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Transnational Corruption and the Role of International Criminal Law

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A R T I C L E I N F O

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A B S T R A C T

In an increasingly interconnected world, corruption has evolved into a transnational phenomenon that undermines democratic governance, fuels conflict, and erodes the foundations of international legal order. Even though its systemic and expansive effects, transnational corruption falls beyond the scope of international criminal law (ICL) that has historically dealt with atrocity crimes like genocide, war crimes, and crimes against humanity. This paper critically examines whether and how ICL can evolve to encompass large-scale corruption as an international crime. It explores the normative, legal, and institutional challenges involved in this transformation and assesses the political will within the international community to hold corrupt actors individually accountable on a global scale. The study argues that confronting transnational corruption with the same legal and moral urgency as traditional international crimes is essential for the legitimacy and coherence of international justice in the 21st century.

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INTRODUCTION

In an era where globalization binds states in an intricate web of economic and political interdependence, corruption has transcended national boundaries to become a truly transnational menace. This form of corruption is not incidental or marginal; it is systematic, strategic, and profoundly destabilizing. It flourishes in the legal and institutional grey zones between jurisdictions, feeding on disparities in enforcement and the calculated inaction of powerful actors. The consequences are profound: weakened democracies, eroded public trust, and an undermining of the international legal order itself.

Where once corruption was dismissed as a domestic matter, it is now recognized as a force that can distort global markets, finance conflict, and subvert justice on a planetary scale. It violates not only national laws, but the shared moral and legal principles upon which the international community purports to stand.

Yet, international criminal law (ICL) the very body of law designed to address crimes that shock the conscience of humanity remains largely silent on transnational corruption. Traditionally, international criminal law has concentrated on grave offenses such as genocide, armed conflict violations, crimes against civilian populations, and acts of aggression. These are rightly condemned as crimes against peace and the dignity of humankind. But must we not also recognize that corruption, when executed on a vast and coordinated scale, poses an existential threat to the same values? Does the siphoning of billions from public treasuries, the systematic subversion of judicial systems, and the commodification of sovereign power not warrant international criminal scrutiny?

While international instruments such as the United Nations Convention Against Corruption (UNCAC) and the OECD Anti-Bribery Convention provide vital legal frameworks, they operate primarily as mechanisms of cooperation and soft enforcement. They lack the binding force of individual criminal accountability, which is the cornerstone of ICL. As such, the global fight against corruption remains hamstrung by a lack of prosecutorial muscle.

This paper thus seeks to critically examine whether international criminal law can and should evolve to include transnational corruption within its remit. The central questions posed are:

1. Can corruption, when it undermines international peace, security and human rights, be elevated to the status of an international crime?
2. What legal and institutional reforms would be required to make such a transformation viable?
3. And most significantly, is there sufficient political and normative will within the international legal system to hold the corrupt as accountable as it does the perpetrators of mass atrocities?

By exploring these questions through a lens grounded in doctrinal legal analysis, international norms, and institutional theory, this research contends that the future legitimacy of international law depends on its willingness to confront economic crimes with the same moral urgency as it does crimes of

violence. For at stake is not only the integrity of legal institutions, but the broader credibility of international justice itself.

LITERATURE REVIEW

Transnational corruption remains a formidable challenge to international governance, posing a direct threat to the legitimacy of institutions and the rule of law worldwide. This illicit practice transcends national borders, exploiting legal loopholes and jurisdictional gaps to facilitate bribery, embezzlement, and money laundering on a global scale. In response, scholars and policymakers alike have increasingly turned to international criminal law (ICL) as a potential mechanism to hold corrupt actors accountable beyond the limitations of domestic legal systems. The interplay between transnational corruption and ICL forms a critical area of inquiry, as the international community seeks more effective tools to combat corruption's pervasive influence.

Neil Boister's An Introduction to Transnational Criminal Law (2018) is a foundational work that maps out the boundaries of transborder crimes such as corruption. Boister carefully explores the jurisdictional complexities and cooperation frameworks essential for prosecuting transnational offenders, emphasizing the evolving role of ICL in tackling these crimes. The book underscores how corruption, while traditionally treated as an economic or political issue, demands rigorous legal scrutiny at the international level to prevent impunity.

