This work is based on the United Nations Convention Against Corruption (UNCAC). An easy to understand, pictorial representation of the different provisions are meant for persons who are not well versed in the legal connotations of this convention. Readers are advised to access official version of the UNCAC for exact articles.

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Cover page depiction

A giant octopus signifying corruption.

Tentacle 1: Has captured the globe.
Tentacle 2: Has captured National governments.
Tentacle 3: Has captured all wealth (dollars, gold bars, bank buildings).
Tentacle 4: Has captured & crushed law courts.
Tentacle 5: Has crushed the poor people.
Tentacle 6: Is seen stroking pirates, thieves who are laughing wildly.
Tentacle 7: Is helping convicts escape to other countries with their loot.
Tentacle 8: Is seen holding up law enforcement agencies.
UNITED NATIONS OFFICE ON DRUGS AND CRIME
Regional Office for South Asia

United Nations Convention Against Corruption-
... a pictorial guide
Message from the Representative
UNODC, Regional Office for South Asia

I am happy to share with you this pictorial guide on the United Nations Convention against Corruption (UNCAC). The United Nations Convention against Corruption entered into force in 2005. As of today, 165 countries are party to it. The Convention is a universal and legally binding document which introduces a comprehensive set of standards, measures and provisions, which – when applied – will strengthen the legal and regulatory regimes to prevent and counter corruption in the public and the private sector.

In the world, we live today, people are increasingly aware of the consequences of corruption and they would like to know what can be done. While the United Nations Convention against Corruption offers this comprehensive guidance, through the present visual guide, an attempt has been made to capture the essence of the UNCAC and some of its articles in a pictorial and “easy to understand” manner. The guide can be used by public officials and private sector employers and employees, who deal with anti-corruption in their professional life, by students who study related subjects, such as law and economics, as well as by the concerned citizen.

I do hope that with this guide UNODC can contribute to making the work against corruption a more informed one. I hope you enjoy reading this guide and look forward to receiving your feedback.

Cristina Albertin
Disclaimer:

The designations employed and the presentation of material in this publication do not imply the expression of any opinion whatsoever on the part of UNODC concerning the legal status of any country, territory or city or its authorities, or concerning the delimitation of its frontiers or boundaries.

This pictorial guide is prepared solely for the purpose of presenting a simplified version of UNCAC in a visualized way. The pictorial guide attempts to provide the gist of the main provisions through a combination of stories, text boxes and flow charts, so that the legal framework, institutional mechanism and expected deliverable are easy to understand for the average reader. The authors and publisher are not offering this book as legal or other professional service.

While best efforts have been made in preparing this book, keeping in mind the spirit and essence of the UNCAC, neither the authors nor the publisher shall be held liable or responsible to any person or entity with respect to any loss, incidental or consequential damages caused, directly or indirectly, by the information contained herein. Each circumstance is different and the advice and strategies contained herein may not be suitable for every situation. The stories, images, characters and entities used in this guide are fictional and used solely for representational purposes only. Any likeness to actual country, person/s, either living or dead, is purely coincidental.

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TABLE OF CONTENTS

1. Introduction 1
2. Preventive measures 13
3. Criminalization and Law enforcement 39
4. International cooperation 69
5. Asset recovery 97
6. Technical Assistance and information exchange 119
7. Mechanisms for implementation 127
8. Final Provisions 133
Chapter 1

Introduction
“Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violation of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish.”

The cost of corruption is measured not just in the billions of dollars of squandered or stolen government resources, but most poignantly in the absence of the hospitals, schools, clean water, roads and bridges that might have been built with that money and would have certainly changed the fortunes of families and communities. Corruption destroys opportunities and creates rampant inequalities. It undermines human rights and good governance, stifles economic growth and distorts markets.

Kofi Annan  
Former Secretary General, United Nations  
2003

Ban Ki-moon  
Secretary General, United Nations  
2012
UNCAC was adopted by the General Assembly on 31 Oct 2003 at UN HQ in New York.

UNCAC was open to all States for signature. 140 States signed. In Dec 2005, the UNCAC entered into force.

Any State or Regional Economic Integration Organization can accede to the Convention anytime.

In 2008, the UNCAC was opened for amendment.

After 5 years, the UNCAC was opened for changes. No changes were proposed.

Many States have ratified the Convention over the years.

To date 165 States are party to it. India ratified UNCAC in 2011.

First session of the Conference of the State Parties to the UNCAC.
The United Nations General Assembly passed the resolution to give effect to the United Nations Convention Against Corruption (UNCAC) with a view:

To promote and strengthen measures to prevent and combat corruption more efficiently and effectively.

To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery.

To promote integrity, accountability and proper management of public affairs and public property.
What is meant by ‘signatory’?

When a country signs or becomes a signatory to a convention it implies that in principle it agrees to the provisions of the convention and for the moment has only an obligation to refrain, in good faith, from acts that are contrary or are against the objectives of the convention. The signature is usually followed by ratification.

When a country ratifies, what does ‘ratification’ mean?

Ratification refers to when a country gives its consent to be legally bound by the provisions of the convention. The country first signs and then ratifies the treaty. Usually (but not always) ratification involves two distinct procedural steps. The first is related to the aligning its internal laws so that country can assume its international obligations enshrined in the international agreement. In the second step, the instrument of ratification, a formal sealed letter referring to the decision and signed by the State’s responsible authority, is deposited with the United Nations. Countries that have ratified the convention are often referred to as ‘Party’ to the convention.

What is ‘Accession’?

Accession signifies an agreement to be legally bound by the terms of the Convention, but the procedures differ from ratification. In the case of ratification, the State first signs and then ratifies the treaty. The procedure for accession has only one step—it is not preceded by an act of signature. However, the legal consequences are still the same.

What is Conference of State Parties?

Is a mechanism by which countries that are parties to the convention meet to discuss different issues and themes related to a particular convention. The objective is to improve the capacity of and cooperation between countries to achieve the objectives laid out in the convention and to promote and review its implementation.

*The explanation provided for the above mentioned terms are not their legal definitions, as these terminologies often have legal interpretations. An attempt has been made to provide to the reader a simplified and common man’s understanding.
**UNCAC briefly stated** - The UNCAC contains 5 main sections - a summary of which is stated below:

**Preventive Measures**

An act of corruption can be criminalized but ideally it is prevented before it occurs. Prevention measures are required in both the public and private sectors but importantly preventing corruption requires an effort from all members of society at large.

**Criminalization and Law Enforcement**

The Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption in their domestic law, if these are not already covered in this section.

**International Cooperation**

Countries agree to cooperate with one another in every aspect of the fight against corruption including prevention, investigation, and the prosecution of offenders. The UNCAC provides guidelines for this cooperation.

**Asset Recovery**

The legitimate owner or requesting country shall enjoy the right to recover stolen assets or be compensated appropriately. It is a fundamental principle of the Convention.

**Technical Assistance and Information Exchange**

Technical assistance and information exchange to facilitate those responsible for preventing and combating corruption.

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**IMPORTANT**

This book does not explain all the articles in the Convention, rather its purpose is to expose the reader to the broad provisions of the UNCAC. The reader is encouraged to refer to the official version of the UNCAC. In addition to these 5 sections, there is also a section on general provisions. Please find details at [http://www.unodc.org/unodc/en/treaties/cac/index.html](http://www.unodc.org/unodc/en/treaties/cac/index.html) #UNCAC fulltext.

*A concise list of articles at the end of the book segregates them into mandatory (M), optional (O) and obligation to implement if consistent with fundamental legal principles (C).*
Article 1

Statement of Purpose

The purposes of this convention are to prevent and combat corruption, facilitate international cooperation in fighting corruption and bring about integrity and accountability in public affairs.
Chapter 1

Introduction

How does UNCAC apply to different stakeholders?

**UNITED NATIONS**

**Role & Responsibilities**
- Policy making
- Facilitating implementation
- Coordination among member states
- Monitoring implementation

**Link to UNCAC**
UN assists the Member States to become parties to the UNCAC and also implement its provisions.

**National Governments**

**Role & Responsibilities**
- Legislate for recognition, prevention, detection and punishment of corruption
- Executive government to implement anti-corruption laws
- Effective judiciary for prosecution of offences

**Link to UNCAC**
Citizens and stakeholders expect rule of law and good governance. UNCAC provides countries with a legally binding, global anti-corruption instrument to achieve these.

UNCAC signatories should adopt at least mandatory provisions.

**Independent Bodies**

**Role & Responsibilities**
- Independent accountability bodies, investigating agencies, etc., have to ensure transparent and objective implementation of anti-corruption laws, rules and regulations.

**Link to UNCAC**
UNCAC provisions guide in the formulation of role of independent bodies.
### How does UNCAC apply to different stakeholders?

<table>
<thead>
<tr>
<th>PUBLIC SECTOR</th>
<th>PRIVATE SECTOR</th>
<th>BANKS</th>
</tr>
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<tbody>
<tr>
<td><strong>Role &amp; Responsibilities</strong></td>
<td><strong>Role &amp; Responsibilities</strong></td>
<td><strong>Role &amp; Responsibilities</strong></td>
</tr>
<tr>
<td>Enabling adherence to anti-corruption procedures in public interest.</td>
<td>Good corporate governance and ethical business practices.</td>
<td>Assisting in detection and prevention of economic offences such as money laundering.</td>
</tr>
<tr>
<td><strong>Link to UNCAC</strong></td>
<td><strong>Link to UNCAC</strong></td>
<td><strong>Link to UNCAC</strong></td>
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<tr>
<td>UNCAC encourages corruption free ethical conduct of public sector officials thereby enabling benefits from public programmes to reach intended beneficiaries.</td>
<td>UNCAC criminalizes certain acts by the private sector, such as bribery and embezzlement, etc.</td>
<td>UNCAC provides guidelines for drafting laws. It also provides for national and global cooperation to encourage vigilance in preventing money laundering and in detecting transfers of proceeds of crime and for ensuring greater banking transparency.</td>
</tr>
</tbody>
</table>
NGOs

Role & Responsibilities
Helping anti-corruption governance by sensitizing people on issues and challenges.

Link to UNCAC
UNCAC provides guidance to NGOs to play a catalytic role in the society to ensure that rule of law prevails.

CIVIL SOCIETY

Role & Responsibilities
Facilitating citizen interface with other stakeholders in the country and at international forum(s). Highlighting issues of public concern before the larger audience.

Link to UNCAC
UNCAC provides guidelines for civil society to play an informed role to encourage and enable citizens to voice their concerns for a corruption free governance.

CITIZENS

Role & Responsibilities
Ultimate beneficiary of corruption free society. His/her intolerance to corruption is paramount.

Link to UNCAC
Citizens’ effective participation and informed vigilance are supported by UNCAC provisions.

IS UNCAC A LAW?
UNCAC is not a law. It is a convention agreed to by member nations based on which laws can be drafted. It contains (a) articles that are mandatory for the country signing it (b) articles that must be considered for adoption and (c) articles that are optional for drafting its own law.
Professor and his student are on a visit to the UN Head Quarters. Excerpts from their discussions on clarity of some terms.

What is meant by “State Party”? State Party means a sovereign State or country or a regional organization.

