
Volume 53

Issue 1 *Volume 53, Issue 1 (Fall 2015)*

*Understanding and Taming Public and Private
Corruption in the 21st Century*

*Guest Editors: Ron Atkey, Margaret E. Beare &
Cynthia Williams*

Article 2

9-2-2015

Keynote Speech: Global Corruption and the Universal Approach of the United Nations Convention against Corruption

John Sandage

Follow this and additional works at: <https://digitalcommons.osgoode.yorku.ca/ohlj>



Part of the [International Law Commons](#)

Special Issue Article



This work is licensed under a [Creative Commons Attribution-Noncommercial-No Derivative Works 4.0 License](#).

Citation Information

Sandage, John. "Keynote Speech: Global Corruption and the Universal Approach of the United Nations Convention against Corruption." *Osgoode Hall Law Journal* 53.1 (2015) : 7-30.

<https://digitalcommons.osgoode.yorku.ca/ohlj/vol53/iss1/2>

This Special Issue Article is brought to you for free and open access by the Journals at Osgoode Digital Commons. It has been accepted for inclusion in Osgoode Hall Law Journal by an authorized editor of Osgoode Digital Commons.

Keynote Speech: Global Corruption and the Universal Approach of the United Nations Convention against Corruption

Abstract

This keynote lecture describes the challenge of global corruption and the role of the United Nations Convention against Corruption in combatting it.

Keywords

United Nations Convention against Corruption (2003 October 31); Corruption—Law and legislation

Creative Commons License



This work is licensed under a [Creative Commons Attribution-Noncommercial-No Derivative Works 4.0 License](https://creativecommons.org/licenses/by-nc-nd/4.0/).

Keynote Speech: Global Corruption and the Universal Approach of the United Nations Convention against Corruption[†]

JOHN SANDAGE*

| | | |
|------|---|----|
| I. | UNDERSTANDING CORRUPTION | 8 |
| A. | Defining and Measuring Corruption..... | 8 |
| B. | The Approach of the UNCAC | 10 |
| C. | Why We Need to Fight Corruption..... | 11 |
| II. | TAMING CORRUPTION: THE ROLE OF THE UNCAC | 13 |
| A. | An Overview of the UNCAC | 14 |
| 1. | Chapter II (Prevention) | 14 |
| 2. | Chapter III (Criminalization and Law Enforcement) | 14 |
| 3. | Chapter IV (International Cooperation) | 18 |
| 4. | Chapter V (Asset Recovery) | 19 |
| 5. | The "Institutional Architecture" of the Convention..... | 20 |
| B. | An Overview of the Implementation Review Mechanism | 20 |
| C. | An Overview of the Work of UNODC in Anti-Corruption | 22 |
| 1. | Technical Assistance | 22 |
| 2. | Anti-Corruption Educational Curriculum; Anti-Corruption Academic Initiative; Knowledge Tools..... | 24 |
| 3. | Work with the Private Sector; Major Public Events; Match-Fixing..... | 25 |
| 4. | Judicial Integrity and Capacity | 27 |
| 5. | The StAR Initiative | 28 |
| III. | CONCLUSION AND OUTLOOK..... | 29 |

† This speech was presented at the Second OHLJ Symposium, Understanding and Taming Public and Private Corruption in the 21st Century, 6-7 November 2014, Osgoode Hall Law School, Toronto.

* Director, Division for Treaty Affairs, United Nations Office on Drugs and Crime (UNODC).

DISTINGUISHED GUESTS; LADIES AND GENTLEMEN:

It is a pleasure for me to deliver the keynote address of the second Osgoode Hall Law Journal Symposium, which is dedicated to the “understanding and taming of public and private corruption in the 21st century.” I wish to thank York University and Osgoode Hall Law School for organizing this conference on a topic that was at the centre of my work as Director of the Division for Treaty Affairs at the United Nations Office on Drugs and Crime (UNODC).

I say “was” because, as of next month, I will be assuming a new position at the World Intellectual Property Organization in Geneva.¹ So now is actually a good moment in time for me to look back at our work at UNODC and take stock of where we are, what we have accomplished, and which challenges we still have to overcome in order to “understand and tame” corruption. Therefore, echoing the theme of this symposium, let us first have a look at how we can better understand corruption.

I. UNDERSTANDING CORRUPTION

According to our motto, UNODC is working to “mak[e] the world safer from drugs, crime and terrorism.”² In doing so, one of our key targets must be corruption. And indeed, UNODC is the Secretariat to the United Nations Convention against Corruption. But what exactly is corruption?

A. DEFINING AND MEASURING CORRUPTION

We use the word all the time and we all seem to know what it means; yet corruption is notoriously difficult to define. In its broadest meaning—and that is the one often used in the media—corruption can denote any unethical behaviour, any deviation from some ideal ethical standard. Indeed, according to a public opinion definition, “corruption” involves acts, or patterns of behaviour, that would be viewed by most citizens as wrongful *abuses of power*, whether or not they are illegal as defined by the law.³ Similarly, according to a public interest definition, “corruption” involves acts, or patterns of behaviour, that contravene

-
1. At the time of publication, Mr. Sandage is currently the Deputy Director General for the Patents and Technology Sector at the World Intellectual Property Organization (WIPO).
 2. United Nations Office on Drugs and Crime, “Making the world safer from drugs, crime and terrorism” (2015), online: <https://www.unodc.org/documents/brussels/EU-UNODC_10_Years_Brochure/EU-UNODC-brochure_WEB.pdf>.
 3. Matthew Stephenson, “On Different Understandings of ‘Corruption,’” *The Global Anticorruption Blog* (blog) (13 February 2014), online: <<http://globalanticorruptionblog.com/2014/02/13/on-differing-understandings-of-corruption/#more-278>>.

the *public interest*—whether or not the actions in question are illegal and/or the subject of widespread disapproval.⁴ Obviously, these definitions are too broad and too vague to be workable concepts for an international organization based on international law.

Transparency International, the anti-corruption non-governmental organization (NGO), defines corruption as “the abuse of entrusted power for private gain.”⁵ In a similar vein, the World Bank has labelled it “the abuse of public office for private gain.”⁶ These definitions are straightforward and succinct. But they are too broad and too narrow at the same time. The World Bank definition, for example, would seem to exclude corruption in the private sector. And the term “abuse” is an ethical or moral concept, not a legal one.

We encounter the same problems when we try to measure corruption—a necessity in order to determine if anti-corruption measures work. The best-known and most cited index on corruption is Transparency International’s Corruption Perception Index. But as the name indicates, it does not even purport to measure corruption—it measures the *perception* of corruption. Perceptions, while perhaps important in their own right, are not necessarily based in reality. Indeed, some recent research⁷ indicates that national corruption perceptions are only weakly correlated with survey results asking about individuals’ personal experience with bribery. To date, no reliable index to measure corruption itself—or even proxies of corruption⁸—has been developed.

