasks

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1. Identify and list key UNCAC articles directly related to international law enforcement cooperation.
2. Identify and compare the different legal bases that States can use to provide international cooperation. What does the UNCAC say in relation to each legal basis?
3. Summarize in two paragraphs the concept of dual criminality and the approach that the UNCAC takes in relation to this issue.
4. Describe in simple terms how the UNCAC itself can provide the legal basis for mutual legal assistance between two countries in relation to a corruption offence.
5. Identify five mechanisms that can be used by civil society and the law enforcement community (including anti-corruption authorities) to share or report on information related to crime and corruption.
6. Do your own independent research on the Salinas money laundering case in Mexico and write a 3 to 5 page Background Memorandum for the Assistant Secretary of the Criminal Division at the US Department of Justice that focuses on identifying all of the key UNCAC related laws and issues touched upon in this case, including those that relate to law enforcement cooperation, bank secrecy, mutual legal assistance, extradition, corruption reporting, information technology, money laundering, access to information and justice system integrity.



## Resources

### Required Reading

UNODC. Legislative Guide for the Implementation of the UNCAC (2006). New York, NY: United Nations. Pages 175 - 228.

UNODC. Technical Guide to the United Nations Convention against Corruption. (2009). Vienna: United Nations Office on Drugs and Crime. Retrieved December 10, 2012 from [http://www.unodc.org/documents/corruption/Technical\\_Guide\\_UNCAC.pdf](http://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf)

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Government of Morocco. (2011). Marrakech Declaration. Paper submitted at the conference of the States Parties to the United Nations Convention against Corruption, Fourth Session, and Marrakech, Morocco. Retrieved December 10, 2012 from <http://www.unodc.org/documents/treaties/UNCAC/COSP/session4/V1186630e.pdf>

GRECO. (2012). The Fight Against Corruption in Public Administration – Emerging Themes from GRECO Round II Evaluations. In Lessons Learnt from the Three Evaluation Rounds (2000-2010) (Thematic Articles). Retrieved December 20, 2012 from [http://www.coe.int/t/dghl/monitoring/greco/general/Compendium\\_Thematic\\_Articles\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/general/Compendium_Thematic_Articles_EN.pdf)

Hesseldahl, A. (2009, May 30). Obama's Public-Private Cybersecurity Challenge. Bloomberg BusinessWeek. Retrieved June 7, 2017 from <https://www.bloomberg.com/news/articles/2009-05-30/obamas-public-private-cybersecurity-challenge>

Raul Salinas de Gortari Topic Page (n.d.). New York Times. Retrieved December 10, 2012 from



[http://topics.nytimes.com/topics/reference/timestopics/people/s/raul\\_salinas\\_de\\_gortari/index.html](http://topics.nytimes.com/topics/reference/timestopics/people/s/raul_salinas_de_gortari/index.html)

Can be used for a case study or independent research.

Shepard, K. (2012). The Gatekeeper Initiative and the Risk-Based Approach to client Due Diligence. *The Review of Banking Financial Services*, 28(4). Retrieved December 12, 2012 from <http://www.anti-moneylaundering.org/Document/Default.aspx?DocumentUid=AA68758B-C151-4E1B-909B-539BA0B35062>

Strauss, K. (2008). Combating Terrorist Financing—Are Transition Countries the Weak Link? Presented at the International Seminar on Combating Terrorist Financing. Retrieved June 7, 2017 from

[http://www.henriette-haas.com/pdfs/CTF\\_Sonderdruck\\_Pieth-Theleklaf\\_Haas.pdf](http://www.henriette-haas.com/pdfs/CTF_Sonderdruck_Pieth-Theleklaf_Haas.pdf)

Asian Development Bank & OECD. (2007). Procedures and Measures to Facilitate Extradition and MLA. In *Mutual Legal Assistance, Extradition and recovery of the Proceeds of Corruption in Asia and the Pacific: Final Report* (pp. 61-78). Paris, France: OECD. Retrieved March 21, 2013 from <http://www.oecd.org/site/adboecdanti-corruptioninitiative/37900503.pdf>

Requesting Mutual Legal Assistance in Criminal Matters from G20 Countries: A Step-by-Step Guide. Vienna, Austria: UNDOC TRACK. Retrieved March 21, 2013 from <http://www.track.unodc.org/Pages/home.aspx>

### Recommended Reading & Academic/Scholarly Articles & Books

TRACK UNODC Mutual Legal Assistance Request Writer Tool (<http://www.unodc.org/mla/index.html>)

UNODC. (2011, December 3). Korean Company Helps UNDOC Fight Cyber-crime. Retrieved December 10, 2012 from <http://www.unodc.org/unodc/en/press/releases/2007-12-03.html>

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Resource Guide on Strengthening Judicial Integrity and Capacity. (2011). Vienna: United Nations Office on Drugs & Crime. Retrieved December 17, 2012 from [http://www.unodc.org/documents/treaties/UNCAC/Publications/ResourceGuideonStrengtheningJudicialIntegrityandCapacity/11-85709\\_ebook.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/ResourceGuideonStrengtheningJudicialIntegrityandCapacity/11-85709_ebook.pdf)

10th Principle against Corruption Sub-Working Group on “Sport Sponsoring and Hospitality”. (2012). United Nations Global Compact. Retrieved, December 10, 2012 from [http://www.unglobalcompact.org/docs/issues\\_doc/Anti-Corruption/SWG\\_Overview.pdf](http://www.unglobalcompact.org/docs/issues_doc/Anti-Corruption/SWG_Overview.pdf)

UNODC. (2009). Anti-Corruption Policies and Measures of the Fortune Global 500. Geneva, Switzerland: United Nations Office on Drug Control in connection with Price-Waterhouse Cooper. Retrieved, December 12, 2012 from <http://www.unodc.org/unodc/en/corruption/anti-corruption-policies-and-measures-of-the-fortune-global-500.html>