When “extradition” is requested, what exactly happens? It is the official process whereby one country surrenders a suspected or convicted criminal to another country so that s/he does not escape justice in that country.

Broadly speaking, he is appointed or elected to the public office, whether permanent or temporary, at whatever seniority. He could also be a person who performs a public function or public service even if it is on behalf of another public agency.

Who is a ‘Public official’? Broadly speaking, he is appointed or elected to the public office, whether permanent or temporary, at whatever seniority. He could also be a person who performs a public function or public service even if it is on behalf of another public agency.

Then who is ‘foreign public official’? It is the same thing as public official, except that he is holding the office for a foreign country or on behalf of a foreign public agency.

**Article 2 Use of Terms**

This article provides clarity on use of terms relevant to UNCAC.

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2 We shall use the terms State Party, Member State, country, member government or regional organization interchangeably in this book. Refer to the UNCAC full text as regards article 3 and 4 on scope of application and protection of sovereignty.
Preventive measures include - model preventive policies, establishment of anticorruption bodies, enhanced transparency in the financing of election campaigns and political parties, delivery of public services that are efficient and transparent, recruitment of public officials based on merit. Public servants should be subject to codes of conduct, financial and other disclosures, and appropriate disciplinary measures for non-compliance. Prevention of corruption is particularly critical in areas of the public finance such as the public procurement and judiciary. Lastly and most importantly, those who use public services must expect a high standard of conduct from their public servants. For these reasons, the Convention calls on countries to promote actively the involvement of non-governmental and community-based organizations, as well as other elements of civil society, and to raise public awareness of corruption and what can be done about it.
Addressing corruption starts with prevention.

In India, we have the Prevention of Corruption Act and Right to Information Act for greater transparency.

A collaborative meeting of officials from different countries is in progress to discuss issues on prevention of corruption.

My country too has similar legislation.

We shall be hosting a regional conference to deliberate on ways to evaluate our legislations. You are welcome to participate.

Article 5
Preventive anti-corruption policies and practices

Countries should implement anti-corruption policies and promote the participation of society in this endeavour that promote rule of law, integrity, transparency and accountability in public affairs and collaborate with one another.

These policies and legal instruments must be periodically reviewed.
Chapter 2

Preventive Measures

A good practice is to provide legislation on whistle blower protection.

Agree. There are challenges in drafting preventive legislation.

What about Bodies to enforce anti corruption laws? How do we make them truly independent?

Yes, indeed. Independence will otherwise be lost through interference from other executives.

For example, bodies such as anti-corruption commissions, vigilance organizations and Ombudsman need greater independence. We should find ways to make these institutions more effective to ensure accountability.

Agreed. One way may be to provide for adequate funding and resources to such bodies.

Yes, we must share our experiences. ‘Independence’ is indeed a debatable issue.

How about accountability?

Agreed. One way may be to provide for adequate funding and resources to such bodies.

Article 6

Preventive anti-corruption bodies

Set up an independent body/ bodies for prevention of corruption and implementation of policies to create awareness.
Public Sector recruitment and its management are important areas.

Selection of public officers on merit in a transparent manner contributes towards fighting corruption.

Anita, have you scrutinized all applications for the post of Vigilance Director?

Yes. All these candidates have the necessary qualifications and experience that meet our criteria.

Well, let’s go on with interview formalities. Please invite external professionals to serve on the interview board.

Yes, with external professionals it will be unbiased and we should not find it difficult to finalize the selection soon.

---

Article 7
Public Sector

a) Systems of recruitment, hiring, retention, promotion and retirement of civil servants on objective and transparent criteria on merit.

b) Rotation and training for those in public positions that are vulnerable to corruption.

c) Adequate remuneration.

d) Training programmes for correct and honourable performance of functions and for awareness on risk of corruption.
Public Sector management presents other important areas.

Transparency in funding of political candidates and parties is another area for consideration of countries.

Ladies and Gentlemen. We have two announcements today. First, the government has introduced a bill to provide transparency in funding of candidates for elected public office and political parties.

Second relates to all companies, public or private, that wish to fund political candidates and parties. It will be mandatory now to publish details in their annual reports.

Great news! That means I do not have to "window dress" my accounts to hide political donations!

Yes, that's a big change.

**Article 7 (Contd)**

Public Sector

e) lay down necessary criteria that a person must fulfil to stand for public office.

f) Transparency in funding of candidature for elected office and political parties.

g) Promote transparency and prevent conflict of interest.
Integrity, honesty and responsibility among public officials are important to fight corruption.

Article 8

Code of conduct for public officials

Prescribe standards of conduct and disciplinary regime for its public officials, which include asset declaration, reporting of corruption and conflict of interest.
Public procurement means when a country purchases goods or services using its national budget. It is important to keep it free of corruption.

Chan, We are drafting an advertisement calling for Expression of Interest helpful in supply stationery items.

Okay, I shall keep that in mind.

Well, then we can finalize and release the public advertisement.

Yes! But do we really need to tender as stationery is such a small item.

No. We will follow procedures to ensure full transparency and competition to get the best value for money.

Time is very short. We need to finish the supplies to all offices during the first quarter.

Chan & Smith are at their godown discussing a supply contract for stationery items.

Article 9
Public procurement and management of public finances

Public procurement should be based on the principles of transparency, competition and objectivity to prevent corruption.
Diligent employees and transparent system of procurement prevent opportunities for corruption and frauds.
A few days later: Abdul was caught thanks to the whistle blowing on the quality of food grains.

Isn't he our Boss Abdul?

Looks like him sir.

So! He's finally caught. Thanks to us!

Let us remain anonymous whistle blowers. Sir!

Article 9
Public procurement and management of public finances

Each Country should put in place an effective system of appeal and legal action in the event that anti-corruption procedures are not followed.
Procurement systems must be transparent and must promote competition and allow for objective decision making.

Good morning, Mr. Gordon. I am the new intern Suzi. Could you please brief me on public procurement.

Good morning, Suzi. Public procurement consumes a large chunk of the public budget in most countries.

It is often vulnerable to corruption. UNCAC requires transparency and competition.

What if somebody is not happy with the procurement procedures followed?

A good procurement system will have a means to lodge complaints and to investigate them.

But how can this be done?

One way is by making sure if information on invitation to tender, pre-qualification criteria for participation, mode of selection, and who has been finally awarded the contract is available to the public.
Procurement systems should encourage competition to find the best supplier.

E-tendering is one of the ways to reduce the scope for manipulations and provide transparency.

Entering into integrity pacts is also another way.

Can you explain that, sir?

Yes, Sir. In my last internship, I worked on an e-procurement project.

It means that the contracting parties bind themselves to ensure that they will not resort to any form of corruption.

But who will ensure it is followed?

Integrity pacts often have independent monitors with powers to regulate conduct.

That was so helpful. Thank you, Sir.
Conflicts of interest take many forms and affect decision making in public procurement

Yes
Ma’am. The selected contractor is known for honesty.

How can the new government reverse the decision to award the contract and re-tender the project? It’s a needless public expenditure!

Yes.
And why should the Minister’s family firm be short-listed?

A few days later, after change of government, a rival contractor assumes charge of Ministry of public works.

Hey!
Wait a minute. Do I smell a rat here? The Minister has not declared his financial interest in the firm.

Looks like a perfect story where public procurement decision is dictated by a contractor-politician.

Article 9
Public procurement and management of public finances

Procedures such as declaration of interest must be provided and regulated.
Transparent public reporting of information on the organization, functioning and decision making processes in public administration are important to curb corruption.

A concerned citizen approaches public office for information...

I am seeking information on procurement of food grains in my district under the Right to Information Act.

Please make an application and present it before the Information officer.

Sir, this is the application for seeking information on procurement.

We will send you the information in 4 weeks time.

He submits application seeking information...

It shows responsive government that promptly answers questions.

I cannot believe this! They provided all information in just 3 weeks. RTI act is working for sure.

A few weeks later at home, he receives information.

Its a great confidence booster for common citizens.

Article 10
Public reporting
Make information on public administration available to general public.
Addressing corruption in the private sector.

First agenda item is on the periodic review report on our existing code of conduct and policy on conflict of interest.

I propose that we agree with the revisions.

I second the motion.

Next is about engaging the former Principal Secretary of Petroleum and Oil as our consultant. He retired last month from government.

He may face conflict of interest since our business is related to the oil sector. Let us wait.

Next, we have a presentation from our internal audit department.

Welcome. They do have their eyes and ears open and certainly add value to ethics management.

Article 12
Private Sector

It is important to prevent corruption in the private sector, strengthen auditing and accounting mechanisms and provide penalties for violations.
We have a proposal to sub-lease our licence that we obtained from the industrial promotion department.

In my opinion the licence will be commercially misused which will be in violation of the law. We must not agree to it.

Here is a request from the Federal Office of Criminal Investigation to show them our vendor list.

We must cooperate. It may protect us from illegal activities of some vendors.

I present the list of related party transactions for your approval.

That meets legal requirements. The list may be filed with Stock Exchanges also.
You have read about principles of accounting. Today, you will learn about how accounts can be falsified.

One way is to establish off-the-books accounts. So one set is genuine and another is false!

Preparing financial statements from off-the-books or inadequately identified transactions. So the real transaction remains hidden!

A refresher course for the executives

**Article 12 (contd) Private Sector**

Proper maintenance of books & records, financial statement, accounting & auditing standards.
Chapter 2
Preventive Measures

Record false expenditure and enter liabilities with incorrect identification. So the statement is not authentic!

Using false documents and intentional destruction of book-keeping documents before the prescribed preservation period.

Sir, preservation of accounting documents over a time period is very important!

UNCAC prohibits allowing tax deductibility of amount paid as bribes!

So in general, UNCAC promotes objective and accurate accounting of all public transactions.
Participation of individuals and civil society groups in preventing and fighting corruption is important.

What we discussed is high level corruption. Had our NGO not been vigilant, nobody would ever know of it. It’s unacceptable.

It has been a month without any action. It’s time to protest.

It is good that media has highlighted the story.

Looks like the PM is unable to act due to political interests. Our protest may strengthen his position to act decisively.

Article 13 Participation of society

Civil society, non-governmental groups and community based organizations can raise awareness on the gravity and existence of corruption.
Article 14
Measures to Prevent Money-laundering

a) There must be provisions whereby banks, financial institutions or any body susceptible to money laundering can ask customers to provide necessary information about ownership of money, record keeping and report suspicious transactions.

b) Regulatory, law enforcement officials and other authorities must be able to cooperate and exchange information at national and international level.

c) Countries must consider implementing measures to detect and monitor the movement of cash and other negotiable instruments across their borders.

d) Enhanced transparency on the originator of funds and greater scrutiny in case this information is not complete.

e) Establish a domestic regulatory and supervisory regime.
Process of converting illegitimate money into legitimate is known as money laundering.

Karim, Joan and Raju are interns at a local bank. They are surprised at a news report.
Article 14 (contd)

Measures to prevent money laundering

Regulatory mechanism and promotion of banking compliance practices to check and prevent money laundering are a must.

Simple, guys. Such illegitimate money is mostly in cash form.