However, I might add that an interesting paper⁹ has examined the propensity of United Nations (UN) diplomats to abuse their diplomatic immunity to violate New York City parking rules, and found that this propensity was greater for diplomats from countries ranked as more corrupt according to the World Bank’s

4. *Ibid.*

5. “FAQs on Corruption” (2016), online: <http://www.transparency.org/whoware/organisation/faqs_on_corruption/2/>.

6. The World Bank Group, “Helping Countries Combat Corruption: The Role of the World Bank” online: <<http://www1.worldbank.org/publicsector/anticorrupt/corruptn/cor02.htm>>.

7. Matthew Stephenson, “Objective Validation of Subjective Corruption Perceptions?” *The Global Anticorruption Blog* (blog) (18 April 2014), online: <<https://globalanticorruptionblog.com/2014/04/18/objective-validation-of-subjective-corruption-perceptions/#more-262>>.

8. To address this perennial measurement problem, the U4 Anti-Corruption Resource Centre launched a “Proxy Challenge” in 2013 to find the best proxy indicator, or basket of indicators, to measure corruption. See U4 Anti-Corruption Resource Centre, “The Proxy Challenge Competition” (2013), online: <<http://www.u4.no/articles/the-proxy-challenge-competition/#sthash.6dRW8Daw.dpuf>>.

9. Raymond Fisman & Edward Miguel, “Corruption, Norms, and Legal Enforcement: Evidence from Diplomatic Parking Tickets” (2007) 115:6 J Pol Econ 1020.

Control of Corruption index. So it looks like there's at least some evidence that perception-based corruption measures are correlated with more objective quantifications of dishonest behaviour.

These problems with defining and measuring corruption might lead us to echo the words of United States Supreme Court Justice Potter Stewart who famously wrote, when trying to define obscenity: "I know it when I see it."¹⁰ But such a subjective approach is of course highly problematic and would run counter to fundamental principles of law when we discuss the criminalization of corruption.

B. THE APPROACH OF THE UNCAC

The drafters of the *United Nations Convention against Corruption*¹¹ (UNCAC) therefore—wisely, I would submit—chose a pragmatic approach to the problem. Despite its title, the Convention does not contain a definition of corruption. Rather, it contains a number of specific offences that are generally recognised as manifestations of corruption, which States Parties to the Convention are obliged to penalize.¹²

These offences are: bribery of national public officials; active bribery of foreign officials and officials of international organizations; embezzlement by a public official; money laundering; and obstruction of justice.¹³ Moreover, there is an obligation to *consider* the criminalization of passive bribery of foreign officials; trading in influence; abuse of functions; illicit enrichment; bribery and embezzlement in the private sector; and concealment. Some of these offences—like bribery—are classic corruption offences, while others—like trading in influence—are quite innovative provisions. All of them, however, contain comprehensive, state-of-the-art definitions of corruption offences, so it's worth having a closer look at some of them.

According to Articles 15 and 16 of the Convention, the bribery of national and foreign public officials is defined as the promise, offering, or giving of an undue advantage for the official or another person, in order that the official act in the exercise of his duties.¹⁴ This means that not only direct bribes to an official are included but also so-called third party benefits. These benefits can be of any nature, as the term "undue advantage" captures both material and immaterial ones. Moreover, the UNCAC goes beyond, for instance, the Organisation for

10. *Jacobellis v Ohio*, 378 US 184 at 197 (1964).

11. 31 October 2003, A/58/422 (entered into force 14 December 2005) [UNCAC].

12. *Ibid.*, art 12 at para 1.

13. *Ibid.*, arts 14-17, 25.

14. *Ibid.*, arts 15-16.

Economic Co-operation and Development (OECD) Anti-bribery Convention and the US *Foreign Corrupt Practices Act* in that it does not require a breach of duties. That means that the UNCAC clearly disallows so-called facilitation or greasing payments. Finally, the UNCAC contains a very broad definition of the term “official,” which includes not only classic civil servants but also persons holding a legislative, executive, or judicial office, whether appointed or elected and whether paid or unpaid.

Article 18 encourages States Parties to criminalize trading in influence.¹⁵ This means that an intermediary is bribed in order that she abuse her real or supposed influence with a view to obtaining an undue advantage from the State for the original instigator or a third party. This innovative provision goes beyond traditional corruption offences and seeks to outlaw a more sophisticated form of corruption. Articles 21 and 22 oblige Member States to consider adopting measures to criminalize bribery and embezzlement in the private sector. While the incriminated acts here are limited to those committed in the course of commercial activities and entailing a breach of duties, the provisions mark an important paradigm shift in that they establish that corruption also happens outside the public sector and should be punished accordingly.

Finally, to conclude my very cursory overview of the criminalization provisions in the Convention, let me mention Article 26, which obliges Member States to establish the liability of legal persons for participation in corruption offences. Such liability may be criminal, civil, or administrative, but it must ensure that effective, proportionate and dissuasive sanctions, including fines, can be imposed on companies. So, in the context of UNCAC, this is what we understand by corruption. Of course, Member States are free to go beyond the Convention. But, for the first time, we now have a globally recognised common denominator for the understanding of corruption. That is no small feat in itself. Before I move on to the taming of corruption and UNODC’s role in it, I believe that, for a proper understanding of corruption, we also need to understand *why* we have to fight it.

C. WHY WE NEED TO FIGHT CORRUPTION

At first glance, this may seem a superfluous effort. Don’t we all agree that corruption is bad and that it is important to fight it? In principle, yes. Nevertheless, in practice, some, *e.g.*, in the business community, might still think that we corruption fighters are naïve do-gooders, who know nothing about the reality

15. *Ibid*, art 18.

on the ground and that sometimes palm-greasing is necessary and unavoidable. Indeed, some have gone so far as to argue that there are certain *good* forms of corruption¹⁶ or “honest graft.”¹⁷ Others, like Thomas Piketty in his celebrated *oeuvre*, *Capital in the Twenty-First Century*,¹⁸ seem to overlook the issue. As some commentators have noted, in his analysis of the scale and perils of rising economic inequality, corruption seems to be the elephant in the room that Piketty fails to notice.¹⁹ Therefore, it cannot be repeated often enough that corruption is not only morally and ethically wrong but also economically harmful, and that it is lethal for countries’ development.

Corruption is not simply a crime. It is the enabler of many other criminal activities such as transnational organized crime and drug trafficking. According to James D. Wolfensohn, the former President of the World Bank, corruption is “the largest single inhibitor of equitable economic development.”²⁰ Indeed, corruption has a devastating impact on development. It is estimated that up to \$40 billion US is stolen from developing countries every year, robbing citizens of better education, better healthcare, and better lives, and denying them hope for a better future. Corruption breeds more corruption and facilitates other crimes. It undermines democracy and weakens good governance and the rule of law. It squanders precious resources and talent, keeping countries from fulfilling their potential. And, in the worst case, it costs lives.