UNHCHR. (1979). Code of Conduct for Law Enforcement Officials (UN Doc GA/RES/34/169). Geneva, Switzerland: United Nations High Commissioner for Human Rights. Retrieved June 7, 2017 from <http://www.ohchr.org/Documents/ProfessionalInterest/codeofconduct.pdf>

The Fight against Corruption is an e-learning tool for the private sector on the UNCAC and the 10th Principle (<http://thefightagainstcorruption.unglobalcompact.org/>)

Hussman, K., et al. (2009). Institutional Arrangements for Corruption Prevention: Considerations for Implementation of the UNCAC Article 6 (u4 Issue 2009:4). Bergen, Norway: u4 Anti-Corruption Resource Centre. Retrieved December 12, 2012 from <http://www.u4.no/publications/institutional-arrangements-for-corruption-prevention-considerations-for-the-implementation-of-the-united-nations-convention-against-corruption-article-6/>

Laundering the Proceeds of Corruption. (2011). Paris, France: Financial Action Task Force (FATF-GAFI). Retrieved December 10, 2012 from <http://www.fatf-gafi.org/media/fatf/documents/reports/Laundering%20the%20Proceeds%20of%20Corruption.pdf>

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Moberly, R. & Wylie, L. (2011). An Empirical Study of Whistleblower Policies in US Corporate Codes of Conduct. In D. Lewis & Wim. Vandekerckhove (Ed.). Whistleblowing and Democratic Values. The International Whistleblowing Research Network. Retrieved December 8, 2012 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1998293](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1998293)

Public Service Commission. (2011, June). Measuring the Effectiveness of the National Anti-Corruption Hotline: Third Biennial Report. South Africa: National Anti-Corruption Hotline for the Public Sector. Retrieved June 7, 2017 from <https://www.acauthorities.org/publications/measuring-effectiveness-national-anti-corruption-hotline-third-biennial-report>

Public-Private Partnerships against Corruption in Asia-Final Report. (2007). Washington, D.C.: US AID. Retrieved December 12, 2012 from [http://pdf.usaid.gov/pdf\\_docs/PDACJ290.pdf](http://pdf.usaid.gov/pdf_docs/PDACJ290.pdf)

Timilsina, A. (2008). The Role of Preventative Anti-Corruption Bodies under the UNCAC: UNDP Experiences on Institutional Arrangements to Combat Corruption. Regional Conference on Preventative Corruption and Strengthening Cooperation Between Anti-Corruption Bodies in the Arab Region, Amman, Jordan. Retrieved December 20, 2012 from <http://www.pogar.org/publications/agfd/GfDII/corruption/AmmanConference08/anga%20timilsina-en.pdf>

Tshauridu, E. (2011). Whistleblowing management is risk management. In D. Lewis & Wim. Vandekerckhove (Ed.). Whistleblowing and Democratic Values. The International Whistleblowing Research Network. Retrieved December 8, 2012 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1998293](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1998293)

VV.AA., Formal and Informal Paths to Obtain International Legal Assistance, in Asset Recovery and Mutual legal Assistance in Asia and the Pacific, ADB/OECD Anti-Corruption Initiative in Asia and the Pacific, 2008, Ch.2, pp.87-106

World Economic Forum. (2011, March 3). Partnering Against Corruption Initiative. Summary Report of the Session on Anti-Corruption in Mongolia held in Ulan Bator, Mongolia. Retrieved December 12, 2012 from [http://www3.weforum.org/docs/WEF\\_PACI\\_MongoliaRoundtable\\_Report\\_2011.pdf](http://www3.weforum.org/docs/WEF_PACI_MongoliaRoundtable_Report_2011.pdf)

#### Academic/Scholarly Articles & Books:

De Jaegere, S. (2012). Principles for Anti-Corruption Agencies: A Game Changer. *Jindal Journal of Public Policy*, 1(1), 90-102. Retrieved December 12, 2012 from <http://www.acauthorities.org/aca/publications/principles-anti-corruption-agencies-game-changer>





Requesting Mutual Legal Assistance in Criminal Matters from G20 Countries: A Step-by-Step Guide. Vienna, Austria: UNDOC TRACK. Retrieved March 21, 2013 from <http://www.track.unodc.org/Pages/home.aspx>

## Case Studies

### *I. The Calderon/Fournier Case/Costa Rica*

Juan Carlos Cubillo Miranda. Prosecutor. (n.d.). Anti-Corruption Authorities. Retrieved December 17, 2012 from <http://www.acauthorities.org/aca/successstory/calderon-case>

*II. The Salinas Case/Mexico: The Salinas case/Mexico: independent research* (see Class Assignment)

### *III. Peru/Fujimori/Montesinos*

Ugaz, J. (2009). The Fujimori: I Accept. Transparency School International. Retrieved June 7, 2017 from <http://blog.transparency.org/2009/10/06/fujimori-i-accept/>

The extradition and criminal conviction of the former President of Peru, Fujimori, and his National Security Advisor, Montesinos, was a learning experience for everyone. Please do your own independent research on this case and identify at least three key extradition issues that arose during this case, including which countries, treaties, laws, prosecutors and courts were involved. Note how these issues were ultimately resolved and by whom. Also note which provisions of the UNCAC are most relevant to all of the key issues raised in this case. What innovation does the UNCAC provide with respect to “double criminality”?

## Videos

Council on Foreign Relations. (2010, May 4). International Criminal Law Enforcement: Rule of Law, Anti-Corruption, and Beyond [Transcript]. Retrieved December 17, 2012 from <http://www.cfr.org/international-law/international-criminal-law-enforcement-rule-law-anti-corruption-beyond/p22048>

WGBH. (1997, April 8). Murder, Money & Mexico. Frontline. Retrieved December 17, 2012 from <http://www.pbs.org/wgbh/pages/frontline/shows/mexico/etc/script.html>

## Useful Websites

Extradition. (n.d.). In Toolkit to Combat Trafficking in Persons. New York: United Nations Office on Drug Control. Retrieved December 10, 2012 from [http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296\\_tool\\_4-2.pdf](http://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_4-2.pdf)

TRACK includes a legal UNCAC library, an anti-corruption learning and community information exchange platform and links to regional authorities and bodies against corruption (<http://www.track.unodc.org/ACAauthorities/Pages/home.aspx>).