Expanding on strategies to combat corruption, Mark Pieth's edited volume Collective Action on Anti-Corruption: A New Paradigm? (2012) presents a multifaceted examination of global anti-corruption initiatives. Pieth advocates for enhanced collaboration among states, international organizations, and the private sector, arguing that collective action is vital to address corruption that is inherently transnational. This work situates ICL within a broader anti-corruption framework, highlighting how legal instruments must align with practical enforcement mechanisms to be truly effective.

Antonio Cassese's seminal book International Criminal Law (2008) provides an authoritative overview of ICL's development and its traditional focus on grave crimes such as genocide and war crimes. Cassese raises critical questions about expanding ICL's remit to include economic crimes like corruption, considering the devastating social and political consequences of unchecked corrupt practices. His report suggests revisiting the extent of international justice to include crimes against peace and democracy.

Within the socio-economic sphere, Susan Rose-Ackerman and Bonnie Palifka's Corruption and Government: Causes, Consequences, and Reform (2016) provides a comprehensive examination of the underlying drivers of corruption and its structural impacts. Their work combines empirical research with legal analysis, underscoring the necessity for comprehensive reforms that span both national legislation and international cooperation. The book's insights into the global nature of corruption reinforce the urgency for international legal responses, including criminal accountability.

Complementing these perspectives, Anne Peters' Corruption as a Violation of International Human Rights (2016) introduces a novel legal argument framing corruption as a breach of fundamental human rights. Peters' work challenges traditional legal paradigms and advocates for recognizing corruption as an international crime deserving of prosecution under human rights law frameworks. This approach adds normative weight to efforts aimed at incorporating corruption within international criminal law.

Supporting these academic works, the United Nations Office on Drugs and Crime (UNODC) report The Global Programme Against Corruption: Report on the Implementation of the United Nations Convention Against Corruption (UNCAC), 2023 provides a critical evaluation of global anti-corruption efforts. The report highlights the successes and persistent gaps in enforcing UNCAC's provisions, emphasizing that while normative frameworks exist, their enforcement often lacks teeth without robust international criminal justice mechanisms. It stresses the vital role that international cooperation and ICL can play in closing enforcement gaps, particularly in prosecuting complex, cross-border corruption schemes.

Together, these scholarly contributions and institutional analyses illuminate the evolving landscape of international efforts against transnational corruption. They collectively underscore that while international criminal law is still adapting to address corruption effectively, its potential to serve as a powerful instrument for justice and deterrence is increasingly recognized within the global legal order.

METHODOLOGY

This study adopts a qualitative legal research approach to examine how international criminal law (ICL) engages with the challenge of transnational corruption. It investigates the extent to which current international legal instruments address cross-border corruption, the gaps that persist in enforcement mechanisms and the potential for ICL to evolve in response to complex economic crimes. The research is primarily doctrinal in nature, focusing on the analysis of legal texts, including treaties, customary international law and judicial decisions.

RESULT AND DISCUSSION

Definition

For the purposes of this paper, corruption refers to the exploitation of public authority for individual benefit. In other words, it involves the misuse of an official role, title, or position by a government functionary to gain personal advantage. Based on this definition, corrupt practices can include: (a) bribery, (b) coercion, (c) deceit or fraudulent acts, (d) misappropriation of funds, (e) favoritism based on family ties (nepotism), (f) preferential treatment for close associates (cronyism), (g) personal use of public assets or resources, and (h) trading in influence.

Some of these corrupt actions, like fraud or embezzlement, can be carried out unilaterally by an individual in a position of power. Others, such as bribery,

extortion, and influence trading, typically require the interaction of two parties the provider and the recipient of the illicit advantage.

This form of bilateral corruption can arise in several contexts, commonly including the following scenarios:

- Public procurement: Illicit payments may determine who is awarded a government contract, the contract's terms, or the arrangements with subcontractors during project execution.
- Distribution of public resources: Bribes can affect the assignment of financial advantages, such as access to subsidized credit or preferential pricing and currency exchange rates, particularly where regulatory controls or multiple exchange systems exist. Corrupt payments may also facilitate acquisition of permits to participate in high-demand sectors or access benefits like elite educational institutions, low-cost healthcare, public housing, or stakes in state-owned enterprises undergoing privatization.
- Public revenue systems: Bribery may lead to reductions in the amounts owed by individuals or companies in taxes, tariffs, administrative fees, or utility charges, thereby distorting the revenue collection system.9
- Avoiding delays and bypassing regulations: Payments may be made to accelerate bureaucratic processes like obtaining permits and approvals for lawful activities. This is often termed "facilitation payments," aimed at expediting sluggish administrative procedures. In extreme regulatory environments, where compliance is overly complex or obstructive, corruption may be perceived as the only means to proceed.
- Manipulating judicial or regulatory outcomes: Financial incentives may be offered to discourage regulatory bodies from enforcing laws or to ignore infractions involving environmental damage, public health risks, or safety violations. Likewise, corruption can sway judicial decisions, granting undue advantage to one party over another in legal or administrative disputes.

The Potential Elevation of Corruption to an International Crime: Implications for Peace, Security and Human Rights

Corruption, the exploitation of delegated authority for illegitimate gain, maintains a multifaceted connection with human rights. Human rights primarily benefit individuals, in "recognition of the inherent dignity" of each human being, to cite the Universal Declaration Of Human Rights (UDHR). In contrast, Corruption represents a structural menace, endangering the cohesion and safety of communities, eroding democratic institutions and principles, compromising moral standards and fairness, and threatening long-term development as well as the integrity of legal systems , as the preamble of the United Nations Convention against Corruption (UNCAC) puts it.

Corruption, when it becomes deeply entrenched in political and legal systems, poses significant threats to international peace, security, and human rights, raising critical questions about whether it should be treated as an international crime. Leading scholars and legal institutions have examined this issue extensively. Anne Peters, in her widely cited work "Corruption as a Violation of International Human Rights" published in the European Journal of

International Law, argues that systemic corruption violates Essential human entitlements, including access to education, healthcare, and impartial judicial proceedings, are affected warranting acknowledgment within international legal structures. Peters highlights that when corruption undermines state institutions, it creates an environment in which human rights violations become widespread, and access to justice becomes nearly impossible.

Supporting this viewpoint, Kevin E. Davis engages with Peters' argument in his own article and challenges whether reclassifying corruption as a human rights violation enhances enforcement or merely re-labels a complex issue without adding practical tools for accountability. He acknowledges, however, the growing international consensus that corruption is not simply a matter of national governance but a transnational threat that requires international legal solutions. Similarly, the Basel Institute on Governance also highlights in its research reports that the transnational scope of contemporary corruption schemes particularly those linked to global corporations and political leaders requires enhanced global collaboration and possibly the establishment of criminal liability under international law.

The United Nations Convention against Corruption (UNCAC) has been a cornerstone document, establishing a global legal framework for preventing and criminalizing corruption. While UNCAC does not elevate corruption to the level of an international crime akin to genocide or war crimes, its structure, principles, and emphasis on international cooperation lay the groundwork for such recognition. Transparency International, in several of its annual reports and policy briefs, has stressed how corruption destabilizes fragile states, erodes democratic institutions, and fuels conflict particularly in regions where governance is weak and rule of law is absent.

Further, legal theorists have explored the potential for expanding the jurisdiction of the International Criminal Court to include grand corruption or "kleptocracy" as a crime under international law. This idea is grounded in the belief that when corruption reaches a level that it causes mass human suffering, displaces populations, or undermines international peacekeeping efforts, it can no longer be treated as a domestic issue. In this regard, corruption is increasingly seen not just as unethical governance but as a structural form of violence and repression that threatens international legal order.

Therefore, the existing literature supports a growing normative shift: recognizing the devastating consequences of transnational corruption on peace, security, and human dignity, and exploring ways to embed its criminalization within the framework of international criminal law.

Legal and Institutional Reforms Necessary for Elevating Corruption to an International Crime

From a worldwide perspective, it is highly alarming that projections indicate hundreds of billions of euros are funneled into unlawful payments each year. Corruption, misappropriation, deceit, and tax evasion are estimated to deprive developing economies of nearly USD 1.26 trillion annually. Such an immense financial drain could lift approximately 1.4 billion individuals currently living under the poverty benchmark of $1.25 per day above it and maintain that improvement for at least six years. One of the most distressing

examples of the far-reaching consequences of corruption is its impact on healthcare systems across the globe: over 7% of total health expenditure is lost to corrupt activities, as reported in The Ignored Pandemic by Transparency International in 2019. The report, drawing from data in 178 countries, found that more than 140,000 child fatalities each year can be attributed to corruption-related failures.