-
16. Thomas B Edsall, “The Value of Political Corruption,” *New York Times* (5 August 2014), online: <http://www.nytimes.com/2014/08/06/opinion/thomas-edsall-the-value-of-political-corruption.html?_r=0>.
 17. George Washington Plunkitt, “Honest Graft and Dishonest Graft” in William L Riordon, *Plunkitt of Tammany Hall: A Series of Very Plain Talks on Very Practical Politics* (New York: Signet Classics, 2015); Matthew Stephenson, “More Confused & Confusing Commentary on Corruption, Earmarks, and Campaign Finance,” *The Global Anticorruption Blog* (blog) (12 August 2014), online: <<http://globalanticorruptionblog.com/2014/08/12/more-confused-confusing-commentary-on-corruption-earmarks-and-campaign-finance/#more-1864>>.
 18. Translated by Arthur Goldhammer (United States of America: President and Fellows of Harvard College, 2014).
 19. Dieter Zinnbauer, “Piketty: Diagnosing Inequality and Prescribing a Dose of Anti-Corruption,” *Transparency International* (25 August 2014), online: <<http://blog.transparency.org/2014/08/25/piketty-diagnosing-inequality-and-prescribing-a-dose-of-anti-corruption>>.
 20. “Voices for the Poor,” *The Washington Post* (10 November 1999), online: <<https://www.washingtonpost.com/archive/opinions/1999/11/10/voices-for-the-poor/af94e9aa-0b78-436a-96dd-5b331e67fdce/>>.

It costs the lives of people dying of Ebola—as a recent article in the *New York Times* on delayed help for Sierra Leone has shown.²¹ It costs the lives of witnesses and whistle-blowers who are murdered to silence them. But, on a much greater scale, the events in Tunisia, Egypt, and Ukraine, among others, have shown that corruption costs lives because it is a threat to international peace and security.²² The impact of corruption on the private sector is also considerable. Corruption stifles economic growth, distorts competition, and presents serious legal and reputational risks. It keeps investors away, acting as a hidden ‘tax’ or illegal overhead charge, and thereby increasing costs for companies and, further down the chain, their consumers.

But during the last decade, we have experienced a positive change in attitudes towards corruption. There is now a broad consensus that bribery and corruption are no longer acceptable forms of doing business. The world has embraced the notion of a level playing field for all, and more and more people and societies are embracing universal principles of accountability, fairness, transparency, and equality.

One reason for this change is the existence of international institutions, like UNODC, and anti-corruption treaties like the OECD Anti-Bribery Convention, the Council of Europe Conventions, and the UNCAC. Among them, the UNCAC stands out as the only universal legal anti-corruption instrument. It embodies innovative and globally accepted anti-corruption standards applicable to both the public and private sectors and provides a comprehensive approach to preventing and combating corruption. With 172 States Parties, the UNCAC has nearly achieved universal adherence. So let me now turn to how we can use this instrument in our efforts to effectively tame corruption.

II. TAMING CORRUPTION: THE ROLE OF THE UNCAC

In doing so, I will first outline the substantive content and structure of the Convention, as well as the institutional framework which was put in place in order to support Member States in strengthening their legal, institutional, and operational capacities to implement the provisions of UNCAC at the domestic

21. Adam Nossiter, “Ebola Help for Sierra Leone Is Nearby, but Delayed on the Docks,” *New York Times* (6 October 2014), online: <http://www.nytimes.com/2014/10/06/world/africa/sierra-leone-ebola-medical-supplies-delayed-docks.html?_r=0>.

22. Working Group on Corruption and Security, “Corruption: The Unrecognized Threat to International Security,” *Carnegie Endowment for International Peace* (June 2014), online: <http://carnegieendowment.org/files/corruption_and_security.pdf>.

level, and to cooperate internationally towards effectively combating the transnational dimensions of corruption.

A. AN OVERVIEW OF THE UNCAC

1. CHAPTER II (PREVENTION)

The UNCAC devotes an entire chapter to the prevention of corruption, thus demonstrating the significance of preventive action against this scourge. The Convention requires States Parties to introduce effective anti-corruption policies and practices. It calls for the introduction of a variety of measures concerning both the public and the private sectors. Such measures include: institutional arrangements, such as the establishment of specific anti-corruption bodies with a mandate to implement preventive anti-corruption policies and practices; codes of conduct and measures requiring public officials to make declarations regarding financial or other aspects that may cause conflict of interests; and policies promoting good governance, the rule of law, transparency, and accountability, including promoting transparency in the financing of election campaigns and political parties. The Convention pays special attention to the issue of public procurement, as a sector particularly prone to corruption. It further contains measures to promote transparency and accountability in the management of public finances. The Convention enjoins States Parties to take measures for the prevention of corruption in the judiciary. In addition, concrete measures are specified for the prevention of money-laundering practices related to corruption.

Apart from the development or reinforcement of preventive policies in the public sector, States Parties to the UNCAC are also required to take appropriate preventive measures and establish regulatory regimes in order to prevent corruption in the private sector. The Convention further calls on States Parties to promote actively the involvement of NGOs and community-based organizations, as well as other elements of civil society, and to undertake public information activities and education programmes for the purpose of raising public awareness of the threats posed by corruption and the most suitable methods to combat it.

2. CHAPTER III (CRIMINALIZATION AND LAW ENFORCEMENT)

If prevention is the carrot, then criminal law is the stick. As already mentioned, the Convention obliges States Parties to make acts of corruption punishable under penal law. These so-called criminalization provisions are contained in Chapter III. The UNCAC includes a comprehensive set of criminalization provisions, both mandatory and optional, and I have already spoken about the most important ones. The inclusion of optional criminalization provisions was deemed necessary

because of constitutional impediments or other fundamental legal principles in some countries that prevent them from establishing the relevant criminal offences in their domestic law.²³

Implementation may be carried out through new laws or amendments of existing ones. Domestic offences established in accordance with the requirements of the UNCAC, whether based on pre-existing laws or newly established ones, will often correspond to offences under the Convention in name and terms used, but this is not essential. Close conformity is desirable, but is not required, as long as the range of acts covered by the Convention is criminalized.

-
23. An interesting example is that of illicit enrichment. The obligation for States Parties to consider creating such an offence is subject to their constitution and the fundamental principles of their legal system. This effectively recognizes that the illicit enrichment offence, in which the defendant has to provide a reasonable explanation for the significant increase in his or her assets, may in some jurisdictions be considered as contrary to the right to be presumed innocent until proven guilty under the law. The presumption of innocence is invoked because the crime of illicit enrichment hinges upon presuming that the accumulated wealth is corruptly acquired, unless the contrary is proved. Therefore, it is important for national legislators to take into consideration when drafting relevant legislation potential conflicts with human rights law standards of fair trial and due process rights, which, particularly with regard to the presumption of innocence, may entail the following:
- that it is upon the prosecution to prove the guilt of the accused person (*i.e.*, burden of proof);
 - that it is the right of the accused not to testify against himself or herself; and
 - that the accused has a right of silence.