See Bibliography

## Quiz and Questions for Class Discussion

1. Identify three of the most important barriers or challenges to international law enforcement cooperation mandates in the UNCAC.
2. In relation to the three challenges you have identified, how does the UNCAC seek to address these problems?
3. What article(s) of the UNCAC were invoked to legally undertake mutual legal assistance in the Fournier case (case study)?

4. What were the three biggest barriers to international cooperation in the Salinas case (case study)?
5. Mark five good governance mechanisms that can be used to promote public-private partnerships between the business community, civil society and the law enforcement community.
6. What are three of the biggest law enforcement challenges related to cybercrime and technology?



# 14



## Asset Recovery

### Introduction/ Thesis for Class Discussion and Debate

This module focuses on one of the UNCAC's unique features among all other regional or global treaties -- legally binding laws, mechanisms and policies that form the new global framework to facilitate the tracing, freezing, seizing, forfeiture and return of assets stolen through corrupt practices and then hidden in foreign jurisdictions. Estimates are that high level public officials steal, through one means or another, \$1 to \$1.6 trillion dollars in state assets per year. The net impact of this theft is both devastating and demoralizing.

This global phenomenon hits developing and poor countries and their citizens the hardest, since these countries often do not have the resources, judicial capacity or political will to pursue stolen State assets. They also weaken if not destroy the investment climate, the reputation of the financial sector and key social service delivery programs, such as those related to health and education, and make good governance and the rule of law seem illusory.

The return of assets is identified as a fundamental principle of the UNCAC, and State Parties are required to afford one another the widest measure of cooperation and assistance. For the first time, a global framework for international public and private sector cooperation on a host of issues related to asset recovery has been forged. The main challenge is now how to make these newly mandated laws, mechanisms and policies work fairly, effectively and efficiently -- country-by-country and institution-by-institution.

Understanding how these new laws, policies and procedures, as well as enhanced international law enforcement cooperation will impact both the public and private sector is important to all key stakeholders. This includes new legal risks and corporate governance responsibilities for the financial community, as well as new legal risks and public governance responsibilities of current and past public officials and their families or close associates.

Most importantly, the UNCAC, if implemented in practice, will provide new hope for citizens who have suffered as a result of the crimes of their leaders against the State. There

### Key Issues

international cooperation;  
civil forfeiture; FIU's;  
corruption reporting to other  
State parties; return and  
disposal of stolen State  
assets

### UNCAC Articles

Chapter V: Articles 50 - 58  
and related Articles 11, 13,  
31, 38, 40 and 43.



can be no prevention, confidence in the rule of law or criminal justice processes, proper or efficient governance, official integrity or widespread sense of justice and faith that corrupt practices never pay, unless the fruits of the crime are taken away from the perpetrators and returned to their rightful owners.

Following the historic agreement by States of Chapter V of the UNCAC, there is now a much clearer, hopeful global path to the recovery of stolen State assets.

### Main Topics

- UNCAC prevention related mandates for financial institutions, including customer identification, beneficial ownership identification and advisory lists of the names of people to be highly scrutinized and reported and illegal “shell banks” (A52)
  - UNCAC mandated related laws that allow for civil forfeiture (A53)
  - Requests to assist in the recovery of stolen assets of another UNCAC State (A55)
  - UNCAC mandated laws that allow for the return of State assets (A57)
- UNCAC policy recommendations related to the creation of financial intelligence units (FIUs -- A58) and their role in the asset recovery process.

### Key Lessons

- Returning assets obtained through corruption is a complex costly global law enforcement goal and challenge.
- It is a critically important goal to pursue for purposes of promoting justice and a rule of law anti-corruption culture.
- The UNCAC is the first global treaty to make this goal a high global priority and to make it practically possible.
- The mechanisms, policies, networks and relationships forged through UNCAC implementation will have far-reaching impacts on other international priorities and the implementation and enforcement of other treaties and protocols, such as national security, organized crime, trade, human rights and the environment.

### Learning Goals

- To be able to identify key UNCAC mandated laws and policies related to asset recovery
- To be able to identify at least three barriers to the recovery of stolen assets and three lessons learned within different regional context
- To be able to identify at least one successful and one unsuccessful case study related to asset recovery and the reasons for its success or failure within UNCAC and different regional context
- To be able to identify new risks and potential costs for the financial community and politically exposed people (PEPs) related to implementation of the UNCAC.

### Class Assignment/Main Tasks

This class will be focused mainly on the case studies, although you should be prepared to discuss each of the Required readings and cases studies in class. Your main assignment is to tackle the following hypothetical:

You are working for a Fortune 500 bank as a compliance officer in one of the countries mentioned in the case study of your choice (below). You have been asked by the CEO whether you should open a \$50 million bank account for a 10 year family member of one





of the PEPs prosecuted in the case study. For class discussion purposes, there is a \$100 million forfeiture court order pending against the PEP relative, but no assets have yet been located. The CEO wants to know what UNCAC mandated laws and issues might be relevant to this question. Please prepare a three to five page Background Memorandum to the CEO.