At the global governance level, the United Nations Convention against Corruption (UNCAC), adopted in 2003, establishes a robust legal and policy structure encompassing prevention strategies, the criminalization of corrupt acts, enforcement mechanisms, international cooperation, recovery of unlawfully acquired assets, and capacity-building assistance. In parallel, Sustainable Development Goal 16 (focused on Peace, Justice, and Strong Institutions) reinforces a global commitment to markedly curb all manifestations of bribery and corruption.

International Criminal Court

On 17 July 1998, 120 States adopted a statute in Rome known as the Rome Statute of the International Criminal Court ("the Rome Statute") establishing the International Criminal Court. For the first time in the history of humankind, States decided to accept the jurisdiction of a permanent international criminal Court for the prosecution of the perpetrators of the most serious crimes Committed in their territories or by their nationals after the entry into force of the Rome Statute on 1 July 2002.

The International Criminal Court is not a substitute for national courts. According To the Rome Statute, it is the duty of every State to exercise its criminal Jurisdiction over those responsible for international crimes. The International Criminal Court can only intervene where a State is unable or Unwilling to genuinely carry out the investigation and prosecute the perpetrators. The primary mission of the International Criminal Court is to help put an end To impunity for the perpetrators of the most serious crimes of concern to the International community as a whole, and thus to contribute to the prevention of Such crimes.

The possibility of classifying corruption as an International crime, particularly when it undermines international peace, security, and human rights, is an evolving subject in international legal scholarship. While corruption is primarily addressed through national legal systems and international treaties aimed at prevention and enforcement, there is growing support for its recognition within the framework of International Criminal Law (ICL).

ICL, as developed through instruments such as the Rome Statute of the International Criminal Court (ICC), traditionally focuses on core crimes: genocide, crimes against humanity, war crimes, and the crime of aggression. However, scholars like Mark Freeman and Nicola Henry have pointed out that large-scale, systemic corruption often facilitates or exacerbates these very crimes by weakening governance institutions, obstructing justice systems, and enabling elite impunity. Such structural damage can result in mass violations of human rights, especially in fragile or conflict-prone states, giving credence to

the argument that certain forms of corruption may qualify as crimes under ICL if redefined orprevention.

United Nations Convention against Corruption

The United Nations Convention against Corruption (UNCAC) represents the inaugural international treaty that systematically and comprehensively tackles the issue of corruption on a global scale. Previously, corruption, as a tool of organized Crime, was addressed in 2000 by the United Nations Convention against Transnational Organized Crime. Within the General Assembly there emerged a common understanding that there was the need for an international legal instrument a Worldwide framework to combat corruption" (Heimann & Dell 2006: 1). The Convention became legally binding on 14 December 2005, following its ratification by 30 countries. By 31 January 2014, a total of 169 states had formally joined as parties to the agreement.

The objective of the UNCAC is to promote and strengthen measures to combat corruption, Both domestic and international. It is a very comprehensive and implementation-demanding Document, encompassing the most advanced laws and procedures. It is unsurprising that the Convention refrains from offering a specific definition of corruption. This exclusion was, in part, due to the lack of agreement among participating states on a common definition. Moreover, the ambiguity was intentional, designed to provide adaptability for incorporating new or developing forms of corrupt behavior over time. UNCAC calls for a much wider range of offences than other anti-corruption Conventions and goes well beyond defining corruption mainly as bribery.

The United Nations Convention against Corruption (UNCAC) is structured around four foundational components: preventive measures, the criminalization of corrupt acts, transnational collaboration, and the recovery of unlawfully acquired assets. The majority of the UNCAC requirements are practical, however it is Necessary to do quite a lot in the way of realizing them. States, becoming party to the UNCAC, voice their willingness and desire to resist corruption, but the positive effects of such Activity are lost quickly, if governments do not take the fulfilment of convention obligations Seriously. It requires from the governments of the countries that they join to achieve at least The following:

- Develop and implement strategic policies and procedures aimed at preventing corruption;
- Create and maintain specialized institutions dedicated to anti-corruption efforts;
- Introduce and uphold ethical standards and codes of conduct for individuals in public service;
- Design and manage public procurement systems and financial administration frameworks that emphasize transparency, fairness, and merit-based selection;
- Set up mechanisms to ensure regular and transparent public disclosure of government activities and expenditures;
- Encourage and facilitate meaningful public engagement in efforts to prevent and combat corruption.