As far as the burden of proof is concerned, it has been argued that the prosecution is relieved of the full burden of proof since it need not directly adduce evidence of corruption, but shifts the burden of proof to the accused requiring him or her to refute that the wealth is illicitly acquired. However, the point has also been clearly made that there is no presumption of guilt and that the burden of proof remains on the prosecution, as it has to demonstrate that the enrichment is beyond one's lawful income. The prosecution merely suspects that the wealth of the accused was illicitly acquired and places the burden of proof to the accused to adduce the contrary. This may, thus, be viewed as a rebuttable presumption. Once such a case is made, the defendant can then offer a reasonable or credible explanation.

National jurisprudence has provided examples of shifting the burden of proof so as to give way to statutory exceptions and public policy needs. In other cases, arguments were made in favour of striking a fair balance between public and individual interests. In general, there is always a need to comply with the so called "proportionality principle" when judging on the impact of such criminalization measures on human rights standards.

The UNCAC has further included a wide array of criminal justice and law enforcement measures in its Chapter III to support the criminalization provisions and ensure their effectiveness. Such measures include:

- The establishment of jurisdiction over offences falling within its scope of application;²⁴
- Prosecution, adjudication, and sanctions in corruption-related cases;²⁵

-
24. UNCAC, *supra* note 11, art 42. The UNCAC requires that States Parties establish jurisdiction when the offences are committed in their territory or on board aircraft and vessels registered under their laws. States Parties are also required to establish jurisdiction in cases where they cannot extradite a person on grounds of nationality. In these cases, the general principle *aut dedere aut judicare* (“extradite or prosecute”) would apply. See *ibid* at para 3; art 44 at para 11. In addition, States Parties are invited to consider the establishment of jurisdiction in cases where their nationals are victimized; where the offence is committed by a national or stateless person residing in their territory; where the offence is linked to money-laundering planned to be committed in their territory; or the offence is committed against the State. See *ibid*, art 42 at para 2. Finally, States Parties are required to consult with other interested States in appropriate circumstances in order to avoid, as much as possible, the risk of improper overlapping of exercised jurisdictions. See *ibid* at para 5. States Parties may also wish to consider the option of establishing their jurisdiction over offences established in accordance with the UNCAC when extradition is refused for reasons other than nationality. See *ibid* at para 4.
25. *Ibid*, art 30. Article 30 encompasses provisions with regard to the investigation and prosecution of corruption-related offences and the important complex issue of immunities. The Article devotes significant attention to sanctions—both criminal sanctions *strictu sensu* and “ancillary” sanctions—as well as provisions on disciplinary measures and sanctions relating to the gravity of the offence or linked to the nature of the offence, such as disqualification. Finally, the Article deals with the rehabilitation of offenders. Article 30 requires that:
- States Parties provide for sanctions that take into account the “gravity” of that offence (*ibid* at para 1);
 - States Parties provide for an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting, and adjudicating offences established in accordance with the Convention (*ibid* at para 2);
 - decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings (*ibid* at para 4); and
 - the gravity of the offences concerned be taken into account when considering the eventuality of early release or parole of persons convicted of such offences (*ibid* at para 5).
- Besides these mandatory provisions, Article 30 stipulates in a non-mandatory manner that:
- States Parties consider establishing procedures through which a public official accused of an offence established in accordance with the Convention may, where appropriate, be removed, suspended, or reassigned by the appropriate authority (*ibid* at para 6);
 - States Parties consider establishing procedures for the disqualification for a period of time determined by domestic law, of persons convicted of offences established in accordance with the Convention from: (a) holding public office, and (b) holding office in an enterprise owned in whole or in part by the State (*ibid* at para 7); and

- Sufficiently long statutes of limitation for offences covered by the Convention;²⁶
- The freezing, seizure, and confiscation of proceeds of crime derived from offences established in accordance with the Convention;²⁷
- The protection of witnesses, experts, and victims;²⁸

-
- States Parties endeavour to promote the reintegration into society of persons convicted for offences established pursuant to the Convention (*ibid* at para 10).
26. *Ibid*, art 29. Article 29 lays down the obligation of States Parties to establish, where appropriate, under their domestic law, a long statute of limitations period in which to commence proceedings for any offence established in accordance with the Convention, as well as to establish a longer period or provide for the suspension of the statute of limitations in cases where the alleged offender has evaded the administration of justice.
27. *Ibid*, art 31. Article 31 deals with confiscation—the permanent deprivation of property by order of a court or other competent authority, as defined by the Convention (see *ibid*, art 2(g))—as the most important legal tool to deprive offenders of their ill-gotten gains. The regime promoted by the Convention revolves around the concept of the confiscation of “proceeds of crime,” defined by the Convention as “any property derived from or obtained, directly or indirectly, through the commission of an offence” (*ibid*, art 2(e)). Article 31 also establishes the minimum scope of the confiscation of the proceeds of crime (*ibid*, art 31 at paras 4-6). As a complementary measure, the Convention recommends that States Parties consider reversing the burden of proof in order to facilitate the determination of the origin of such proceeds (*ibid* at para 8), a concept already applied in several jurisdictions. This concept, however, needs to be distinguished from a reversal of the burden of proof regarding the elements of the offence, which is directly linked with the presumption of innocence. Article 31 further requires specific measures for two other important elements of the confiscation regime: international cooperation (*ibid* at para 7) and the protection of third-party rights (*ibid* at para 9).
28. *Ibid*, art 32. Article 32 includes both mandatory and non-mandatory provisions. As a mandatory provision, the Article requires that each State Party must take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with the Convention and, as appropriate, for their relatives and other persons close to them (*ibid* at para 1). It also specifies certain measures that State Parties may envisage in order to provide for the necessary protection of witnesses and experts (*ibid* at para 2). While Article 32 includes a provision on procedures for the physical protection against intimidation and retaliation (*ibid* at para 2(a)), it also focuses on evidentiary rules ensuring the safety of witnesses and experts with regard to their testimony (*ibid* at para 2(b)). Another non-mandatory provision requires State Parties to consider implementing cross-border witness protection through relocating victims who may be in danger in other countries (*ibid* at para 3). The Article requires States Parties to apply its provisions to victims insofar as they are witnesses (*ibid* at para 4). Finally, it requires States Parties to enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders (*ibid* at para 5). This provision is relevant in cases in which a victim is not a witness.

- The protection of reporting persons, often called “whistle-blowers”;²⁹
- The establishment of independent authorities specialized in combating corruption through law enforcement;³⁰ and
- The curtailment of bank secrecy in the case of domestic criminal investigations of relevant offences.³¹

3. CHAPTER IV (INTERNATIONAL COOPERATION)

Corruption is no longer an issue confined within national boundaries, but a transnational phenomenon that affects different jurisdictions, thus rendering international cooperation essential. The increasingly international mobility of offenders and the use of advanced technology and international banking for the commission of offences make it more necessary than ever for law enforcement and judicial authorities to collaborate and assist each other in an effective manner in investigations, prosecutions, and judicial proceedings related to such offences.