## Resources

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### Required Reading

UNODC. Legislative Guide for the Implementation of the UNCAC (2006). New York, NY: United Nations. Pages 229 - 266

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Guillermo, J., Smith, J., and Pieth, M. (2007). The Recovery of Stolen Assets (u4 Brief No. 2). Bergen, Norway: u4 Anti-Corruption Resource Centre. Retrieved March 21, 2013 from <http://www.u4.no/publications/the-recovery-of-stolen-assets-a-fundamental-principle-of-the-un-convention-against-corruption/>

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### Recommended Reading & Academic/Scholarly Articles & Books

Requesting Mutual Legal Assistance in Criminal Matters from G20 Countries. (2012). Presented at the G20 Summit – Mexico. June 7, 2017 from <http://www.g20chn.org/English/Documents/PastPresidency/201512/P020151225645582732122.pdf>

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Chalkin, D. (2010). International Anti-Money Laundering Laws: Improving External Accountability of Political Leaders (u4 Brief 2010:4). Bergen, Norway: u4 Anti-Corruption Resource Center. Retrieved, December 8, 2012 from <http://www.u4.no/publications/international-anti-money-laundering-laws-improving-external-accountability-of-political-leaders-2/>

Moberly, R. & Wylie, L. (2011). An Empirical Study of Whistleblower Policies in US Corporate Codes of Conduct. In D. Lewis & Wim. Vandekerckhove (Ed.). Whistleblowing and Democratic Values. The International Whistleblowing Research Network. Retrieved December 8, 2012 from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1998293](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1998293)

Roma-Lyon Group. (2011). Requesting Mutual Legal Assistance in Criminal Matters from G8 Countries – Step-By-Step Guide. Presented at the G8 France Conference. Retrieved December 12, 2012 from [http://www.coe.int/t/dghl/standardsetting/pc-oc/PCOC\\_documents/8\\_MLA%20step-by-step\\_CN152011\\_CRP.6\\_eV1182196.pdf](http://www.coe.int/t/dghl/standardsetting/pc-oc/PCOC_documents/8_MLA%20step-by-step_CN152011_CRP.6_eV1182196.pdf)

#### Academic/Scholarly Articles & Books:

Vlasic, M., and Noell, J.N. (2010). Fighting Corruption to Improve Global Security: An Analysis of International Asset Recovery Systems. Yale Journal of International Affairs, 5(2). Retrieved March 21, 2013 from <http://yalejournal.org/2010/07/20/fighting-corruption-to-improve-global-security-an-analysis-of-international-asset-recovery-systems/>

Vlasic, M., and Cooper, G. (2011). Beyond the Duvalier Legacy: What New “Arab Spring” Governments Can Learn from Haiti and the Benefits of Stolen Asset Recovery. Northwestern University Journal of International Human Rights, 10(1), 19. Retrieved March 21, 2013 from <http://www.law.northwestern.edu/journals/JIHR/v10/n1/3/>

#### Case Studies

Please read the articles cited below and conduct your own independent research. Then identify the key UNCAC Articles directly and indirectly related to the facts and the recovery of these stolen assets. Write a 3 to 5 page article for the International Chamber of Commerce Journal that summarizes the facts and the court’s final decision on all key issues. Include a section explaining your agreement or disagreement with the Court’s opinion and a Bibliography citing research references to support your position.

##### *Lazarenko/Ukraine/US*

Nichols, P. (2007). United States v. Lazarenko: Filling in Gaps in Support and Regulation of Transnational Relationships. ExpressO. Retrieved December 17, 2012 from [http://works.bepress.com/philip\\_nichols/1/](http://works.bepress.com/philip_nichols/1/)

##### *Moi/Kenya*

The Looting of Kenya under President Moi. (2007, August 30). Wikileaks. Retrieved December 17, 2012 from

[http://wikileaks.org/wiki/The\\_looting\\_of\\_Kenya\\_under\\_President\\_Moi](http://wikileaks.org/wiki/The_looting_of_Kenya_under_President_Moi)





## Videos

EU Home Affairs. (2012, November 23). Confiscation and Asset Recovery. Retrieved from <http://www.youtube.com/watch?hl=en&gl=US&client=mv-google&v=sM69gnbFiVw&nomobile=1>

## Useful Websites

TRACK UNODC. Mutual Legal Assistance Request Writer Tool. Retrieved December 10, 2012 from <http://www.unodc.org/mla/index.html>

STAR is an excellent website with references to many aspects of the asset recovery process, case-by-case and country-by-country (<http://star.worldbank.org/star/>)

The International Centre for Asset Recovery's Knowledge Center includes a daily news feed (<http://www.assetrecovery.org/kc/>)

Basel Institute on Governance. The Centre for Asset Recovery. Retrieved December 10, 2012 from <http://baselgovernance.org/icar>

## Quiz and Questions for Class Discussion

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1. Identify the main stages in an asset recovery process (see STAR Initiative Asset Recovery Handbook).
2. How many Articles in the UNCAC relate directly or indirectly to asset recovery?
3. Identify five major impediments to successful asset recovery, including some from both the perspective of a developing and developed country..
4. Identify three examples of successful asset recovery cases.
5. Identify three of the most important inter-related articles in Chapter II UNCAC (Prevention) that play a role in supporting the process of asset recovery.



# Summary Overview and Discussion of the UNCAC, Corruption, Good Governance and the Rule of Law

## Introduction/ Thesis for Class Discussion and Debate

The UNCAC unlocks the global door for the public and private sectors and civil society to work in partnership on a common anti-corruption agenda. It also provides a basis for more analytical research, knowledge and stakeholder debate, and perhaps presents the best opportunity so far to globalize a rule of law culture.

Throughout the course an effort was made to present implementation of the UNCAC as both a challenge and an opportunity. An effort was also made to focus on learning how to identify key corruption issues within different country and sectoral contexts. This includes how to undertake the kind of multi-disciplinary research necessary to analyze its causes, costs and risks to different stakeholders.

The course also tried to strike a balance between issues related to both prevention and law enforcement, and to address those issues from the point of view of a number of different sectors of society including the public sector, private sector, civil society and the international community.

While all UNCAC issues could not be fully covered because of the time limitations for this course, many of the resource materials in both the Required and Recommended readings are there to take specific research issues to a deeper substantive and analytical level as well as more debate. Indeed, each module was designed so that the topics covered could be the subject of an entire week-long seminar or even a six hour credit course.