So, a business man cannot use it say, to buy property legitimately, eh!

And a government official will not be able to use the large bribe received here or abroad.

He puts this cash into series of banking transactions in such a way that nobody can trace the original deposit in cash by him.

So it is disguised till he can later legitimately issue cheques to reclaim that money. How clever?

Now, you are getting it.

Yes, very interesting. Let’s go or we may be late.

Simple, guys. Such illegitimate money is mostly in cash form.

So, a business man cannot use it say, to buy property legitimately, eh!

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Now, you are getting it.

Yes, what does he do to make it legitimate?

Yes, the process?

So what does he do to make it legitimate?

Yes. Very interesting. Let’s go or we may be late.
Strengthen mechanisms in financial institutions to detect and prevent attempts to convert money earned from illegal sources.

Sir, I want this cash transferred abroad. Can you do it today?

Oh! Cash! You need to fill a form informing us about yourself, and all relevant particulars as to whom and for what purpose the cash is being transferred.

I can give only some particulars. All details can’t be given. You understand the nuances eh?

Sorry sir, we can not do that! Money transfer laws are very strict, both in our country and in the country of transfer.
Acts of money laundering present challenges for tracing.

Sir, I could not trace the 20 million dollar remittance to Mr. Dutta’s account. The trail is dead after a couple of transactions in overseas accounts. Tracing a money trail in money laundering cases is always challenging.

Later, Karim and Joan at a bank discussing a particularly difficult case of money laundering.

But sir, why is our bank trying to trace the origin of the remittance? Yes, why can’t an intelligence body do that job? Yes they do. Each country must consider establishing Financial Intelligence Unit (FIU) to which the banks are required to provide this information.
Chapter 2

Preventive Measures

Yes, it is mandatory in this country.

I see. Is it mandatory?

I remember hearing about traveller’s cheques, stocks, and postal orders to convert illicit cash into legitimate funds.

The FIU collects similar information from many other banks, home and abroad, and analyses the data to detect cases of money laundering.

Thank you for separating large fund transfers without sufficient information on the originator. See you tomorrow.
Chapter -3

Criminalization and Law enforcement

The Convention goes beyond basic forms of corruption such as bribery and the embezzlement of public funds and includes many other acts that must be criminalized as corruption. The convention suggests the following acts to be criminalized as corruption: bribery (Giving and taking) by any public official, international public official, private sector officials; embezzlement, trading in influence, illicit enrichment and abuse of functions; obstruction of justice; concealment and laundering of the proceeds of corruption; It deals with the important area of private sector corruption. It suggests the need to legislate to freeze, seize and confiscate the proceeds of corrupt acts and compensate parties that have suffered damages due to corruption; to remove obstacles to bank secrecy laws; to ensure protection for the whistle blowers and provide a long Statute of Limitation for corruption offences.
Promises made by politicians may contain hidden agenda which may have conflicts of interest.

Pharma companies may bribe doctors to overlook their fraudulent practices and prescribe higher doses of under-filled capsules.

Public housing projects stopped at second floor although listed on paper as having 10 floors - contractors and public officials have benefited.

Bribery is not the only form of corruption. There are many other forms. These are some ways where corruption manifests itself.

- I promise fresh water for everyone.
- He means mineral water from his private bottling plant!
- Take two capsules instead of one.
- Doctor, why is this medicine not effective?
- I am allotted the 7th floor. My heavenly abode!

Promises made by politicians may contain hidden agenda which may have conflicts of interest.

Pharma companies may bribe doctors to overlook their fraudulent practices and prescribe higher doses of under-filled capsules.

Public housing projects stopped at second floor although listed on paper as having 10 floors - contractors and public officials have benefitted.

Obstruction of justice resorted to by use of force, payment, threat, etc.

Managers may find ways to collude with others to book private expenses as company expenditure.

Public distribution of donor driven relief supplies may get misappropriated by NGOs.

Paying the head of the village should ensure that he testifies before the court that there are no potholes.

As agreed, you will send the bill to my office for filling up my private car. Sure. As usual, I shall collect my reward.

Thank XYZ for providing this relief! We have benefitted too.

I am sure its not five kilos! His scales are tampered with!

Managers may find ways to collude with others to book private expenses as company expenditure.
Corruption is much more than bribery. The UNCAC provides for acts which are required to be criminalized. These illustrations provide details of these acts.

**Article 15**  
**Bribery of national public officials**

Bribery includes: Promise, offering or giving to a public official, directly or indirectly either for himself or another person. Solicitation or acceptance of undue advantage by the public official for himself or another.

Defence Ministry officer meeting a visitor

Sir, thank you for purchasing our defence equipment. What can we do for you?

Oh! I was doing my duty. Can we meet in the golf club tomorrow?

My son has been accepted to a foreign university. Fees are so expensive!

Next day at the golf club

No problem sir, we will take care of it.

Thank you
Bribing foreign public officials and officials of public international organizations. Bribery may not always be in the form of cash and may take innovative forms.

Article 16
Bribery of foreign public officials/public international organization

Bribery includes: Promise, offering or giving to a public official, directly or indirectly either for himself or another person. Acceptance by the public official for himself or another.
Good morning Sir! Are you both comfortable?

Morning, The room is quite small Bob! You could have done better!

After the company got its order, a few days later at the resort...

No problem sir, I will arrange a bigger room with ocean view. Remember, your one-month cruise starts on Sunday. Our compliments!
Misappropriation of public property by public officials.

Hm!
It’s fun to round off the figures to the nearest ten on the invoices. Then I transfer the surplus cents to my personal account. Nobody notices cents, but my account gets filled up, for sure.

This much of a discrepancy! Let me look at how the figures have been rounded.

Your accountant is intelligent but dishonest. He used innovative ways to misappropriate department cash.

Same day, Auditor meets the Head of the Department

This much of a discrepancy! Let me look at how the figures have been rounded.

Later, Auditor in the same department

Your accountant is intelligent but dishonest. He used innovative ways to misappropriate department cash.

Next day, Vigilance Officers summon the accountant

Oh no! I have ruined my career and life because of my greed! What will my family think?

Your accountant is intelligent but dishonest. He used innovative ways to misappropriate department cash.

Chapter 3
Criminalization and Law enforcement

Article 17
Embezzlement, misappropriation or other forms of diversion of property by a public official

The illegal use or fraudulent conversion or diversion by a public official of property, funds or anything of value that had been entrusted to him by virtue of his position.
Increase in wealth of public officers that is disproportionate to their known sources of income.

Article 20
Illicit enrichment

Significant increase in the assets of a public official that s/he cannot explain in relation to his/her lawful income.

Similarly article 21 & 22 deal with bribery & embezzlement of property.
Illicit enrichment (contd)

Bob, investigated if Nina indulged in illicit enrichment through corrupt practices.

Nina is meeting XYZ officials too often.

Nina, We have heard you and examined the evidence. You failed to explain source of funding. You are found guilty of abuse of functions and illicit enrichment.

Gosh! Look at this order placed on XYZ company which has been black listed!

Probably, XYZ Company funded her two new apartments in return for favours received!

Nina, We have heard you and examined the evidence. You failed to explain source of funding. You are found guilty of abuse of functions and illicit enrichment.

Nina, we shall be filing a criminal case too.

(Similarly it is important to take a look at articles 18 and 19)

Article 18
Trading in influence

a) Promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage in order that the official abuses his influence to obtain undue advantage from the administration.

b) The solicitation/acceptance of the same by the public official for a similar objective.

Article 19
Abuse of functions

Failure of a public official to perform his duties in order to obtain an undue advantage for himself or for another person.
Conversion or transfer of property acquired through proceeds of crime.

A posh locality in downtown of the city.

**Article 23**
**Laundering of proceeds of crime**

Converting, concealing or transferring property acquired from money earned through illegal means and making it seem as if it has been acquired through legal sources of earning.

**Article 24**
**Concealment**

Intentional concealment even without participation in committing the offence of corruption or retention of property, when the person knows that such a property is a result of offences committed.
Sorry
Mr. Nicholas, this
house was acquired
through proceeds of crime.
These papers have no
validity.

Oh! No!
I have put my entire
savings into this!

We
are processing
the criminal case.
Unfortunately, your title
to the property is not
valid.

I hope
we have some
remedy under the
laws.

Yes, there are
remedies for bona-fide
purchaser of the property
provided you were not a party
to concealing the illicit
origin of the property.
Obstruction of justice in a crime of corruption: It could include use of physical force, threat, intimidation, promise or inducements to obtain false testimony.

Partner, do you need cash? Then follow what I say.

What do you want me to do?

My friend’s trial begins tomorrow. You simply have to tell the court that he was at the local market with you and therefore could not have been in the office when bribes were paid.

Stop worrying! You will wear a false beard and a brand new suit! Remember, what your son did last month to the police officer? They know nothing about him yet!

Outside the criminal court of justice

But already the judge has seen me in many trials before!

Article 25
Obstruction of justice

Obstruction of justice in a crime of corruption. It may include use of physical force, threats, intimidation, promise or inducements to obtain false testimony.
Companies are legal persons and are liable for criminal, civil or administrative action in case of corruption offences. Their liability is in addition to that of natural persons who participated in the offences.

Gentlemen, how can our company be liable for a criminal action?

We failed to set up internal controls to check frauds under corporate compliance requirement. The Plant Manager purchased lower quality of gas tanks and received kickbacks. The tanks leaked and caused harm to public at large in the city.

We have already fired the plant manager based on inquiry. He is also arrested by police. Why is our company still liable? What more is expected?

Well, the Company is a legal person. Its liability is different and additional to individual liability of the Plant Manager. We will be legally liable too in addition to the liability of Plant Manager.

**Article 26**
**Liability of legal persons**

Legislation should establish the liability of legal persons in case of corruption offences.
Adam testified that I had given him money to bribe the court clerk.

Why? I am nowhere in the picture! I did not bribe the clerk!

That is serious. It means you could also be prosecuted.

Laws have changed, my friend. Now even the instigator, accomplice or assistant to the person committing crime can be prosecuted.

Preparation for, attempt to or participation in committing an offence are criminalized under the UN-CAC.

Article 27
Participation and attempt
Preparation for the crime, attempt to commit an offence, participation in any capacity as an accomplice, assistant or instigator.
Knowledge, intent and purpose are important elements in determining an offence.

Just remember the law! For an offence to be completed, not only the act but also intention is essential.

Of course. Without a criminal intention, a criminal act cannot be performed.

Article 28
Knowledge, intent and purpose as elements of an offence

Knowledge, intent and purpose required in an offence can be inferred from objective factual circumstances.

How can we establish criminal intent in all cases?

Simple! The factual circumstances can establish the purpose.
Maximum time period within which an offence could be prosecuted must be long enough so that no one escapes justice. This time limit could be extended in suitable cases.

Statute of limitations is important for prosecution. Shorter the duration, it will become difficult to establish a case against me.

Yes. There is Statute of Limitations, prescribing the time period for every offence to be prosecuted.

So, do you think it will help if I live abroad till the time limit is reached?

It will not! If the alleged offender flees the country to avoid justice, they can suspend the statute of limitations. This may apply to you.