Therefore, UNCAC requires States Parties to afford one another the widest measure of mutual legal assistance in investigations, prosecutions, and judicial proceedings in relation to the offences covered by the Convention. Moreover, chapter IV incorporates detailed and extensive provisions on all forms of international cooperation, namely extradition, mutual legal assistance, transfer of sentenced persons, transfer of criminal proceedings, law enforcement cooperation, joint investigations, and cooperation for using special investigative techniques. These provisions are generally based on the precedent of the United Nations

-
29. *Ibid*, art 33. Article 33 is a non-mandatory provision. However, States Parties may wish to keep in mind that the provision complements the Article dealing with the protection of witnesses and experts. Article 33 is intended to cover those individuals who may possess information that is not of such detail to constitute evidence in the legal sense of the word. Such information is likely to be available at a rather early stage of a case and is also likely to constitute an indication of wrongdoing. In corruption cases, because of their complexity, such indications have proved to be useful to alert competent authorities and permit them to make key decisions about whether to launch an investigation. The UNCAC uses the term “reporting persons” (*ibid*). This was deemed to be sufficient to reflect the essence of the intended meaning, while making clear that there is a distinction between the persons referred to with this term and witnesses. It was also deemed preferable to the term “whistle-blowers,” which is a colloquialism that cannot be accurately and precisely translated into many languages.
30. *Ibid*, art 36. Article 36 mandates States Parties to have in place a body or bodies or persons specialized in combating corruption through law enforcement, performing investigative and possibly prosecutorial functions.
31. *Ibid*, art 40. States Parties are required in Article 40 to remove any obstacle that may arise from protective laws and regulations to domestic criminal investigations relating to offences established under the UNCAC.

Convention against Transnational Organized Crime (UNTOC), sometimes going beyond it, and provide a much more comprehensive legal framework on relevant matters than that of the existing regional instruments.

4. CHAPTER V (ASSET RECOVERY)

In what has been recognized as a major breakthrough, the UNCAC contains a comprehensive chapter on asset recovery. This means that proceeds of corruption that have been transferred abroad—often to tax havens or jurisdictions known for their strict bank secrecy regulations—are actually returned to the countries from which they have been ‘stolen.’ To that end, the Convention includes substantive provisions laying down specific measures and mechanisms for cooperation with a view to facilitating the repatriation of assets derived from offences covered by the UNCAC to their country of origin.

Chapter V provides for a comprehensive framework for international cooperation, which incorporates, *mutatis mutandis*, the more general mutual legal assistance requirements and sets forth procedures for international cooperation in confiscation matters. These are important powers, as criminals frequently seek to hide proceeds, instrumentalities, and evidence of crime in more than one jurisdiction, in order to thwart efforts to locate and seize them.³²

32. See *ibid*, art 55 at para 1. This paragraph, in particular, mandates a State Party to provide assistance “to the greatest extent possible” in accordance with domestic law, when receiving a request from another State Party having jurisdiction over an offence established in accordance with the UNCAC for confiscation of proceeds of crime, property, equipment, or other instrumentalities, either by recognizing and enforcing a foreign confiscation order, or by bringing an application for a domestic order before the competent authorities on the basis of information provided by the other State Party. See also *ibid*, art 54 at para 1(c). This paragraph states that States Parties, in order to provide mutual legal assistance pursuant to article 55 with respect to property acquired through or involved in the commission of an offence established in accordance with the Convention, must, in accordance with their domestic law, consider taking such measures as may be necessary to allow confiscation of such property *without a criminal conviction* in cases in which the offender cannot be prosecuted by reason of death, flight, or absence or in other appropriate cases. While confiscation without a criminal conviction (“NCB confiscation”) should never be a substitute for criminal prosecution, in many instances, such confiscation may be the only way to recover the proceeds of corruption and to exact some measure of justice. Countries that do not have the ability to confiscate without a conviction are challenged because they lack one of the important tools available to recover stolen assets. NCB confiscation is valuable because the influence of corrupt officials and other practical realities may prevent criminal investigations entirely, or delay them until after the official has died or absconded. Alternatively, the corrupt official may have immunity from prosecution. Because an NCB confiscation regime is not dependent on a criminal conviction, it can proceed regardless of death, flight, or any immunity the corrupt official might enjoy. Although an increasing

5. THE “INSTITUTIONAL ARCHITECTURE” OF THE CONVENTION

I would like to finish my overview of the Convention with a few words on its institutional architecture. The Conference of the States Parties to UNCAC was established³³ to improve the capacity of, and cooperation between, States Parties to achieve the objectives of the Convention, and to promote and review its implementation. The Conference of the States Parties to the UNCAC is tasked with supporting States Parties and signatories in their implementation of the Convention, and provides policy guidance to UNODC for the development and execution of anti-corruption related activities.

The Conference now meets every two years. Its first session was held in Jordan in December 2006; the most recent session was held in Panama in 2013; and the next one is scheduled to take place in the Russian Federation in 2015.³⁴ The Conference has established three working groups: on prevention, on asset recovery, and the Implementation Review Group (IRG). The IRG was set up to guide the review process, to identify challenges and good practices, and to consider technical assistance requirements in order to ensure effective implementation of the Convention.³⁵ This leads me to my next point: the question of how we can assure that the Convention is actually implemented.

B. AN OVERVIEW OF THE IMPLEMENTATION REVIEW MECHANISM

Adherence to the Convention is becoming a leading indicator of a Government’s willingness to address corruption seriously. However, while ratification of the

number of jurisdictions are adopting legislation that permits confiscation without a conviction, international cooperation in NCB confiscation cases remains quite challenging for a number of reasons. First, it is a growing area of law that is not yet universal; therefore, not all jurisdictions have adopted legislation permitting NCB confiscation or enforcement of foreign NCB orders or both. Second, even where NCB confiscation exists, the systems vary significantly. Some jurisdictions conduct NCB confiscation as a separate proceeding in civil courts (also known as civil confiscation) with a lower standard of proof than in criminal cases (balance of probabilities); others use NCB confiscation in criminal courts and require the higher criminal standard of proof. Some jurisdictions will only pursue NCB confiscation after criminal proceedings were abandoned or unsuccessful, while others pursue NCB confiscation in proceedings parallel to the related criminal proceedings.

33. *Ibid*, art 63.

34. United Nations Office on Drugs and Crime, “Conference of the States Parties to the United Nations Convention against Corruption” (2016), online: <<http://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP.html>>.

35. United Nations Office on Drugs and Crime, “Implementation Review Group of the United Nations Convention against Corruption” (2016), online: <<https://www.unodc.org/unodc/en/treaties/CAC/IRG-sessions.html>>.

Convention is essential, it is only a first step. Governments must not only “talk the talk but also walk the walk”—and implement the Convention. In this respect, significant progress has been achieved with the adoption of the landmark Implementation Review Mechanism (IRM).³⁶

It must be pointed out that the Convention itself does not contain any review mechanism. Therefore, it was a great breakthrough that, at its third session in Doha in November 2009, the Conference of the States Parties adopted Resolution 3/1 on the review of the implementation of the Convention.³⁷ In that resolution, the Conference set forth the terms of reference of the IRM and the draft guidelines for governmental experts and the secretariat in the conduct of country reviews.