With all of that said, the main goal of this module is to try to make sure that by now the student knows the “how-why-and-when” of the UNCAC framework. That is, how, why and when the mandates, recommendations and good governance policies can and should be used by multiple stakeholders for multiple purposes. Students should also be able to see the UNCAC’s potential for both changing and forecasting the future legal, business, political and socio-economic landscape.

One more hopeful goal is that after taking this course some will be inspired to set his or her career sights on this emerging and important field of cross-cutting study and practice.

## Key Issues

corruption prevention;  
criminal law; international  
law enforcement  
cooperation; asset recovery;  
justice/enforcement and  
career opportunities

## UNCAC Articles

Chapters I - VIII -- Articles  
1-71





Indeed, the demand for more knowledge within and across disciplines and more individual and collective action within and between the public and private sector is on our global doorstep.

This work will require practitioners, specialists, experts and strategic thinkers of many stripes, including: (i) development practitioners; (ii) public officials; (ii) civil servants; (iii) business executives, (iv) compliance officers; (v) entrepreneurs; (vi) auditors; (vii) economists; (viii) risk analysts; (ix) accountants; (x) lawyers; (xi) historians; (xii) sociologists; (xiii) political scientists; (xiv) procurement and budget experts; (xv) natural resource experts; (xvi) governance experts; (xvii) civil society experts; (xviii) IT experts; (xix) media experts; (xx) international affairs, public affairs and law enforcement experts; (xxi) foreign language specialists; (xxii) academics and scholars and (xxiii) an array of specialists and advocates in various areas, such as trade and investment, human rights, the environment, health and education.

The UNCAC gives everyone the essential substantive multi-disciplinary building blocks and strategic framework necessary to learn these unique skills and to succeed professionally..

### Main Topics

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- Identifying and discussing the main challenges in the domestic implementation by States Parties of the requirements of the UNCAC.
- Analysing areas of reform where the greatest progress has been made following the adoption of UNCAC.
- Summarising and considering the key elements of the UNCAC in relation to prevention, criminalization, international cooperation and asset recovery;
- UNCAC articles related to justice, institutional integrity and fair, effective and efficient enforcement;
- Considering the mechanisms available, including the UNCAC Implementation Review Mechanism to assist State Parties in their implementation of the Convention;
- UNCAC career related opportunities in the corruption, good governance and rule of law spheres.

### Key Lessons

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- Researching and analyzing the causes, cost and risks of corruption, as well as how and when to implement and enforce anti-corruption laws, regulations, policies and good governance practices, is a complex strategic exercise that requires a holistic approach.
- It should be done through the prism of many disciplines, including socio-economic, political, legal, historical and cultural, and through the eyes of various key stakeholders -- all within country, sectoral and institutional context.
- The UNCAC provides the holistic global framework for this multi-disciplinary task.

### Learning Goals

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- To know how to use the UNCAC as a global framework for preventing and reducing corruption.
- To see the UNCAC as a building block for globalizing good governance practices for governments and businesses and for globalizing the rule of law.
- To know how to link-up and analyze crosscutting corruption prevention and law enforcement issues within different country, institutional and sectoral contexts.

- To be able to impart knowledge on the cost of corruption to a range of stakeholders, including governments and businesses.
- To be able to identify the various career opportunities in the anti-corruption field.
- To be able to write a college research paper of publishable quality (optional course requirement for grade or certificate).

### Class Assignment/Main Tasks

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1. Read the articles assigned related to Kazakhgate and re-watch Black Money and review relevant Required reading materials from previous modules. Do your own independent research on the cases and issues raised.
2. Outline key UNCAC related issues raised in both case studies and note the relevant Article next to each issue (on one page for each case study).
3. Writing a research paper of publishable quality (at the option of the professor).
4. Open discussion and debate

### Resources

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#### Required Reading

Hechler, H. (2008). Anti-Corruption Policy Making in Practice: Implications for Implementing UNCAC (u4 Brief No. 1). Bergen, Norway: u4 Anti-Corruption Resource Centre. Retrieved March 21, 2013 from <http://www.u4.no/publications/anti-corruption-policy-making-in-practice-implications-for-implementing-uncac/>

Also review and be prepared to comment on the Case Studies & Videos below

#### Recommended Reading & Academic/Scholarly Articles & Books

Doha Deal Creates Corruption Monitoring Mechanism. (2009, November 13). Geneva, Switzerland: United Nations Office on Drugs & Crime. Retrieved December 10, 2012 from <http://www.unodc.org/unodc/en/frontpage/2009/November/doha-deal-creates-corruption-monitoring-mechanism-.html>

Michael, Bryane, and Habit Hajirini. (2008). The Effective Implementation of Anti-Corruption Conventions. *Journal of European Union Criminal Law*, 3(4), pp. 128-133.

Also review personally selected required readings from previous modules and do your own independent research.

#### Case Studies

##### *Mobil Oil/Giffen/Kazakhgate*

McPherson, C. & MacSearraigh, S. (2007). Corruption in the Petroleum Sector. In J. Campos & S. Pradhan. *The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level* (pp. 191-220). Washington, DC: The International Bank for Reconstruction and Development / The World Bank. Retrieved December 14, 2012 from <http://www.u4.no/recommended-reading/the-many-faces-of-corruption-tracking-vulnerabilities-at-the-sector-level/>

James Giffen Update. (2010, June 3). James Giffen Update. FCPA Professor. Retrieved December 17, 2012 from <http://fcpaprofessor.blogspot.com/2010/06/james-giffen-update.html?m=1>





### *BAE/Siemens/Black Money*

PBS. (2009). Black Money [Video webcast]. Frontline. Retrieved December 16, 2012 from <http://www.pbs.org/wgbh/pages/frontline/blackmoney/>

### Videos

PBS. (2009). Black Money [Video webcast]. Frontline. Retrieved December 16, 2012 from <http://www.pbs.org/wgbh/pages/frontline/blackmoney/>.