Article 29
Statute of limitation

Statute set time limits on the institution of proceedings against defendants. Since corruption offences often take a long time to be discovered and established; set a long period by which the offender must be brought to justice.
Gravity of an offence is an important consideration while deciding on prosecution of offenders. Discretionary legal powers of the state must be used to prosecute in a timely manner.

Did you read news item on Charles who diverted huge public funds to his account in collusion with public officials?

Yes, he is released pending trial. Because his testimony is very important, he is not allowed to leave the country.

Yes. But his offence has caused serious drain of public funds!

Did you read news item on Charles who diverted huge public funds to his account in collusion with public officials?

Yes, the prosecution is determined to prove the charges. If they are successful, he will get maximum punishment under the statute.

At a local club, two persons discussing prosecution of an alleged offender...

Article 30
Prosecution, adjudication and sanctions

Legislation shall provide for sanctions commensurate with the gravity of offences.
A consultation process in the State Party’s Department of Law where they are drafting the punishment sections of the law to deal with criminal offences.

I am drafting the punishment sections of the Law.

Punishment should be proportionate to the gravity of the crime.

Public officials enjoy privileges and immunity from prosecution while performing their duties. However, these should not prevent prosecution of real offenders.

True! The law should allow use of discretionary legal powers to prosecute alleged offenders in circumstances or they may go scot free taking advantage of provisions that provide immunity.

Article 30 (contd)
Prosecution, adjudication and sanctions

Immunities or jurisdictional privileges of public officials have to be balanced with effective investigation, prosecution and adjudication of offences.
It is essential that the gravity of the offence is considered while deciding on parole* to be granted to the prisoners.

When public officials are charged with a crime, they should be suspended or removed from office or given a different assignment.

Yeah! Even those who hold public office, should be disqualified if they have been convicted of corruption charges.

It should also apply to those who hold office in State-owned enterprises.

*Parole is the provisional release of a prisoner who agrees to certain conditions.

**Article 30 (contd)**

**Prosecution, adjudication and sanctions**

Public official accused of an offence could be removed, suspended or reassigned by the appropriate authority. In case of grave offences, court orders may disqualify him to hold public office or office in public sector enterprises.
Chapter 3                                          Criminalization and Law enforcement

Freezing and confiscating property or equipment acquired from proceeds of crime or used in crime.

We have information that this house of your employee has been acquired through corrupt means. This raid is for searching the house for property documents.

Officer, you seem misinformed. You are welcome to search, though.

Here are the papers relating to property and bank deposits.

We shall seize and lock the house. You will be requested to move out soon.

Freezing and confiscating property or equipment acquired from proceeds of crime or used in crime.

Article 31
Freezing, seizure and confiscation

1. Enable identification, freezing, seizure, confiscation of property or proceeds of corruption that have been obtained from offences described in the Convention and provide for administration of this confiscation process by competent authorities.

2. This applies even to those properties that have been converted in to other forms of property or assets.

3. If these proceeds or properties have been intermingled with property got from legitimate sources, the property shall be liable to be confiscated or seized up to the assessed value of the property got from proceeds of crime.

4. Income earned or other benefits derived from these property acquired from proceeds of crime can also be liable to similar measures.

5. Bank, financial and commercial records should be made available or seized.

6. The offender must demonstrate the lawful origin of this property liable for confiscation.

7. The right of the Bona-fide third party should be protected.
Protection of witnesses, experts and victims from potential retaliation or intimidation. This includes protection for their relatives and those close to them too.

Thanks for additional information. We shall let you know of the date for testimony.

But I am really scared for my life and the life of my family.

Please don’t worry. We will give you and your family adequate protection.

That’s not enough.

We shall also consider relocating you and your family to ensure greater safety.

Article 32
Protection of witnesses, experts and victims

Legislation should protect victims and witnesses (including their relatives and close persons) to crime. Measures include non-disclosure of identity, relocation and safety of such persons. States Parties may also sign agreements with each other to ensure relocation of witnesses, victims and experts.
Whistle blower protection or protection of persons who report about an offence in good faith.

Sir,

Ever since I reported about the huge corruption in the Medical Institute, I am receiving threats to my life.

Do not worry. I understand you need protection. Our laws provide for it.

...Yes, the name and address have been verified. Paper work follows. You may start protection immediately in coordination with the area protection force.

Alright then. Physical protection shall be given to you until the trial is over.

Thank you for the quick action.

A Whistle blower meets the law enforcement officer.

Article 33
Protection of reporting persons

Whistle blower protection against unjustified treatment for any person who reports facts concerning offences. This reporting must be in good faith and not with vested interests.
Acts of corruption may be a factor that could lead to cancellation of contract, withdrawal of concession or any other remedial action.

We have to cancel this contract. Your sub-contractor was successfully charged with bribing our officers to certify your product.

Madam, we are shocked. Based on this contract, we have already made several commitments.

When you signed the integrity pact, you had committed to 'no-bribery' of any sort.

Ma’am, it will be tough on us!

We lost huge amount due to corrupt practices of our supplier who bribed our clients.

Okay, I shall file a case against the sub-contractor.

Later, at the contractor’s office, the Manager is meeting his lawyer.

Article 34
Consequences of acts of corruption

Corruption may be considered a relevant factor in the legal proceeding to cancel a contract, withdraw concession or other similar measures.

Article 35
Compensation for damage

Persons or entities who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings to obtain compensation.
Independent body or bodies must exist to combat corruption through law enforcement.

Is this case worth investigating by our Specialized Bureau?

I am positive! We have prepared the search and arrest warrants.

Two officers of Specialized Bureau discussing a serious case.

Do you have jurisdiction in this at all? Where is the search and arrest warrant?

Yes sir! We have both!

Later, at the suspect's office...

Article 36 Specialized authorities

Existence of independent body/bodies specialized in combating corruption through law enforcement. The persons should have appropriate training and resources to carry out their tasks.
Lesser punishment for an accused who provides substantial cooperation in the investigation or prosecution of offences.

Look here. Since you have willingly agreed to cooperate with prosecution, we shall recommend lesser punishment for your participation in the offence since the law too provides for it.

Sir, I am willing to cooperate. I have all the details.

Hope I will be out of this soon! My wedding next month shouldn’t be cancelled.

Your Honour, the accused, an accomplice in the crime has decided to cooperate with prosecution.

All right. The court has noted it in relation to sentencing guidelines for lesser punishment.

Article 37
Cooperation with law enforcement authorities

Person who participated in a crime may be granted immunity/reduced punishment if he provides information or evidence or substantial cooperation that leads to recovery of proceeds of crime.
Cooperation between national authorities in the investigation and prosecution of criminal offences is important.

Vinod, please contact the local Police Chief, the Chief Vigilance Officer of the Public Authority and the Chairman of the Private Company and get all information about this case of bribery.

Ma’am, the Police Chief says they are also investigating the same crime.

Well, in that case let us pool our resources and follow lines of inquiry that avoid duplication of work. Ensure we obtain full cooperation of private company officials.

All right. We will await your papers.

I shall proceed accordingly.

Later, using existing mechanism for exchange of information, they pooled their resources.

Article 38 Cooperation between national authorities

Measures shall be taken to ensure cooperation between public officials, public authorities and authorities responsible for investigating and prosecuting criminal offences.

Article 39 Cooperation between national authorities and the private sector

Cooperation between investigating and prosecuting bodies and the private sector, nationals and other persons living in the country since very often it is these people who can provide valuable information about an offence.
Establishing mechanisms within legal systems to overcome obstacles that may arise out of bank secrecy laws.

Ma’am, we need bank account details of these persons for the investigation.

Sorry Sir! The bank has strict confidentiality policies. We cannot provide details to third.

Under our law, bank secrecy cannot be grounds for not providing information to national investigating authorities. Kindly check.

Hm! You are right sir! Please give us the required documentation and we will provide the details.

Article 40
Bank secrecy

Application of bank secrecy laws shall not prevent investigation and prosecution of offences.
Use of relevant information about previous criminal record in another country against the accused for investigation and prosecution.

Lucito, XYZ
Company details are in a different ledger marked secret!

Guess what José, I found so many payments made outside the country!

Officials discussing secret payments.

Shh! Those are facilitation payments!

Isn’t that prohibited under our laws?

Prosecutor, accesses information to present his case...

Your honour, the accused, who is our national, had committed a similar offence in country Bahona and here are the papers regarding his sentence.

When was he released?

Last year, Your Honour.

These records also establish the criminal history and record of the accused.

Noted. Please proceed with your case.

Article 41
Criminal record

Previous conviction in another country could be used in a criminal proceedings against an alleged offender.
Victor, we have to legally proceed against the accused Sergei in the money laundering case.

But Igor, has he committed a crime in terms of our own Penal Code?

And it progressed on board a Ship, flying our national flag.

But the accused met his accomplice on the high seas in international waters!

Of course he has! The offence was initiated in our country.

**Article 42 Jurisdiction**

Each country must adopt measures for prosecuting an offence committed on its soil or on board a ship flying its flag or an aircraft registered in that country. Each country must establish its jurisdiction on offences committed by its nationals abroad but present in its territory. Where appropriate, countries must consult one another to coordinate their actions.
As per our law, we have jurisdiction on a ship sailing in international waters, since it is registered in our country and flying our flag.

Ok. What if the offence happened on board a flying aircraft?

An effective test to determine jurisdiction is to check the national flag the aircraft was flying.

The law enforcement officers are continuing their conversation on jurisdiction issues.
International Cooperation

This cooperation could take the form of sharing evidence for use in prosecution, entering into bilateral or multilateral treaties or using the UNCAC as a legal basis among States Parties for extraditing accused persons, provisions for extraditing persons accused of UNCAC offences, transfer of sentenced persons to other jurisdictions, rendering mutual legal assistance to each other, conducting joint investigations, cooperating in law enforcement and participating in special investigation techniques.
International cooperation: What is dual criminality?

Yes, indeed. Cooperation across borders can assist in investigations. First of all, let’s check that the charges in your case are also criminal offences in our country. Sure, we did our homework.

Thank you Mr. Prasad for receiving this mission at short notice. You are welcome.

Our case is precisely covered by the Foreign Corrupt Practices Act of USA. And the Indian Prevention of Corruption Act also applies.

Article 43
International cooperation

a) Countries must cooperate with each other in criminal matters and assist with investigations and proceedings related to corruption.

b) Dual criminality shall be considered fulfilled even if they are referred to by different terminologies in the different countries or fall in different categories of their law.
Chapter 4                                                               International Cooperation

It is good that both countries have established criminality for such offences. Dual criminality is recognized.

Yes. I agree.

When both countries call it criminal offence under their respective laws. For example, FCPA for you and PCA for us. There is no need to match offence by offence in exact words. Flexibility is allowed.

Yes,

it involves civil and administrative matters too.

Yes, absolutely.

So, let’s start with the nitty-gritty of this case.
Countries shall enter into bilateral or multilateral agreements for extraditing* criminals.

A Chinese team arrived in India to discuss issues of extradition of criminals.

Today’s meeting is very important. Yes, extradition is a complex subject.

UNCAC provisions make it workable, though.

At least a common list of corruption offences is available.

That’s half the battle won against the corrupt.