The IRM aims at assisting countries to meet the objectives of the Convention through a peer-review process. Under the IRM, which has been fully operational since 2010, all States Parties are reviewed on the fulfilment of their obligations under the Convention. This further enhances the potential of the Convention by providing the means for countries to assess how they perform in implementation, identify potential gaps in national anti-corruption laws and practices, and develop action plans to strengthen the implementation of the Convention domestically. There are two review cycles of five years each: The ongoing first cycle addresses the implementation of Chapters III and IV of the Convention on criminalization and law enforcement, and on international cooperation in criminal matters. The second cycle, likely to be launched in 2014, will focus on Chapters II and V of the UNCAC, concerning preventive measures and asset recovery.³⁸

Reviews are based on responses to a self-assessment checklist submitted by countries under review. Each State Party is reviewed by two other States Parties in the context of the peer-review process. After the initial self-assessment, the reviewing States perform a desk review of that assessment. To clarify any remaining issues, this is followed by a joint meeting in Vienna or a country visit. So far, the vast majority of States Parties has opted for a country visit, where the reviewing experts can meet with representatives from the relevant anti-corruption authorities, the judiciary, and—if the State Party under review so wishes—other stakeholders like representatives of the private sector and civil society.

36. United Nations Office on Drugs and Crime, “Mechanism for the Review of Implementation of the United Nations Convention against Corruption” (2016), online: <<http://www.unodc.org/unodc/en/treaties/CAC/IRG.html>>.

37. The Conference of the States Parties to the United Nations Convention against Corruption, *Review mechanism*, Res 3/1, UNCAC, 3d Sess, UN Doc CAC/COSP/2009/15 (2009).

38. *Ibid* at paras 3-4.

The outcome of the review process is a comprehensive report on national anti-corruption legislation and practice, which also lists good practices as well as challenges identified in the review process, and makes recommendations on how the national law could be amended to bring it further in compliance with the Convention. An Executive Summary of that report is presented to the IRG and is published on the UNODC website.

Let me be frank: The IRM is a very costly exercise. Reviewing experts are sent—literally—to the four corners of the world to conduct country visits, and to Vienna to attend the IRG meetings. But the IRM is achieving tangible results. It is providing a platform through which States Parties have been able to share practices and information. Through the IRM and related training, we are creating an international community of anti-corruption experts and we are both professionalising and de-politicizing the fight against corruption. Already over the first few years of its existence, the IRG has become a marketplace of ideas and an agora for the international anti-corruption discourse.

C. AN OVERVIEW OF THE WORK OF UNODC IN ANTI-CORRUPTION

In its capacity as the guardian of the implementation of the UNCAC and Secretariat of the Conference of the States Parties to the Convention, UNODC is mandated to support the IRM, which has become a cornerstone of UNODC's work in the field of anti-corruption. Nevertheless, UNODC is also active in the prevention of corruption, education, training, and technical assistance. We work with the private sector and with academia. So let me highlight a few of the most important areas where we are working to tame corruption.

UNODC, through its Thematic Programme on Action against Corruption and Economic Crime, acts as a catalyst and a resource to help States Parties ratify and effectively implement the provisions of the Convention. A primary goal of the anti-corruption work done by UNODC is to provide States Parties with practical assistance and build the technical capacity needed to ensure compliance with the requirements of the Convention.

1. TECHNICAL ASSISTANCE

With regard to technical assistance, UNODC has continued to offer tailored legislative and capacity-building activities and tools that facilitate assistance delivery on the ground. Other UNODC initiatives in the area of technical assistance include the anti-corruption advisor programme. The programme aims to provide long-term and on-site specialized expertise through the placement of field-based anti-corruption advisors, principally in UNODC's regional offices.

There are currently advisors with regional responsibilities in Thailand (for Southeast Asia); South Africa, Mozambique, and Senegal; Fiji (for the Pacific); Nepal (for South Asia); Panama (for Central America); and Egypt (for the Middle East and North Africa). One advisor, responsible for assisting small island States, is based in Vienna.

As a comprehensive framework for concerted action at the national and international levels to prevent and combat corruption, the Convention can be used as a benchmark for the design, implementation, and evaluation of technical assistance programmes and projects geared towards enhancing the capacity of States Parties to deal effectively with the challenges posed by corruption. Bearing this in mind, UNODC has been developing a series of technical assistance services to meet the growing demands of States Parties in this field, including the following:

- Provision of advice and expertise to support the development of a wide range of policies and programmes to ensure the effective implementation of the UNCAC provisions on the prevention of corruption, including national anti-corruption strategies and action plans, codes of conduct, asset declaration systems, conflict of interest policies, and human resource management systems based on principles of efficiency, transparency, and objective criteria;
- Provision of advice and expertise to support the development of domestic legislation aiming at ensuring full compliance with the provisions of the UNCAC, as well as the development of such tools as legislative guides, model legislation, and electronic libraries;
- Provision of advice and expertise to support States Parties in setting up and strengthening the institutional framework required by the UNCAC in the areas of investigation, prosecution, and international cooperation to combat corruption, including asset recovery;
- Building and strengthening partnerships between the public and the private sector against corruption, and promoting, in this regard, the business community's engagement in the prevention of corruption by, *inter alia*, developing initiatives to promote and implement public procurement reform and identifying elements of optimal self-regulation in the private sector.

2. ANTI-CORRUPTION EDUCATIONAL CURRICULUM; ANTI-CORRUPTION ACADEMIC INITIATIVE; KNOWLEDGE TOOLS

Another fundamental area for UNODC is education. We need to educate the young on fairness and integrity today so that we can have ethical leaders tomorrow. Our approach is two-fold: First, focus on tertiary education through the development of anti-corruption curricula for law schools and business schools. Second, embed the values and ethics of the UNCAC in younger children by teaching the values that are the bedrock of the Convention.

UNODC plays a leading role in the Anti-Corruption Academic Initiative, a collaborative academic project aimed at producing a comprehensive anti-corruption curriculum composed of individual academic modules, syllabi, case studies, educational tools, and reference materials that may be integrated by universities and other academic institutions into their existing programmes. To date, over thirty universities have participated in the Initiative through the incorporation of anti-corruption learning into graduate and postgraduate courses.³⁹ UNODC has also recently finalized a comprehensive course for university students aimed at developing an understanding of the measures needed to fight corruption at the national level. The course provides students with an introduction to the issue of corruption and explores measures that governments can take to combat it, using the Convention as a framework.⁴⁰

In the framework of the Corruption Knowledge Management and Legal Library Project, UNODC developed an anti-corruption portal entitled TRACK (Tools and Resources for Anti-Corruption Knowledge), a web-based platform, in cooperation with the World Bank, Microsoft, and other TRACK partner institutions. The TRACK website has two main components: a Legal Library related to the UNCAC, which contains legislation and jurisprudence relevant to the Convention from over 175 states, systematized in accordance with the requirements of the Convention;⁴¹ and an anti-corruption learning platform where analytical materials and tools generated by TRACK partner organizations can be searched and accessed.⁴²

39. TRACK, "Our Members" *United Nations Office on Drugs and Crime* (2014), online: <<http://www.track.unodc.org/Academia/Pages/Members.aspx>>.