Research Paper How-To. (2009). e-How. Retrieved December 17, 2012 from [http://www.youtube.com/watch?v=Lf1AV4axkSM&desktop\\_uri=%2Fwatch%3Fv%3DLf1AV4axkSM](http://www.youtube.com/watch?v=Lf1AV4axkSM&desktop_uri=%2Fwatch%3Fv%3DLf1AV4axkSM)

### Useful Websites

The Federal Corrupt Practices Act Professor's Blog features information on the FCPA and bribery issues and cases (<http://www.fcpaprofessor.com/>)

STAR features asset recovery cases and issues (<http://star.worldbank.org/corruption-cases/>)

United Nations Convention against Corruption. Overview. Retrieved December 10, 2012 from <http://www.unodc.org/unodc/en/treaties/CAC/index.html>

BibMe is an automatic bibliography maker (<http://www.bibme.org>)

TI International Secretariat. (n.d.). Convention against Corruption (UNCAC) – Summary. Berlin: Transparency International. Retrieved December 10, 2012 from <http://www.multaga.org/pdfs/UNCACSummary.pdf>

How to Prepare an Annotated Bibliography. (2012, September 25). Retrieved December 10, 2012 from <http://olinuris.library.cornell.edu/ref/research/skill28.htm>

### **?** Quiz and Questions for Class Discussion

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Final take-home/Blackboard exam at the option of the professor and/or 25 page research paper on one or more Module topics (double-spaced and a bibliography)



## Selected UN documents, publication and tools – prevention and criminality and the fight against corruption

### UN Documents, Publications and Tools - Prevention and Criminality and the Fight against Corruption

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#### **Ratification and Implementation of UNCAC**

Country profiles chronicle the outcomes of the Mechanism for the Review of the Implementation of the United Nations Convention against Corruption. Retrieved December 18, 2012 from <http://www.unodc.org/unodc/en/treaties/CAC/country-profile/index.html>

Global Action against Corruption: The Mérida Papers. Side events at the High-Level Political Conference for the Purpose of Signing the United Nations Convention against Corruption, organized jointly by the Government of Mexico and the United Nations Office on Drugs and Crime in Merida, Mexico from 9 to 11 December 2003. Retrieved December 18, 2012 from [http://www.unodc.org/documents/corruption/publications\\_merida\\_e.pdf](http://www.unodc.org/documents/corruption/publications_merida_e.pdf)

Mechanism for the Review of Implementation of the United Nations Convention against Corruption—Basic Documents. (2011). Vienna: United Nations Office on Drugs and Crime. Retrieved December 18, 2012 from [http://www.unodc.org/documents/treaties/UNCAC/Publications/ReviewMechanism-BasicDocuments/Mechanism\\_for\\_the\\_Review\\_of\\_Implementation\\_-\\_Basic\\_Documents\\_-\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/Publications/ReviewMechanism-BasicDocuments/Mechanism_for_the_Review_of_Implementation_-_Basic_Documents_-_E.pdf)

Tamesis, P. & De Jaegere, S. (2010). Guidance Note: UNCAC Self-Assessments: Going Beyond the Minimum. New York: United Nations Development Programme. Retrieved December 19, 2012 from [http://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/dg-publications-for-website/guidance-note---uncac-self-assessments-going-beyond-the-minimum/UNCAC\\_Self\\_Assessment\\_Guidance\\_Note.pdf](http://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/dg-publications-for-website/guidance-note---uncac-self-assessments-going-beyond-the-minimum/UNCAC_Self_Assessment_Guidance_Note.pdf)

The TRACK portal contains tools and resources for anti-corruption knowledge ([http://www.unodc.org/documents/corruption/TRACK/11-83315\\_flyer\\_Final\\_cb.pdf](http://www.unodc.org/documents/corruption/TRACK/11-83315_flyer_Final_cb.pdf))

The TRACK portal also features a Legal Library (<http://www.track.unodc.org>)

UNODC Legislative Guide for the Implementation of the UNCAC. New York, NY: United Nations. Retrieved December 10, 2012 from [https://www.unodc.org/pdf/corruption/CoC\\_LegislativeGuide.pdf](https://www.unodc.org/pdf/corruption/CoC_LegislativeGuide.pdf)

UNODC. (2004). United Nations Convention against Corruption. Vienna, Switzerland: United Nations Office on Drugs & Crime. Retrieved December 11, 2012 from <http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08->

[50026\\_E.pdf](#)

Vlassis, et al. (2010). Travaux Préparatoires of the Negotiations for the elaborations of the United Nations Convention against Corruption. Vienna: United Nations Office on Drugs and Crime. Retrieved June 7, 2017 from [https://www.unodc.org/documents/treaties/UNCAC/Publications/Travaux/Travaux\\_Prep\\_ratoires\\_-\\_UNCAC\\_E.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/Travaux/Travaux_Prep_ratoires_-_UNCAC_E.pdf)

**The Conference of States Parties to UNCAC and its Working Groups**

Documents of the sessions of the Open-ended intergovernmental expert meetings to enhance international cooperation under the UNCAC (<http://www.unodc.org/unodc/en/treaties/CAC/em-internationalcooperation.html>)

Documents on the Sessions of the Conference of the States Parties to the United Nations Convention against Corruption (<http://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP.html>)

Documents on the Sessions of the Implementation Review Group of the United Nations Convention against Corruption (<http://www.unodc.org/unodc/en/treaties/CAC/IRG-sessions.html>)

Documents on the sessions of the Open-ended Intergovernmental Working Group on Prevention (<https://www.unodc.org/unodc/en/corruption/WG-Prevention/working-group-on-prevention.html>)

Documents on the sessions of the Open-ended Intergovernmental Working Group on Asset Recovery (<http://www.unodc.org/unodc/en/treaties/CAC/working-group2.html>)