* Extradition is the official process whereby one nation or state surrenders a suspected or convicted criminal to another nation or state.
Chapter 4
International Cooperation

Article 44
Extradition

1. Extradition could be requested of a person, for the offence that is punishable in both requesting and requested countries.

2. It is also permissible to extradite when offences are not punishable under the domestic laws using the UNCAC as the legal basis if the countries are States Parties.

3. If at least one offence of the many is extraditable under the Convention, then extradition is allowed.

4. Political offence cannot be included in the extradition treaty as extraditable.

5. UN must be notified of the legal basis for extradition when Convention is being used between the countries.

6. Extradition could be conditional or subject to minimum penalty requirements or subject to domestic laws, or could be refused on certain specified grounds (subject to consultation).

7. The country should consider enforcing sentences in case of refusal to extradite.

8. There is no obligation to extradite if prejudice as to sex, race, religion, nationality, ethnic origin or political opinion is evident.

9. Extradition may not be refused on the sole ground that the offence involves fiscal matter.

Friends! Today we shall discuss how best we can deal with corrupt nationals hiding in each other’s country.

Welcome. We are ready to sign the extradition treaty.

Well, Our UNCAC based extradition treaty reduces the procedures and ambiguity, for sure.

Right. Let’s go through the draft provisions.

Welcome. We are ready to sign the extradition treaty.

Well, Our UNCAC based extradition treaty reduces the procedures and ambiguity, for sure.

Right. Let’s go through the draft provisions.

Friends! Today we shall discuss how best we can deal with corrupt nationals hiding in each other’s country.
Chapter 4

International cooperation

Hope,
My country requests for transfer so that I could see my family often.

Article 45
Transfer of sentenced persons

Countries may enter into bilateral or multilateral agreements so that persons who may be imprisoned for corruption may complete their term in the said country.
Chapter 4
International Cooperation

Article 46
Mutual legal assistance

May be requested or provided for any of the following purposes:

a. Taking evidence or statements from persons.

b. Effecting service of judicial documents.

c. Executing searches, seizures and freezing.

d. Examining objects and sites.

e. Providing information, evidentiary items and expert evaluations.

f. Providing necessary documents and records.

g. Identifying or tracing proceeds of crime, property, etc.

h. Facilitating voluntary appearance of persons.

i. Any type of assistance that is not contrary to the domestic law of the country.
Countries must provide one another mutual assistance in matters of legal investigations, prosecutions and judicial proceedings.

We have traced the 10% illegal commission paid by a company in Canada that sold items for International event in India. Can you please collect the evidence?

Would you please serve our court orders to Mr. Gupta residing in your country?

We request that a formal application with evidence be sent to us for taking action.

On our behalf, please record personal statement of Mr. Iyer, your national?

*Disclaimer: The scenario used above may not depict reality. It has been used only to explain the article to the readers.*
We need certified copies of import bills, bank statement, and financial statement of XYZ Company for the year 2012.

Please verify if Mr. Gupta has possession of certain items reportedly given as kickbacks for the purchase of these items.

Search warrants require formal application under the provisions of mutual legal assistance treaty. I am sure you will send it early.

Would you search on our behalf, the premises of Mr. Roger?

Please verify if Mr. Gupta has possession of certain items reportedly given as kickbacks for the purchase of these items.
Countries may spontaneously provide relevant information that may potentially help other member countries in their inquiries and criminal proceedings.

 Hmm! A list of bank account holders with unaccounted money! I am sure India will benefit from this information!

 "We believe this information may help you conduct inquiries and criminal proceedings under the UNCAC provisions. Here are some more."

 "Sure, This information is not classified as confidential for the State. In terms of our Mutual Legal Assistance treaty, we can share it."

 But, we did not request such information.

 "We believe this information may help you conduct inquiries and criminal proceedings under the UNCAC provisions. Here are some more."

 Hope there is no confidentiality issue.

 Thank you, sir.

 Article 46

 Mutual legal Assistance (contd) A competent authority in one country may transmit information on criminal matters to its counterpart in another country without prior request in the belief that the information will help in inquiries and criminal proceedings.
Transfer of sentenced person from one country to another is possible subject to certain conditions.

He was the middleman in the contract between your State company and the German firm. We need him to identify the person to whom he paid the bribe and give testimony before the courts.

Later at the prison where Mr. Chopra is serving his sentence

Mr. Chopra is currently in your prison serving his 10 year sentence for corruption. Right?

He has completed 5 years 2 months so far.

So, Mr. Chopra, as explained, are you ready to go to Germany to identify the person to whom you paid the bribe and testify before their courts?

Where do I sign? I am his lawyer. I need clarifications.

Wait! We have seen your full request and have no objections.

Where would you keep Mr. Chopra in Germany?

As agreed with India, he will be in our custody.

We have seen your full request and have no objections.

Later at the prison where Mr. Chopra is serving his sentence

He was the middleman in the contract between your State company and the German firm. We need him to identify the person to whom he paid the bribe and give testimony before the courts.

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Where would you keep Mr. Chopra in Germany?

As agreed with India, he will be in our custody.

We have seen your full request and have no objections.
When will you return him to India? His family visits him here.

Within one month.

Does his current prison term get reduced?

Sure. He will receive credit for the period served in Germany.

Will you prosecute him again in Germany for what he did in this case?

No, we cannot.

And he will automatically be returned to India afterwards?

Precisely.

There you are Mr. Chopra. You may sign.

Okay.
UNCAC provides for the judge of one country to take testimony of foreign national through video conference subject to certain conditions.

There goes my dream of visiting Taj Mahal.

Ms.... Mitch, Expert witness

Ms. Mitch dealt with the bank transfers in money laundering case. Her testimony is crucial.

Our laws permit hearing by video conference

USA Attorney General officer

I must start the hearing at the appointed time. Hope the video is clear.

CBI officer of Ministry of Home Affairs (India)

My attendance is to ensure that the hearing is consistent with fundamental principles of US Laws

Magistrate (USA)

Magistrate (India)
If we fill in your request, we may have a ‘law and order’ situation here.

Your request will prejudice our Sovereignty.

We are not authorized to prosecute the listed offence in our country.

Sir, technically your request for MLAT is not in conformity with the UNCAC.

Well, we cannot help as the request is contrary to our legal system. Sorry!

Article 46

Mutual legal Assistance (contd)

Mutual legal assistance may be refused under certain circumstances. Reasons shall be given for refusal. Assistance may be postponed or conditional or on different deadlines.
Does extradition mean that the offender will travel to different countries for trial...

I' luv travels ... by air, by sea, by bus...

Ha! Ha! Ha!

I like attention of uniforms and judges in USA, Canada, China, South Africa, Holland and more...

Rome, Paris, London, Tokyo, Delhi, New York...

Ha! Ha! Ha!

I am a state guest.

Ha! Ha! Ha!

Peter the international criminal is delirious at the prospects of visiting several countries in connection with his offence - it's kind of nostalgic for him!!
Authorities around the world are cooperating with one another to ensure a speedy trial for the same offence committed in several countries.

We established 4 cases for the same offence in USA.

Well, Well, well. Just one here, but 6 in Europe for the same offence.

We have 3 ready for prosecution of the same offence.

In the interest of proper administration of justice, let us transfer all our cases to Vanuatu.

He committed 24 chargeable offences in Vanuatu.

UNGCAC provides for this arrangement.

Sounds great!
Chapter 4

Article 47
Transfer of criminal proceedings

Countries can transfer criminal proceedings to another, for prosecution of an offence if it is in the interest of proper administration of justice particularly when several jurisdictions are involved.
UNCAC calls for law enforcement cooperation and provides a common understanding of what cooperation could entail.

I get to meet my counterparts.

I find these conferences educative.

Umm..Not too bad

**Article 48**
**Law enforcement cooperation**

Enhance effectiveness of law enforcement by establishing channels of communication between competent authorities in different countries.
Cooperation among State Parties on anti-corruption measures including inquiries, exchange of information and setting up bilateral agreements or arrangements.

We have secure hot lines, exclusive email, video conference fax, and surface mails connecting our law enforcements agencies.

Adding various IT enabled tools will make it more effective.
Scenario 1

Cooperation in conducting inquiries.

Article 48 (contd)

Law enforcement cooperation

States Parties, subject to their domestic laws, shall consider assisting each other in conducting inquiries concerning identity, whereabouts and activities of suspects in offences.
Scenario -2
Cooperation in inquiries

We are here today because we understand the value of cooperation.

Yes sir, the "kick back commission" for the middlemen on a contract for 200 tractors has arrived here.

Surprise! I won this expensive sports car in the lottery.

Wait till he takes delivery from the port customs. Then we inform Belgium.

Article 48 (contd)
Law enforcement cooperation

Countries shall consider assisting each other in conducting inquiries concerning the movement of proceeds of crime or property derived from offences.
Scenario -3
Cooperation in inquiries

I never gave you any software to break the code.

Yes. And I never threw 500K in your trash can.

Software on the body of the suspect. Team A - Prepare to intercept. Team B - raid the banker.

Inform South Africa of the developments. The bank there must be edgy.

Article 48 (contd)
Law enforcement cooperation

Countries shall consider assisting each other in conducting inquiries concerning the movement of property, equipment or other instrumentalities used or intended for use in the commission of offence.
Chapter 4

International Cooperation

Conversation between law enforcement officers of two countries

Hey Raj, we struggled with thousands of Patels till you simplified it.

Yes, Bill. We find the names Moh’d, Muhammad, Mohmmad, Muhad, Muhmad very confusing.

Bilateral agreements are recognized under the UNCAC. Liaison offices could be set up in each other’s countries.

Liaison office of India at USA

Hi Gary (Gunashekhar), is this Rohit Mehta from Poonjab?

Not from Punjab. He is from Baroda, Gujarat.

Ah, I see. Thanks.

Conference Room

20 countries are represented here to learn IT tools from each other.

Latest IT tools that can help detect and prevent criminals internationally.

Article 48 (contd) Law enforcement cooperation

Countries shall consider exchange of personnel and experts and posting of liaison officers through bilateral agreements.
Chapter 4

International cooperation

Countries may form a standing joint investigation body or choose to be part of it on a case to case basis.

Not possible without the compliance of our officials...

Our task is to stop leakage of custom duties.

Both countries are losing revenues...

Article 49
Joint investigations

Countries shall consider establishing a joint investigative bodies to deal with investigation of offences in their jurisdictions through bilateral/multilateral agreements.

India-Sri Lanka
Thank you for being part of this joint prosecution team. This will make it quick.

Let us go through the legal papers once again.

So we have established the case of corruption where the Indian contractors are involved.

Chapter 4                                                               International Cooperation

Great feeling! Last stage of judicial process in the Bahadur case of corruption.

Here they are.

Do you have all background papers on the Patna High Court conviction?

Hope our official association in this case is successful.

Nepal-India Joint Prosecution team

Portugal-India Joint Prosecution team

Article 49 (contd)

Joint investigations

Countries shall consider establishing joint investigative bodies to deal with prosecution or judicial proceedings in one or more countries through bilateral/multi-lateral agreements.
Use of Special investigative techniques to be allowed domestically and also in international cooperation.