40. TRACK, "The United Nations Convention against Corruption Academic Course" *United Nations Office on Drugs and Crime* (2014), online: <<http://www.track.unodc.org/Education/Pages/AcademicCourse.aspx>>.

41. TRACK, "Legal Library" *United Nations Office on Drugs and Crime* (2014), online: <<http://www.track.unodc.org/LegalLibrary/Pages/default.aspx>>.

42. TRACK, "ACAD," *supra* note 39.

3. WORK WITH THE PRIVATE SECTOR; MAJOR PUBLIC EVENTS; MATCH-FIXING

The private sector has come to realize that the fight against corruption is a win-win situation: Business thrives where laws are defined clearly and applied all-inclusively. We are currently seeing that the desired level playing field is becoming a legislated playing field. Again, one of the main reasons is the UNCAC, which requires States Parties to take a series of measures that together lay the foundation for free and fair markets and sustainable economic development.

The private sector and corporate community have a key role to play in enhancing integrity, accountability, and transparency. The rapid development of rules of corporate governance around the world is prompting companies to focus on anti-corruption measures as part of their mechanisms to protect their reputations and interests of their stakeholders. Internal checks and balances are increasingly being extended to a range of ethics and integrity issues. Article 12 of the Convention requires States Parties to take measures to prevent corruption in the private sector, including through enhanced accounting and auditing standards. It also provides a menu of suggested measures to achieve these goals, including by promoting cooperation between the private sector and law enforcement agencies; promoting standards and procedures designed to safeguard the integrity of private entities (including codes of conduct and business integrity standards); promoting transparency among private entities; preventing conflicts of interest; and ensuring effective internal audit systems.⁴³

UNODC has supported an initiative entitled “The United Nations Convention against Corruption as a Framework to Mainstream Anti-corruption Safeguards for the Organization of Major Public Events.” The initiative aims at identifying good practices, based on the Convention, for preventing corruption in connection with the organization of major public events. Based on an initial review of existing measures, practices, experiences, and concrete cases, as well as the recommendations of an expert group, a handbook of good practices has been prepared and was officially launched at the last Session of the Conference of the States Parties in Panama.⁴⁴ It contains a Corruption Prevention Checklist, based

43. UNCAC, *supra* note 11, art 12.

44. United Nations Office on Drugs and Crime, *The United Nations Convention against Corruption: A Strategy for Safeguarding against Corruption in Major Public Events* (Vienna: United Nations, 2013), online: <http://www.unodc.org/documents/corruption/Publications/2013/13-84527_Ebook.pdf>.

on the relevant provisions of the UNCAC, which is designed to substantially mitigate risks throughout the process of organizing public events.⁴⁵

One of the new and emerging forms of crime on which UNODC has been actively working over the last years is that of match-fixing and illegal betting. In collaboration with the International Olympic Committee (IOC), UNODC commissioned a study entitled *Criminalization Approaches to Combat Match-Fixing and Illegal/Irregular Betting: A Global Perspective*.⁴⁶ The study provides a comparative overview of relevant criminal law provisions applicable to match-fixing and illegal/irregular betting from eighteen countries throughout the world that address these issues, either through general offences that may be applicable in this field or through ad hoc sport-related offences. UNODC has also participated in the negotiation process of the new Council of Europe *Convention on the Manipulation of Sports Competitions*,⁴⁷ which has just been opened for signature in September.

In broader terms of prevention of corruption in the private sector, UNODC has been actively engaged in a multi-stakeholder project, undertaken together with OECD and the World Bank, to develop a practical handbook for businesses that will bring together guidelines and related material on private sector anti-corruption compliance.⁴⁸ In addition, UNODC has produced a practical guide for business, entitled *An Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide*,⁴⁹ which will be launched at the Fifth Session of the Conference of the States Parties.

Another project being implemented by UNODC, with the support of the Siemens Integrity Initiative, is entitled “Public-Private Partnership for Probity in Public Procurement,” which seeks to reduce vulnerabilities to corruption in public procurement systems and bridge knowledge and communication gaps between public procurement administrations and the private sector.⁵⁰ A good

45. *Ibid*, Annex.

46. (Vienna: UNODC, 2013).

47. Committee of Ministers, 1205th Meeting, CETS No 215 (2014).

48. *Anti-Corruption Ethics and Compliance Handbook for Business* (np: OECD, UNODC & World Bank, 2013), online: <<http://www.oecd.org/corruption/Anti-CorruptionEthicsComplianceHandbook.pdf>>.

49. (Vienna: UNODC, 2013), online: <https://www.unodc.org/documents/corruption/Publications/2013/13-84498_Ebook.pdf>.

50. See United Nations Office on Drugs and Crime, “The 6 Ps: Public-Private Partnership for Probity in Public Procurement” (2010), online: <<https://business.un.org/en/needs/302>>.

practices guide on preventing corruption in public procurement, in line with Article 9 of the UNCAC, was published last year.⁵¹

Further, UNODC and the United Nations Global Compact continue to cooperate on the interactive e-learning tool for the private sector entitled “The Fight against Corruption.”⁵² Between February 2012 and November 2013, the tool has had 24,000 online users, and a certificate programme was launched in early 2013. The tool is available in other official United Nations languages and other languages, including German, Korean, and Portuguese.

4. JUDICIAL INTEGRITY AND CAPACITY

The establishment of an independent and effective justice system that safeguards human rights, facilitates access to all, and provides transparent and objective recourse is a core value held the world over. As a result, judicial and legal reform is consistently a priority on the agendas of countries regardless of their state of development. Yet the complex and multifaceted nature of achieving the ends of justice has challenged efforts to identify a coherent set of issues warranting the time and attention of reformers, and slowed the subsequent formulation of specific prescriptions and guidelines on what can be done to improve the quality of justice delivery across the system.

The effects of corruption on the rule of law are not only harmful, but destructive—in particular, when the criminal justice system, which should embody the principles of independence, impartiality, integrity, and equality, is undermined. A corrupt act during one step of the criminal justice chain can severely harm the whole process or even nullify its essence and erode public trust in law and order.

UNODC has been actively promoting the concept of judicial integrity and supported a number of States Parties to the UNCAC through the provision of technical assistance, with projects being carried out in Nigeria, Ethiopia, Tunisia, and Kosovo (under UNSCR 1244/99).⁵³ In doing so, UNODC has

51. United Nations Office on Drugs and Crime, *Guidebook on Anti-Corruption in Public Procurement and the Management of Public Finances: Good Practices in Ensuring Compliance with Article 9 of the United Nations Convention against Corruption* (Vienna: United Nations, 2013), online: <https://www.unodc.org/documents/corruption/Publications/2013/Guidebook_on_anti-corruption_in_public_procurement_and_the_management_of_public_finances.pdf>.