Rules of Procedure for the conference of the States Parties to the United Nations Convention against Corruption. (2007). Vienna: United Nations Office on Drugs & Crime. Retrieved December 18, 2012 from [http://www.unodc.org/pdf/crime/convention\\_corruption/cosp/07-80230\\_Ebooke.pdf](http://www.unodc.org/pdf/crime/convention_corruption/cosp/07-80230_Ebooke.pdf)

**Awareness Raising**

Byrne, E., et al. (2010). Building Public Support for Anti-Corruption Efforts: Why Anti-Corruption Agencies Need to Communicate and How. Washington, D.C.: The International Bank for Reconstruction and Development / The World Bank Communication for Governance & Accountability Program (CommGAP). Retrieved December 18, 2012 from <http://siteresources.worldbank.org/EXTGOVACC/Resources/CorruptionWhitePaperpub31110screen.pdf>

Documents on the sessions of the Open-ended Intergovernmental Working Group on Prevention (<http://www.unodc.org/unodc/en/treaties/CAC/working-group4.html>)

International Anti-Corruption Day Campaign Materials from Act against Corruption ([www.actagainstcorruption.org](http://www.actagainstcorruption.org))

Langseth, P. (2007). Empowering the Victims of Corruption through Social Control Mechanisms. (<http://www.unodc.org/pdf/crime/gpacpublications/cicp17.pdf>)

Training videos by the UNCAC Coalition on Civil Society and the UNCAC Review Process ([http://uncaccoalition.org/en\\_US/uncac-review/uncac-review-mechanism/](http://uncaccoalition.org/en_US/uncac-review/uncac-review-mechanism/))

**Asset Recovery**

Articles Of The United Nations Convention against Corruption on Asset Recovery: Analysis of Reported Compliance And Policy Recommendations (<http://www.unodc.org/documents/treaties/UNCAC/COSP/session3/V0987578e.pdf>)

Documents on the sessions of the Open-ended Intergovernmental Working Group on Asset Recovery (<http://www.unodc.org/unodc/en/treaties/CAC/working-group2.html>)

For more publications by The Stolen Asset Recovery Initiative (StAR), a partnership between the World Bank Group and UNODC, please also see Asset Recovery on TRACK

- Gateway to Asset Recovery Knowledge  
(<http://www.track.unodc.org/assetrecovery/Pages/home.aspx>)

Muzila, L., et al. (2012, December 6). On the Take: Criminalizing Illicit Enrichment to Fight Corruption. Washington, DC: World Bank Stolen Asset Recovery Initiative (STAR). Retrieved June 7, 2017 from <https://star.worldbank.org/star/publication/take-criminalizing-illicit-enrichment-fight-corruption>

Public Office, Private Interests: Accountability through Income and Asset Disclosure. (2012). Washington, DC: World Bank Stolen Asset Recovery Initiative (STAR). Retrieved June 7, 2017 from <https://star.worldbank.org/star/sites/star/files/Public%20Office%20Private%20Interests.pdf>

StAR Asset Recovery Watch is a database of Asset Recovery Cases (<http://star.worldbank.org/corruption-cases/arwcases>)

Stolen Asset Recovery (StAR) Initiative. (2009). Stolen Asset Recovery: Management of Returned Assets: Policy Considerations. Washington, D.C.: The International Bank for Reconstruction and Development / The World Bank. Retrieved June 7, 2017 from <https://star.worldbank.org/star/sites/star/files/ManagementReturnedAssets.pdf>

Stolen Asset Recovery (StAR) Initiative. (n.d.). Stolen Asset Recovery – Towards a Global Architecture for Asset Recovery. Washington, D.C.: The International Bank for Reconstruction and Development/The World Bank. Retrieved December 18, 2012 from <http://star.worldbank.org/star/sites/star/files/GlobalArchitectureFinalwithCover.pdf>

The TRACK portal has Laws and regulations on Asset Recovery from over 175 jurisdictions on Asset recovery (<http://www.track.unodc.org/LegalLibrary/Pages/home.aspx?chapter=5>)

TRACK UNODC Mutual Legal Assistance Request Writer Tool (<http://www.unodc.org/mla/index.html>)

### **International Cooperation**

Compendium of International Legal Instruments on Corruption (2nd ed.). (2005). Retrieved December 18, 2012 from <http://www.cgu.gov.br/onu/publicacoes/Arquivos/Compendium.pdf>

Documents of the sessions of the Open-ended intergovernmental expert meetings to enhance international cooperation under the UNCAC (<http://www.unodc.org/unodc/en/treaties/CAC/em-internationalcooperation.html>)

Handbook on the International Transfer of Sentenced Persons. (2012). Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from [http://www.unodc.org/documents/organized-crime/Publications/Transfer\\_of\\_Sentenced\\_Persons\\_Ebook\\_E.pdf](http://www.unodc.org/documents/organized-crime/Publications/Transfer_of_Sentenced_Persons_Ebook_E.pdf)

Manual on International Cooperation for the Purposes of Confiscation of Proceeds of Crime. (2012). Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from [http://www.unodc.org/documents/organized-crime/Publications/Confiscation\\_Manual\\_Ebook\\_E.pdf](http://www.unodc.org/documents/organized-crime/Publications/Confiscation_Manual_Ebook_E.pdf)

Manual on Mutual Legal Assistance and Extradition. (2012). Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from [http://www.unodc.org/documents/organized-crime/Publications/Mutual\\_Legal\\_Assistance\\_Ebook\\_E.pdf](http://www.unodc.org/documents/organized-crime/Publications/Mutual_Legal_Assistance_Ebook_E.pdf)

Model Law on Extradition. (2004). Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from [http://www.unodc.org/pdf/model\\_law\\_extradition.pdf](http://www.unodc.org/pdf/model_law_extradition.pdf)

Model Law on Mutual Assistance in Criminal Matters (2007). Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from