Cooperation between countries also allow for special investigative techniques.

Is Undercover operation possible in other countries?

Yes, if local laws permit or it may be with conditions.

My question is about controlled delivery.

Yes, Interception or allowing funds or goods to continue under observation is possible.

What about the sovereignty of that country?

It must be respected.

Article 50
Special investigative techniques

Countries can make use of special investigative techniques such as electronic surveillance to combat corruption.
Asset Recovery

In the case of embezzlement of public funds, the confiscated property would be returned to the country requesting it; or the proceeds of crimes of corruption would be returned to countries upon providing proof of legitimate ownership or of the damage caused which may be used to pay to victims.

Effective asset-recovery will support the efforts of countries to redress the worst effects of corruption while sending a message to corrupt officials that there will be no place to hide their illicit assets.

Asset Recovery is a fundamental principle of the Convention and particularly important issue for many developing countries where high-level corruption has plundered the national wealth, and where resources are badly needed for reconstruction and the rehabilitation of societies.
Mechanism for prevention and detection of transfers of proceeds of crime

I feel so bad refusing two prospective big clients from opening accounts with us because their documentation seems incomplete and unexplainable.

It’s alright, Karim! You followed the Central Bank guidelines.

I guess it’s about Know Your Customer “(KYC). Right?”

Yes. I know you have answers as always.

Might as well tell us about CDD.

Sure. CDD stands for Customer Due Diligence.

Financial institutions are required to verify identity of their customers/beneficial owners.

Well, most countries today want to stop illegal financial transactions through their financial institutions.

Simple. Money laundering becomes difficult, if all banks verify their clients’ identity.

Makes sense. But what about big shots?

Karim, Joan and Raju are discussing ...
Financial institutions are required to conduct enhanced scrutiny of accounts maintained by persons entrusted with prominent public functions.

I am told that our Manager is personally monitoring their accounts. They are called Politically Exposed Persons (PEPs) either within or outside our country.

Can you explain that better? Sure.

PEPs are typically heads of public enterprises, diplomats and high officials, politicians, big businessmen and so on. But then, most of them do it through their relatives. Yes. Accounts of relatives are also under enhanced scrutiny.
But that will scare the clients!

Legitimate clients will not be scared.

Let me get this clear. Let us assume that a client deposits cash into a “not properly verified” bank account and then transfers money to others.

Yes, won’t that facilitate money laundering?

Yes. So every bank takes precautions (Due diligence) while opening the accounts.

Now, I understand.

Due diligence failure of a bank may result in possible funding of illegitimate and dangerous activities.

Article 52 (contd)
Prevention and detection of transfers of proceeds of crime

Advisories shall be issued to financial institutions to apply due diligence in account opening, and record keeping in relation certain types of persons.
I am beginning to see the importance of bank’s role with regard to individual customers. What about companies, trusts, partnership firms, etc? They are not natural persons! Even so, Central Bank advisories also apply to them. I get it. They are legal persons and have to be bound by all laws of the land.

You know what? I am asked to personally visit our new client. Tell me if his welcome kit returned from the address? It’s one of the ways to verify client address. Hey, how do you know? Just be sure to read the form before you go there. Friendly visit, eh?

Article 52 (contd)
Prevention and detection of transfers of proceeds of crime
Enhanced scrutiny may apply to natural or legal persons too.
But who decides what types of accounts, persons and transactions should be observed?

Each country has to decide on this. Obviously, it will follow domestic laws.

My desk is filled with such reports. How long should I keep them?

You must keep them for 10 years after the business relationship ends.

And that includes suspicious transactions or high value cash reports too?

Yes. Also keep updated information on customers.
Joan is back at the bank discussing a case with her manager.

Did you check who approved the correspondent bank relationship with "My Money Bank" of Seaman Islands?

Yes sir. But he left our bank last week.

As suspected, the transfers are corruption proceeds. We will be asked to return the amount.

That explains. Please put "on hold" all transfers from this bank.

I have briefed both the Compliance Unit and the Investigation Unit.

Very good. Ask the HR to hold settlement of this official’s dues.

Right away, sir.
I believe he could be guilty of offences under the anti-corruption Act.

We must end relationship with “My Money Bank” NOW.

Moreover, it does not have any physical address.

So typical of such correspondent banks. First warning bell to listen to.

No wonder, most countries prohibit their operations.

Article 52 (contd) Prevention and detection of transfers of proceeds of crime

Financial institutions may be required to refuse or continue correspondent banking relationship with institutions that have no physical presence and have no affiliation with regulated financial group.
Countries to allow one another to initiate action in its civil courts to establish ownership of property acquired through corruption offences.

Scene 1

I was the Purchase Manager for Morongo humanitarian operations for 5 years.

And some office vehicles travelled to this country, eh?

What to do? I wanted to retire and start afresh in this country.

My Lord, Morongo and your country have signed the UNCAC. As such, Morongo is entitled to initiate civil action to recover this property acquired through corruption.

Objection overruled.

Objection, my Lord.

Article 53
Measures for direct recovery of property

A country may allow another country to initiate civil action in its court to establish title or ownership of property acquired through Convention offence.
Scene 2: Court may order payment or compensation to another State Party that has been harmed by offences committed by those currently in its jurisdiction.

We wish to press corruption charges against the defendant. She, while being our official, accepted 10 million to take 'no action' in the illegal coal mining case.

As per laws, this court has the authority to order compensation to another country harmed by the offences of corruption.

Objection overruled.

M' love, once I get citizenship here, we will live happily ever after.

As a result another 10 million $ was embezzled from the government department.

My Lord, we object the jurisdiction of this court to hear this case.

What a relief to move out of your country!

I know. Everybody is corrupt. Why pick on us? Silly guys!

A country may allow its courts to order payment of compensation or damages to another country that has been harmed by such offences.
Scene 3: Courts allowed to order confiscation of property on behalf of legitimate owners in another country.

Why report? I did declare that I am carrying 10 million.

Madam, it’s a rather large amount. We are obliged to report as we have received information of the origins of this money which has been acquired from corruption offences.

Eh..well.. But why? why? I wish to live with my boyfriend in this country!

That’s not relevant, Madam!
On behalf of our clients, the Attorney General of XYZ country, I request the Court to order confiscation of 10 million and return it to my client.

Under the circumstances, I order the authority to confiscate the amount.

I present the papers that show that the alleged amount was acquired through corruption. The charges are proved in our courts.

Your Honour, my learned friend has not established his client’s legitimate right to 10 Million.

Article 53 (contd) Measures for direct recovery of property

A country may allow its courts or competent authorities to order confiscation by recognizing another country’s claim as a legitimate owner of property acquired through offences under convention.
Thank you for hosting this meeting to finalize our agreement. Our pleasure.

UNCAC does bring us together, in a way. And, the criminals into our fold.

An Indian delegation to South Africa finalizing mechanism for recovery of property through international cooperation in confiscation.

Let us start with four Cs - Corruption, Courts, Confiscation and Competent authority.

Corruption includes all offences listed under UNCAC. There is no disagreement on that.
We must provide that the courts in either country may order confiscation of ill-gotten property.

And the court orders must be respected.

In our country, the Ministry of Home Affairs shall be the competent authority.

Article 54
Mechanism for recovery of property through international cooperation in confiscation

In assisting one another, a country must allow its competent authorities to implement an order of confiscation issued by a court of another country in relation to property acquired through offences specified by the Convention.
Let us get this straight.

Attorney General of South Africa acts upon it immediately.

What if there are no court orders, but confiscation is found necessary by our competent authority?

Suppose Indian court orders for freeze and seize of property located in South Africa, then...
Attorney General may act if he finds the request is reasonable and based on sufficient grounds.

But the court order need not be on criminal charges. It may happen that the subject property may be looted by others.

Should we provide that the court order must be on criminal charges?

Preservation of property could be a reasonable ground for confiscation.

Article 54 (contd) Mechanism for recovery of property through international cooperation in confiscation

A country may permit its competent authority to order confiscation in order to preserve property such as foreign arrest or criminal charge related to the acquisition of such property.
We must cooperate to find and seize the property acquired through proceeds of Convention offences for eventual confiscation and return to rightful owners.

Agree. I propose this mechanism should be for properties with values above a certain threshold amount.

Okay. Otherwise the agreement will be stressed with small claims.

Article 55
International cooperation for purposes of confiscation

Proceeds of crime, property, and equipment shall be identified, traced and seized upon request from another country for the purpose of eventual confiscation.

Cooperation under this mechanism may be refused if the country does not receive sufficient and timely evidence or if the property is of small value.
We must build in safeguards for bona fide third parties.

Let us include that cooperation could be refused under certain circumstances.

Yes, indeed. Due process must be observed before confiscation.

Yes sure. For example, if sufficient information is not received in a timely manner.
We wish to exchange copies of all laws and rules of our country.

Sure. We are ready with ours.

I think we have reached at some conclusions.

Let us sign the bilateral cooperation agreement using UNCAC as a legal basis.

We must then file all copies with the Secretary General of the United Nations.

**Article 56**

**Special cooperation**

Even without prior request a State Party shall forward its own information for investigation, prosecution or judicial proceeding on the same, if disclosure of this assist another State Party.
At the bilateral conference of two countries, the confiscated amount is returned to the country from where embezzled.

To recall, we had confiscated 500 million dollars stashed away in banks in our country. Your court order proves these funds were embezzled by Mr. Joshi from payouts to the victims of floods. We return this money to you. Here is a cheque minus some expenses incurred on the case.

Thank you for the excellent cooperation. This money shall go to the victims of floods. They are the right beneficiaries.

Article 57
Return and disposal of assets
Competent authorities shall be allowed to return confiscated property (including embezzled public funds) to the country that made the request after considering the rights of bona fide third parties.

Priority may be given to compensate prior legitimate owners or victims of the crime.

The requested country may deduct reasonable expenses before returning the confiscated property.
Article 58
Financial Intelligence Unit

State Parties are required to consider establishing a financial intelligence unit that will be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

Article 59
Bilateral and multilateral agreements and arrangements

State Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken to further the objectives in relation to asset recovery.
This chapter provides for technical assistance and information exchange to facilitate training programmes for those responsible for preventing and combating corruption, with a view to support the efforts of developing countries to implement the Convention.
Technical assistance to be made available in different areas:

- **Asset recovery is important.**
- **Surveillance is an area that I require training in.**
- **Methods used to move, conceal and disguise proceeds of crime definitely are important area for me.**
- **I must attend the conference on protection of witnesses and victims of corruption.**
- **I think training should be in all official languages. Arabic, Chinese, English, French, Russian and Spanish.**

**Article 60**
**Training and technical assistance**

Specific training made available for personnel responsible for preventing and combating of corruption.
Training and information exchange among member states are important

Scenario 1

Congratulations! You will be part of the multi-country team to do research.

Anti-corruption team, Sir?

Yes. Six countries in six months. The report will be interesting!

This is an impressive list of experts in the anti-corruption domain across many countries.

Yes sir. Our four officers are also included to assist developing countries.

Of course. We must increase our contribution to the voluntary fund to help them.

Yes sir. I will move the proposal.