Most of the obligations require State Parties to enact new laws or incorporate/amend the Existing laws. However, according to Rajesh Babu (2006), obligations, enlisted in different Provisions of the Convention, do not carry the same Level of power. Babu analyses those Provisions and states that here are Measures, which could be classified as 'mandatory Consisting of obligations to legislate; measures that State Parties 'must consider applying or Endeavour to adopt"; and measures that are 'optional". In case the phrase used in a specific Provision is "'each State party shall adopt", the provision is mandatory in nature and the States Are bound to legislate. On the other hand, if the phrase used is "shall consider adopting" or "shall endeavour to", the States are only urged to consider adopting a certain measure or to Make a genuine effort to make its legal system compatible. Whereas in the case of optional Provisions, the phrase used is "may adopt". Several articles also contain safeguard clauses Which limits the obligations of State parties in case of conflicting "constitutional or Fundamental rules".

Although UNCAC offers valuable opportunities and direction for shaping national anti-corruption strategies, it also introduces significant challenges such as the risk of overwhelming implementation efforts by attempting to launch numerous anti-corruption initiatives simultaneously. In order to address the Multifaceted phenomenon of corruption, Article 5 of UNCAC stipulates, among other Provisions, that "In line with the core principles of their respective legal frameworks, each State Party is required to formulate, implement, or uphold comprehensive and well-coordinated anti-corruption strategies. These strategies should encourage public engagement and embody key values such as adherence to the rule of law, sound governance of public resources and institutions, ethical conduct, openness, and accountability". As a fundamental preventive provision, Article 5 puts emphasis on a Strategic approach and is a gateway for the implementation of UNCAC provisions. This paper reflects the conviction of the States Parties that anti-corruption measures Should be embedded in coordinated policies instead of being carried out in isolation or an ad Hoc manner. It also acknowledges that combating corruption cannot be limited to purely technical remedies targeting specific structural deficiencies. Rather, it places emphasis On the realm of public policy and thus acknowledges the inherently political nature of anti-Corruption cons.

The ratification of the UNCAC signified a pivotal moment In the global campaign against corruption. It stands as the United Nations' most extensive and impactful treaty dedicated to combating corruption in all its forms. The United Nations and its Member States by adopting The Convention within a short span of two year have proven that the international community Means business in relation to its fight against corruption.

The Convention may Not end corruption, nor S it perfect. It may also lack the power to Enforce its provisions, but the Convention gives the UN the mandate to encourage civil Society actions and to devote resources to strive to ensure that the fight against corruption is Waged with vigor. The United Nations Convention against Corruption (UNCAC) stands as the most far-

reaching international instrument ever designed to address corruption. Setting itself apart from earlier initiatives, the Convention possesses the distinct capability to drive and sustain a worldwide anti-corruption agenda, impacting both public sector governance and private sector practices across both developing and industrialized nation.

In 2006, Transparency International established a research group to assess how the Convention was being put into practice. Upon completing its review, the group emphasized the importance of establishing a robust and effective mechanism for ongoing oversight and evaluation. After slow progress of signatories developing a consensus about the Nature of the review mechanism and its terms of reference, the deadlock was resolved in November 2009 at the State Parties meeting in Doha, where the international community Called for the adoption of an "effective, transparent and inclusive mechanism for the review of Implementation" and signed Resolution 3/1, titled ' Review Mechanism'. In line with Article 42 of the terms outlined in the Review Mechanism, the Implementation Review Group was formed as an inclusive intergovernmental body composed of States Parties. Operating under the authority of the Conference, it is required to report directly to it. The Group's key functions involve monitoring the progress of the review mechanism, identifying challenges encountered and successful strategies adopted, and assessing the need for technical support to ensure the Convention is implemented effectively.

UNCAC offers a comprehensive reference framework for anti-corruption work and it provides New opportunities to orient policies and anti- corruption measures at national levels. However, It also poses considerable new challenges. The temptation to undertake too many anti-Corruption measures at the same time may be reinforced, and the drive to amend or pass ever new laws in line with high international standards might draw attention away from effective Implementation of what is already in place (even if it does not live up to the highest Standards). In short, implementation of UNCAC could become an end in itself instead of Serving as vehicle for strengthening governance systems, accountability and public integrity.