[http://www.unodc.org/pdf/legal\\_advisory/Model%20Law%20on%20MLA%202007.pdf](http://www.unodc.org/pdf/legal_advisory/Model%20Law%20on%20MLA%202007.pdf).  
French translations is available at  
[https://www.unodc.org/tldb/pdf/UN\\_Model\\_Law\\_MLA\\_Translation\\_FR.pdf](https://www.unodc.org/tldb/pdf/UN_Model_Law_MLA_Translation_FR.pdf)

Model Treaty on Extradition (General Assembly resolution 45/116, as amended by General Assembly resolution 52/88) ([http://www.unodc.org/pdf/model\\_treaty\\_extradition.pdf](http://www.unodc.org/pdf/model_treaty_extradition.pdf))

Model Treaty on Mutual Assistance in Criminal Matters (General Assembly resolution 45/117, as amended by General Assembly resolution 53/112) ([http://www.unodc.org/pdf/model\\_treaty\\_mutual\\_assistance\\_criminal\\_matters.pdf](http://www.unodc.org/pdf/model_treaty_mutual_assistance_criminal_matters.pdf))

On-line Directory of Competent National Authorities  
(<http://www.unodc.org/compauth/en/index.html>)

Revised Manuals on the Model Treaties on Extradition and Mutual Assistance in Criminal Matters. (2002). Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from [http://www.unodc.org/pdf/model\\_treaty\\_extradition\\_revised\\_manual.pdf](http://www.unodc.org/pdf/model_treaty_extradition_revised_manual.pdf)

TRACK UNODC Mutual Legal Assistance Request Writer Tool  
(<http://www.unodc.org/mla/index.html>)

### **Corruption and the Private Sector**

2011 UNCITRAL Model Law on Public Procurement  
([http://www.uncitral.org/uncitral/en/uncitral\\_texts/procurement\\_infrastructure/2011Model.html](http://www.uncitral.org/uncitral/en/uncitral_texts/procurement_infrastructure/2011Model.html))

Anti-corruption Policies and Measures of the Global Fortune 500  
(<http://www.unodc.org/unodc/en/corruption/anti-corruption-policies-and-measures-of-the-fortune-global-500.html>)

Documents on the sessions of the Open-ended Intergovernmental Working Group on Prevention (<https://www.unodc.org/unodc/en/corruption/WG-Prevention/working-group-on-prevention.html>)

The Fight against Corruption is the UNODC-UN Global Compact anti-corruption e-learning tool for the private sector (<http://thefightagainstcorruption.org/>)

UNIDO/UNODC. (2007). Corruption Prevention to Foster SME Development (Volume I). Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from [http://www.unido.org/fileadmin/media/documents/pdf/Services\\_Modules/csr\\_corruption\\_publication.pdf](http://www.unido.org/fileadmin/media/documents/pdf/Services_Modules/csr_corruption_publication.pdf)

UNIDO/UNODC. (2007). Corruption Prevention to Foster SME Development (Volume II). Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from [http://www.unodc.org/documents/corruption/Publications/2012/Corruption\\_prevention\\_to\\_foster\\_small\\_and\\_medium\\_size\\_enterprise\\_development\\_Vol\\_2.pdf](http://www.unodc.org/documents/corruption/Publications/2012/Corruption_prevention_to_foster_small_and_medium_size_enterprise_development_Vol_2.pdf)

### **Corruption and the Destruction of the Environment**

Corruption, Environment and the United Nations Convention against Corruption. (2011, October 26). Papers from the special event “Impact of corruption on the environment and the United Nations Convention against Corruption as a tool to address it”, fourth Conference of States Parties to the United Nations Convention against Corruption, Marrakesh, Morocco. Retrieved June 7, 2017 from [https://www.unodc.org/documents/corruption/Publications/2012/Corruption\\_Environment\\_and\\_the\\_UNCAC.pdf](https://www.unodc.org/documents/corruption/Publications/2012/Corruption_Environment_and_the_UNCAC.pdf)

### **Criminal Justice Integrity**

Buscaglia, E. (2001). An Economic and Jurimetric Analysis of Official Corruption in the Courts. Vienna: United Nations Office for Drug Control and crime Prevention. Retrieved December 19, 2012 from <http://www.unodc.org/pdf/crime/gpacpublications/cicp12.pdf>

Buscaglia, E. (2001). Investigating the Links Between Access to Justice and Governance

Factors. Vienna: United Nations Office for Drug Control and crime Prevention. Retrieved December 19, 2012 from <http://www.unodc.org/pdf/crime/gpacpublications/cicp13.pdf>

Commentary on the Bangalore Principles of Judicial Conduct. (2007). Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from [http://www.unodc.org/documents/corruption/publications\\_unodc\\_commentary-e.pdf](http://www.unodc.org/documents/corruption/publications_unodc_commentary-e.pdf)

Documents on the sessions of the Open-ended Intergovernmental Working Group on Prevention (<http://www.unodc.org/unodc/en/treaties/CAC/working-group4.html>)

Global Programme against Corruption. (2006). Assessment of Justice Sector Integrity and Capacity in two Indonesian Provinces – Technical Assessment Report. Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from [http://www.unodc.org/pdf/corruption/publications\\_indonesia\\_e\\_assessment.pdf](http://www.unodc.org/pdf/corruption/publications_indonesia_e_assessment.pdf)

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### **Methodologies**

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### **Reports**

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More information about UNODC data and analysis is available from the Analysis and Research Branch (<http://www.unodc.org/unodc/en/data-and-analysis/index.html?ref=menuaside>)Policy)

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### **Economic Fraud and Identity Related Crime**

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### **Related UNODC Resources**

UNODC on money-laundering and countering the financing of terrorism (<http://www.unodc.org/unodc/en/money-laundering/index.html?ref=menuaside>)

UNODC Tools and publications on Organized Crime (<http://www.unodc.org/unodc/en/organized-crime/tools-and-publications.html>)



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