Article 60 (contd)
Training and technical assistance

Countries shall consider assisting one another in conducting evaluations, studies and research to understand types, causes, effects and costs of corruption in order to combat corruption.

Congratulations! You will be part of the multi-country team to do research.
Chapter 6               Technical Assistance & Information Exchange

Sir, We may also consider setting aside some amount for promotion of anti-corruption measures.

Sure. Promoting these measures could also mean promoting good governance.

Agree. A 10% will be in order.

Sir, we should contribute a percentage of the proceeds of crime that were confiscated.

I shall move the papers asap, Sir.

Thank you

Article 60 (contd) Training and technical assistance

Countries shall establish voluntary mechanisms for financial contribution to help developing countries to implement Convention.
Collection, exchange and analysis of information on corruption are important to understand trends in corruption and circumstances in which corruption offences are committed.

**Scenario 1**

*Volume of social welfare expenditure in northern part of the country has tripled.*

Yes, in just five years!

Interesting! NGOs in this sector have increased many times.

Fivefold, to be precise.

And If you believe the complaints, funds do not reach the beneficiaries!

A matter of concern for sure!

**Article 61**

Collection, exchange and analysis of information on corruption

Analysing corruption scenarios, and international and national statistics lead to developing common methodologies to prevent and combat corruption.
We must respond to the international survey on methodologies to detect corruption.

Yes, the consolidated statistics do provide us with remedies too.

Well, after reading the last international survey, I could get some insight into similar corruption circumstances occurring in our country.

**Article 62**

**Other measures: implementation of the Convention through economic development and technical assistance**

Countries shall take adequate measures to implement the UNCAC and take into account the negative aspects of corruption especially on sustainable development.
Chapter 7

Mechanism for Implementation

The following articles deal with the establishment of the Conference of States Parties, and the Secretariat for stronger implementation of UNCAC.
Conference of the States Parties to the Convention (CoSP) is established to improve the capacity of and cooperation between countries to promote and review its implementation.

UNCAC is a very good instrument. But where is the mechanism to review its implementation.

I see. So that is the forum where all member countries may deliberate. Right?

Not difficult to answer. Conference of States Parties to the Convention is one important mechanism to review implementation of UNCAC.

UN Headquarters: James & Robert are discussing the mechanisms of implementation of UNCAC.
In fact, the Secretary General of United Nations and Executive Director of UNODC play a crucial role in promoting UNCAC.

How is that done?

It exchanges information on trends and patterns in corruption, cooperates with NGOs and regional organizations.

Then what does the Conference of State parties do?

He convenes regular meetings, establishes rules to govern the meetings, looks after admission of new members or observers, and arranges for money to run the mechanism.

Article 63
Conference of the State Parties to the Convention

Role of the CoSP to the Convention include improving the capacity of and cooperation between countries and to achieve convention objectives, and promote and review its implementation.
Under the review mechanism, two countries are selected by draw of lots to review another State Party against selected chapters of UNCAC.

That's a lot of work, I must say.

From where are these activities directed?

Oh, the Secretary General has established the Secretariat to help the Conference of State Parties at Vienna.

Article 64 Secretariat

Secretariat headed by the Secretary-General of the United Nations provides secretariat assistance to CoSP (including conference services and information) and ensures coordination with the secretariats of relevant international and regional organizations.

It also reviews implementation of UNCAC, improves its provisions, promotes technical assistance among all.
This chapter lays down provisions that regulate settlement of disputes, signature, ratification, acceptance, approval, accession, entry into force, amendments to UNCAC provisions and denunciation. Secretary-General is the depository of the Convention written in the official languages.
Chapter 8          Final Provisions

Finger Lakes near New York: Hossam, a new hire, accompanies his boss Tom on a weekend fishing trip. It seems, Tom has many questions.

You say that UNCAC is a great tool to fight corruption. Why some countries have signed it so late?

Very good question. Generally, a country would first adjust its domestic laws before agreeing to UNCAC provisions.

What if some countries find their domestic laws stronger than UNCAC?

You mean what is the value addition in adopting it?

The value addition is international cooperation and in joining hands to support each other.

I see, Nobody is really an ‘island’ in this world!

Yes. In fact, the mechanism encourages members to be more severe than UNCAC.

Mechanism for UNCAC implementation

Articles 65 to 71

Describe final provisions in regard to the implementation of the Convention, settlement of disputes, ratification and depository of UNCAC.
Article 66
Settlement of disputes

For settlement of disputes arising between countries on the application of UNCAC, negotiation and arbitration are to be resorted to failing which the dispute could be taken to International court of Justice.

I must ask this, may I?
Yes sure. Go ahead.

What happens if there is dispute among member states?

Simple! They must get into mutual negotiations.

What if negotiations fail?

Next step is “Arbitration”.

There is an option to go to International Court of Justice after six months.

What if they can’t find acceptable ‘Arbitrator’?

Easy. A country may become party to the Convention without such provisions but must make it clear that these provisions are not acceptable at the time of becoming state party and not later. This is called ‘reservation’.

What if any country does not wish to use these channels of dispute resolution?
Chapter 8          Final Provisions

But then the other countries will have to respect dispute resolution channels.

No. Others will not be bound by these channels with respect to the country.

If a country wants to get out of the UNCAC, how can it do so?

You certainly have too many "what ifs"!!

Well, each member state is sovereign. It may write to Secretary-General withdrawing from UNCAC.

But remember, withdrawal\(^3\) becomes effective only after one year from the date of notification.

This is interesting. Thanks.

My pleasure.

\(^3\) The technical word for withdrawal is ‘denunciation’ under UNCAC.
Chapter 8          Final Provisions

PREVENTIVE MEASURES
Prevention of corruption
Art. 5(1)(M) - Development, implementation, maintenance of coordinated anti-corruption policies
Art. 5(2)(O) - Establish and promote effective anti-corruption practices
Art. 5(3)(O) - Periodic evaluation of legal instruments & admin measures
Art. 5(4)(M) - Collaboration of States Parties with each other and int’l/regional organizations
Art. 11(1)(M) - As applied to judiciary
Art. 11(2)(M) - As applied to prosecution services
Anti-corruption body or bodies
Art. 6(1)(M) - Establishment
Art. 6(2)(M) - Independence and necessary resources
Public officials, finances and reporting
Art. 7(1)(C) - Establishing systems for civil servants
Art. 7(2)(C) - Prescribing criteria for candidature for and election to public office
Art. 7(3)(C) - Transparency in funding for candidates/political parties
Art. 7(4)(C) - Transparency in general and prevention of conflicts of interests
Art. 8(1)(M) - Promotion of integrity, honesty, and responsibility among public officials
Art. 8(2)(C) - Codes/Standards of Conduct
Art. 8(3)(M) - Note relevant initiatives of regional, interregional, multilateral organizations
Art. 8(4)(C) - Reporting of corruption
Art. 8(5)(O) - Reporting of outside activities, employment, investments, assets, etc.
Art. 8(6)(O) - Disciplinary measures for public officials
Art. 9(1)(M) - Systems of procurement
Art. 9(1)(a) - Public distribution of information
Art. 9(1)(b) - Conditions for Participation in Tender etc.
Art. 9(1)(c) - Criteria
Art. 9(1)(d) - Review Process
Art. 9(1)(e) - Regulation of Personnel responsible for procurement
Art. 9(2)(M) - Management of public finances

Art. 9(3)(M) - Integrity of accounting
Art. 10(M) - Transparency in public administration
Private Sector
Art. 12(1)(M) - Accounting and auditing standards
Art. 12(2)(O) - Measures
Art. 12(3)(M) - Prohibiting fraudulent accounts, records, and documents
Art. 12(4)(M) - Disallow tax deductibility of bribes
Participation of society
Art. 13(M) - Promote participation outside public sector
Prevention of money laundering
Art. 14(1)(a)(M) - Domestic regulatory and supervisory regime for financial institutions
Art. 14(1)(b)(M) - Cooperation and exchange of information
Art. 14(2)(C) - Movement of finances across borders
Art. 14(3)(C) - Strict information gathering on fund transfers
Art. 14(4)(C) - Use relevant initiatives of anti-money laundering organizations as guidelines
Art. 14(5)(C) - Promote cooperation
Enhanced scrutiny: high-value accounts and accounts of prominent public officials
Art. 52(1)(M) - Financial institutions to verify identity of customers, owners of funds deposited into high-value accounts and to scrutinize accounts sought or maintained by individuals connected with prominent public functions
Art. 52(2)(M) - Advisories on types of and specific persons for enhanced scrutiny
Art. 52(3)(M) - Records on persons with enhanced scrutiny
Art. 52(4)(M) - Prevent banks without physical presence and not affiliated with regulated financial group; also relationships with such
Art. 52(4)(O) - Prevent banking relationship with banks defined above
Art. 52(5)(C) - Financial disclosure systems for public officials
Art. 52(6)(C) - Financial disclosure by public officials with foreign financial account
Financial intelligence unit (1)
Art. 14(1)(b)(C) - Establishment

[M is mandatory, O is optional and C is obligation to implement if consistent with fundamental legal principles]
CRIMINALIZATION

Bribery
Art. 15 (a) (M) - Active, Bribery of National Public Officials
Art. 15 (b) (M) - Passive, Bribery of National Public Officials
Art. 16 (1) (M) - Active, Bribery of Foreign Public Officials and Officials of Intl Organisations
Art. 16 (2) (C) – Passive, Bribery of Foreign Public Officials and Officials of Intl Organisations

Embezzlement, misappropriation, and other diversion
Art. 17(M) - General, Public Officials

Trading in influence
Art. 18 (C) - General, Public Officials

Abuse of functions
Art. 19(C) - General, Public Officials

Illicit enrichment
Art. 20(C) - Public Officials

Private sector
Art. 21(C) - Bribery
Art. 22(C) – Embezzlement

Laundering of proceeds of crime
Art. 23(1)(a)(M) - Conversion/transfer of property; Concealment
Art. 23(1)(b)(i)(M) - Acquisition, possession, use of property
Art. 23(1)(b)(ii)(M) - Participation in, association with, conspiracy, attempt, abetting, facilitating, counselling
Art. 23(2) - Predicate offenses

Concealment
Art. 24(C) – General

Obstruction of justice
Art. 25(M) – General

Participation and attempt
Art. 27(1)(M) - Accomplice liability
Art. 27(2)(O) - Attempt
Art. 27(3)(O) – Preparation

Knowledge, intent and purpose
Art. 28(M) - General

Prosecution, adjudication and sanctions
Art. 29(M) - Statute of Limitations
Art. 30(1)(M) - Sanctions/liability for offenses
Art. 30(2)(M) - Balance between immunities/privileges and effective investigation/prosecution/adjudication
Art. 30(3)(C) - Maximize discretionary legal powers
Art. 30(4)(M) - Ensure presence of defendant
Art. 30(5)(M) - Gravity of offense considered in relation to early release and parole
Art. 30(6)(C) - Procedures to remove, suspend, reassign public official
Art. 30(7)(a)(C) - Disqualification from public office
Art. 30(7)(b)(C) - Disqualification from state-connected enterprise
Art. 30(10)(C) - Promote reintegration of convicted persons