52. (2010), online: <<http://thefightagainstcorruption.org/certificate/>>.

53. Security Council Resolution 1244/99.

developed a *Resource Guide on Strengthening Judicial Integrity and Capacity*,⁵⁴ with the purpose of supporting and informing those who are tasked with reforming and strengthening the justice systems of their countries, as well as development partners, international organizations, and other providers of technical assistance who provide support to this process.

In addition, UNODC has developed an implementation guide for Article 11 of the Convention on “Measures relating to the judiciary and prosecution services,”⁵⁵ including a practical evaluative framework for use by States. That resource will serve as a valuable tool by identifying and summarizing international standards and resources relevant to judicial and prosecutorial integrity.

5. THE StAR INITIATIVE

Finally, with regard to the recovery and return of assets, UNODC has partnered with the World Bank to establish the joint Stolen Asset Recovery (StAR) Initiative in 2007. StAR has developed practical tools and policy studies on asset recovery, including the *Asset Recovery Handbook*,⁵⁶ a best practices guide on income and asset declarations,⁵⁷ and the *Good Practice Guide for Non-Conviction Based Asset Forfeiture*.⁵⁸ A number of asset recovery training courses have been conducted jointly with StAR as well, including regional events in the Pacific Islands, the Middle East and North Africa, South and Central America, South and Eastern Europe, East and Southern Africa, and South and East Asia.

StAR has also helped push asset recovery to the top of the international agenda and to bring international organizations together around a common

-
54. (Vienna: United Nations Office on Drugs and Crime, 2011), online: <https://www.unodc.org/documents/treaties/UNCAC/Publications/ResourceGuideonStrengtheningJudicialIntegrityandCapacity/11-85709_ebook.pdf>.
 55. United Nations Office on Drugs and Crime, *Technical Guide to the United Nations Convention against Corruption* (Vienna: United Nations, 2009) at 46-54, online: <https://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf>.
 56. Jean-Pierre Brun et al, *Asset Recovery Handbook: A Guide for Practitioners* (Washington, DC: The International Bank for Reconstruction and Development & The World Bank, 2011), online: <http://star.worldbank.org/star/sites/star/files/asset_recovery_handbook_0.pdf>.
 57. Ruxandra Burdescu et al, *Stolen Asset Recovery: Income and Asset Declarations: Tools and Trade-Offs* (Washington, DC: The World Bank, 2009), online: <https://www.unodc.org/documents/corruption/Publications/StAR/StAR_Publication_-_Income_and_Asset_Declarations.pdf>.
 58. Theodore S Greenberg et al, *Stolen Asset Recovery: A Good Practices Guide for Non-Conviction Based Asset Forfeiture* (Washington, DC: The International Bank for Reconstruction and Development & The World Bank, 2009), online: <http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/Stolen_Asset_Recovery.pdf>.

agenda. Asset recovery now figures prominently in commitments by the G20 and is an integral part of the G20 Anti-Corruption Strategy. Moreover, in the context of the so-called Arab Spring, the Arab Forum on Asset Recovery was launched in 2012 in support of the asset recovery efforts by Arab Countries in Transition. The StAR Initiative supported the second meeting of the Arab Forum on Asset Recovery, held in Marrakech, Morocco, in October 2013. A joint concept for activities under the Arab Forum was developed and, on that basis, a workplan for 2014 was established. The third meeting of the Arab Forum was just held in Geneva from 1-3 November 2014.⁵⁹

Only recently, the Initiative has helped return to Tunisia \$28.8 USD million from Lebanon,⁶⁰ as well as recovered assets in cooperation with France, Italy, and Spain valued at \$58 million USD.⁶¹ Compared to the billions of dollars that are stolen from countries every year by corruption, this may seem to be too little, too late. But we must not underestimate the formidable challenges faced by international financial investigations: An asset in a foreign country has to be linked to a specific suspect and to a corruption offence committed by this person. Suspects may have accounts all over the world, and, more often than not, they will not be registered under their name. Mutual legal assistance requests may have to be sent to a dozen jurisdictions with different laws and in different languages. So, I believe that, given that we only embarked on this task seven years ago, we have come a long way. But we need to manage expectations in order to avoid frustration.

III. CONCLUSION AND OUTLOOK

The UNCAC, as a powerful manifestation of the collective political will of the international community to put in place a robust framework in the fight against corruption, has achieved a lot. But, clearly, we have not yet tamed corruption. Legislators of States Parties need to establish an adequate and comprehensive legal framework to give practical effect to the relevant provisions of the UNCAC. However, the main challenge for States Parties is to improve the capacities of

59. The World Bank & United Nations Office on Drugs and Crime, “Arab Forum on Asset Recovery” *Stolen Asset Recovery Initiative* (2014), online: <<http://star.worldbank.org/star/ArabForum/About>>.

60. Jean-Pierre Brun & Richard Miron, “Tunisia’s cash-back,” *Stolen Asset Recovery Initiative* (12 April 2013), online: <<http://star.worldbank.org/star/news/tunisia%E2%80%99s-cash-back>>.

61. Michelle Kennedy, “International Efforts in Support of the Recovery of Stolen Assets” *FCPA Professor* (blog) (4 November 2015), online: <<http://fcpprofessor.com/international-efforts-in-support-of-the-recovery-of-stolen-assets/>>.

criminal justice institutions to effectively combat corruption domestically; cooperate internationally in the investigation, prosecution, and adjudication of corruption-related offences; and further enhance asset recovery mechanisms to identify, seize, and return the proceeds of crime.

In this regard, UNODC will continue to provide, upon request, specialized substantive and technical expertise to competent authorities and officials of Member States with specific emphasis on international cooperation and criminalization. The establishment of the IRM of the UNCAC provides the opportunity for collecting, systematizing, and assessing valuable information on how technical assistance needs in the above mentioned fields can be identified, and on possible ways and means to meet those needs in the context of reviewing the implementation of the Convention.

Is the IRM perfect yet? Maybe not. One thing I would personally like to see is a greater involvement of civil society and NGOs in the process. They can provide invaluable contributions and we cannot hope to tame corruption without them. Unfortunately, some States Parties are blocking any move to grant NGOs access to the meetings of the IRG. But this is symptomatic of both the challenges and the opportunities that come with the universality of the Convention. Of course, it might be easier to make progress within a like-minded group of countries. But the added value of the UNCAC lies precisely in its global reach.

We may never fully *eradicate* corruption, just like we will never be able to eradicate crime or terrorism. Maybe that is part of the price we have to pay to live in an open, free, and democratic society, and not in a police state. But, actually, the more transparent and democratic is a society, the more resilient it seems to be against corruption. And the more corruption is tamed, the more open societies can thrive. So this is why we must continue to make every effort we can to *tame* corruption, even if it seems a Sisyphean struggle.