LAW ENFORCEMENT

Identification, tracing, freezing, seizure and confiscation
Art. 31(1)(a)(M) - Proceeds of crime
Art. 31(1)(b)(M) - Property, equipment, other instrumentalities
Art. 31(2)(M) - Measures to enable identification, tracing, freezing, seizure
Art. 31(3)(M) - Administration of frozen, seized, confiscated property
Art. 31(4)(M) - Liability of converted proceeds
Art. 31(5)(M) - Intermingled proceeds
Art. 31(6)(M) - Income or benefits derived from proceeds of crime
Art. 31(7)(M) - Empower courts/authorities to seize bank, financial, or commercial records
Art. 31(8)(C) - Offender to demonstrate lawful origin of proceeds of crime
Art. 31(9)(M) - No prejudice of bona fide third parties

Protection of witnesses, exerts, victims and reporting persons
Art. 32(1)(M) - Protection from retaliation and intimidation
Art. 32(2)(O) - Measures
Art. 32(3)(C) - Agreements with other States for relocation
Art. 32(4)(M) - Applicable to victims
Art. 32(5)(M) - Victim impact statements
Art. 33(C) - Protection of reporting persons
Art. 35(M) - Compensation for persons who suffer damage as result of act of corruption
Art. 37(M)
### Liability of legal persons
- **Art. 26(1)(M)** - General
- **Art. 26(2)(M to pick criminal, civil or administrative liability)**
- **Art. 26(3)(M)**
- **Art. 26(4)(M)**

**Specialized Anti Corruption Authorities**
- **Art. 36(M)**

**Private sector and other cooperation**
- **Art. 37(1)(M)** - Supply of information to authorities
- **Art. 37(2)(C)** - Mitigated punishment for cooperative accused person
- **Art. 37(3)(C)** - Immunity from prosecution
- **Art. 37(5)(O)** - Mitigation or immunity via different States
- **Art. 39(1)(M)** - Cooperation between private sector and national authorities
- **Art. 39(2)(C)** - Cooperation between nationals and habitual residents with authorities

**Inter-agency cooperation**
- **Art. 38(M)** - Cooperation between national authorities

**Bank secrecy**
- **Art. 40(M)** - Overcoming bank secrecy laws

**Jurisdiction**
- **Art. 42(1)(M)** - Jurisdiction in territory/vessel/aircraft of State Party
- **Art. 42(2)(a)(O)** - Applied to offense committed against national
- **Art. 42(2)(b)(O)** - Offense committed by national or stateless person with habitual residence
- **Art. 42(2)(c)(O)** - Offense outside territory with view to commission inside territory
- **Art. 42(2)(d)(O)** - Offense against State Party
- **Art. 42(3)(M)** - Offender present in territory but non-extraditable solely on ground that is a national
- **Art. 42(4)(O)** - Offender present in territory but not extradited
- **Art. 42(5)(M)** - Coordination of actions with other State Parties
- **Art. 42(6)(O)** - Non-exclusion of domestic criminal jurisdiction

**Special investigative techniques (cross-reference with international cooperation)**
- **Art. 50(1)(M)** - Controlled delivery, surveillance, undercover operations

**International cooperation**
- **Art. 50(2)(C)** - Bilateral/multilateral agreements
- **Art. 50(3)(O)** - Case-by-case basis in absence of agreement
- **Art. 50(4)(O)** - Methods of controlled delivery

[M is mandatory, O is optional and C is obligation to implement if consistent with fundamental legal principles]
<table>
<thead>
<tr>
<th>Status of the Articles of UNCAC</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mutual legal assistance</strong></td>
</tr>
<tr>
<td>Art. 46(1)(M) - General</td>
</tr>
<tr>
<td>Art. 46(2)(M)</td>
</tr>
<tr>
<td>Art. 46(3)(O) - Methods</td>
</tr>
<tr>
<td>Art. 46(4)(O) - Voluntary transmittal of information to other State Parties</td>
</tr>
<tr>
<td>Art. 46(5)(M) - Confidentiality</td>
</tr>
<tr>
<td>Art. 46(6)(M)</td>
</tr>
<tr>
<td>Art. 46(7)(M)</td>
</tr>
<tr>
<td>Art. 46(8)(M) - No declining on grounds of bank secrecy</td>
</tr>
<tr>
<td>Art. 46(9)(O) - Dual criminality</td>
</tr>
<tr>
<td>Art. 46(10)(O) - Transfer of sentenced individuals for purposes of identification, testimony, assistance</td>
</tr>
<tr>
<td>Art. 46(11)(M) - Issues involving transfer of sentenced individuals</td>
</tr>
<tr>
<td>Art. 46(12)(M) - No prosecution, detention, punishment, restriction of liberty for transferred sentenced individuals for acts prior to departure from country</td>
</tr>
<tr>
<td>Art. 46(13)(M) - Designation of central authority for mutual legal assistance</td>
</tr>
<tr>
<td>Art. 46(14)(M) - Requests in writing</td>
</tr>
<tr>
<td>Art. 46(15)(M) - Contents of requests</td>
</tr>
<tr>
<td>Art. 46(16)(O) - Additional information</td>
</tr>
<tr>
<td>Art. 46(17)(M) - Accordance with domestic law</td>
</tr>
<tr>
<td>Art. 46(18)(O) - Video hearings</td>
</tr>
<tr>
<td>Art. 46(19)(M) - No transmittal or use of information for other purposes</td>
</tr>
<tr>
<td>Art. 46(20)(O) - Confidentiality of request</td>
</tr>
<tr>
<td>Art. 46(21)(O) - Refusal of request</td>
</tr>
<tr>
<td>Art. 46(22)(M) - No refusal on grounds of fiscal matters</td>
</tr>
<tr>
<td>Art. 46(23)(M) - Reasons must be given for refusal</td>
</tr>
<tr>
<td>Art. 46(24)(M) - Celerity of fulfilling request</td>
</tr>
<tr>
<td>Art. 46(25)(O) - Postponement</td>
</tr>
<tr>
<td>Art. 46(26)(M) - Negotiation of request conditions</td>
</tr>
<tr>
<td>Art. 46(27)(M) - No prosecution, detention, punishment, restriction of liberty for witness/experts for acts prior to departure from country</td>
</tr>
<tr>
<td>Art. 46(28)(M) - Cost borne by requested State Party</td>
</tr>
<tr>
<td>Art. 46(29)(a)(M) - Provision of records/documents/information available to general public to requesting State Party</td>
</tr>
<tr>
<td>Art. 46(29)(b)(O) - Records/documents/information not available to general public</td>
</tr>
<tr>
<td>Art. 46(30)(C) - Creation of bilateral or multilateral agreements</td>
</tr>
<tr>
<td><strong>Transfer of criminal proceedings</strong></td>
</tr>
<tr>
<td>Art. 47(C) - General</td>
</tr>
<tr>
<td><strong>Law enforcement cooperation</strong></td>
</tr>
<tr>
<td>Art. 48(1)(M) - General</td>
</tr>
<tr>
<td>Art. 48(2)(C) - Creation of bilateral and multilateral agreements</td>
</tr>
<tr>
<td>Art. 48(3)(C) - Use of modern technology</td>
</tr>
<tr>
<td><strong>Joint investigations</strong></td>
</tr>
<tr>
<td>Art. 49(C) - General</td>
</tr>
<tr>
<td><strong>ASSET RECOVERY</strong></td>
</tr>
<tr>
<td><strong>Direct recovery</strong></td>
</tr>
<tr>
<td>Art. 53(M) - General</td>
</tr>
<tr>
<td><strong>Mechanisms for recovery and international cooperation</strong></td>
</tr>
<tr>
<td>Art. 54(1)(a)(M) - Confiscation via foreign court order</td>
</tr>
<tr>
<td>Art. 54(1)(b)(M) - Confiscation of foreign property via domestic law</td>
</tr>
<tr>
<td>Art. 54(1)(c)(C) - Confiscation of property without criminal conviction where offender cannot be prosecuted</td>
</tr>
<tr>
<td>Art. 54(2)(M) - Freezing, seizure of property</td>
</tr>
<tr>
<td>Art. 55(1)(M) - Requests for confiscation</td>
</tr>
<tr>
<td>Art. 55(2)(M) - Measures</td>
</tr>
<tr>
<td>Art. 55(3)(M) - Contents of requests</td>
</tr>
<tr>
<td>Art. 55(4)(M) - Subject to domestic law and agreements</td>
</tr>
<tr>
<td>Art. 55(5)(M) - Furnish copies of laws/regulations to UN</td>
</tr>
<tr>
<td>Art. 55(6)(C) - Convention as necessary and sufficient treaty basis</td>
</tr>
<tr>
<td>Art. 55(7)(O) - Refusal due to insufficient and untimely evidence</td>
</tr>
<tr>
<td>Art. 55(8)(M) - Opportunity for requesting State Party to present reasons of continuing measure</td>
</tr>
<tr>
<td>Art. 55(9)(M) - No prejudice to rights of bona fide third parties</td>
</tr>
<tr>
<td><strong>Special cooperation</strong></td>
</tr>
<tr>
<td>Art. 56(C) - Cooperation between State Parties regarding proceeds of offenses</td>
</tr>
<tr>
<td>Return and disposal of assets: agreements and arrangements</td>
</tr>
<tr>
<td>Art. 57(1)(M) - Return of assets</td>
</tr>
<tr>
<td>Art. 57(2) &amp; (3)(M) - Requests of other State Parties</td>
</tr>
<tr>
<td>Art. 57(4)(O) - Deduction of reasonable expenses</td>
</tr>
</tbody>
</table>
Chapter 8          Final Provisions

Art. 57(5)(O) - Agreements/arrangements for final disposal of confiscated property
Art. 59(C) - Creation of bilateral and multilateral agreements
Financial intelligence unit (2)
Art. 58(C) - General

TECHNICAL ASSISTANCE AND INFORMATION EXCHANGE

Training and technical assistance
Art. 60(1)(M) - Training for anti-corruption personnel
Art. 60(2)(C) - Technical assistance for other State Parties
Art. 60(3)(M) - Strengthen efforts to maximize operational and training activities
Art. 60(4)(C) - Assistance between State Parties in conducting evaluations, research, studies
Art. 60(5)(O) - Information sharing on experts
Art. 60(6)(C) - Use of conferences and seminars
Art. 60(7)(C) - Voluntary mechanisms

Art. 60(8)(C) - Voluntary contributions to UN Office on Drugs and Crime
Collection, exchange and analysis of information
Art. 61(C) - General

Economic development and technical assistance
Art. 62(1)(M) - General
Art. 62(2)(M) - Cooperation with, financial/material/technical assistance to, and providing training programs/modern equipment to developing countries, including voluntary contributions to UN account designated for that purpose (specifically percentage of proceeds of crime confiscated)
Art. 62(3)(C) - No prejudice to existing foreign assistance commitments/financial cooperation arrangements
Art. 62(4)(O) - Creation of bilateral or multilateral agreements

[M is mandatory, O is optional and C is obligation to implement if consistent with fundamental legal principles]
9th December is the International Anti-Corruption Day

Join us in our fight against Corruption