The OECD Anti-Bribery Convention and its Role in Preventing Transnational Corruption

The OECD Anti-Bribery Convention, formally titled the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, is a landmark international legal instrument specifically targeting the supply side of bribery that is, the act of offering or giving bribes to foreign public officials by individuals or entities engaged in international business. Adopted in 1997 and entered into force in 1999, the Convention represents a major step in harmonizing the criminalization of foreign bribery across OECD member states and other adherents.

The Convention does not focus broadly on all forms of corruption, but rather zeroes in on one precise and strategic target: the bribery of foreign public officials for the purpose of obtaining or retaining business advantages. This specific focus is intentional. While other international frameworks like UNCAC address both public and private corruption, the OECD Convention addresses

the global flow of illicit payments from multinational corporations to foreign government officials, thus cutting off a major driver of transnational corruption.

Prevention mechanisms under the Convention include:

- Mandatory Criminalization: Signatory states are legally obligated to criminalize the bribery of foreign public officials. This includes both direct and indirect forms of bribery.
- Corporate Liability: The Convention requires states to establish liability for legal persons, meaning companies, not just individuals, can be prosecuted or held accountable for acts of bribery.
- Accounting and Auditing Standards: A key preventive feature is the requirement for accurate bookkeeping and prohibition of off-the-books accounts, false invoices, or other mechanisms that conceal bribery. These transparency rules are enforced through independent audits and internal control systems.
- Penalties and Enforcement: Signatory countries must impose effective, proportionate, and dissuasive criminal penalties for bribery offenses. This includes confiscation of the bribe and any proceeds gained from the transaction.
- Mutual Legal Assistance and Cooperation: The Convention strengthens international cooperation in investigation and prosecution of foreign bribery. States are required to assist each other in gathering evidence and ensuring accountability.
- Monitoring and Peer Review: One of the Convention's most effective innovations is the rigorous peer review process carried out by the OECD Working Group on Bribery. This mechanism reviews each country's implementation, identifies gaps, and issues recommendations, thereby ensuring constant pressure for reform and compliance.

This Convention has proven effective not merely because of its legal provisions but due to its peer pressure model and reputational consequences for non-compliance. For countries competing for foreign investment and international legitimacy, failure to implement the Convention's provisions can result in diplomatic and economic costs.

In combating transnational corruption, the OECD Anti-Bribery Convention closes a major legal loophole that had long allowed corporations to operate with impunity across borders. By standardizing anti-bribery legislation, it levels the playing field in global commerce and discourages businesses from using corruption as a competitive tool. The Convention's success lies not in criminalization alone, but in creating a normative shift in international business practices where corruption is increasingly seen as a liability rather than an advantage.

The Convention's emphasis on corporate liability, record-keeping, and enforcement complements UNCAC by targeting private-sector actors who often escape accountability under domestic anti-corruption laws.

To elevate corruption to the status of an international crime, substantial legal reforms would be necessary. These include either amending the Rome Statute to include corruption as a standalone crime or drafting a new

multilateral treaty that provides for international jurisdiction and enforcement. This would require international consensus on the definition, threshold, and prosecutorial criteria for corruption as an international crime—distinguishing between petty and grand corruption, and focusing on systemic, high-level practices which lead to violations of fundamental human rights and undermine the stability of the international legal framework.

Institutional reforms would involve strengthening international investigative bodies, such as the ICC or the creation of a dedicated international anti-corruption tribunal. Enhanced cooperation mechanisms between states, independent monitoring agencies, and whistleblower protections would also be vital to ensure effective enforcement. Moreover, embedding anti-corruption norms into existing international security and human rights mandates—such as those of the UN Security Council and regional human rights courts—would create a broader institutional framework for deterrence and accountability.

In sum, while ICL currently does not classify corruption as an international crime, instruments like UNCAC and the OECD Anti-Bribery Convention provide foundational legal infrastructure and international legitimacy for future reforms. These frameworks support the argument that certain types of corruption especially those with grave consequences for peace and human rights warrant reclassification and prosecution under international criminal law.

The Political and Normative Will to Hold the Corrupt Accountable within the International Legal System

The global anti-corruption normative framework emerged prominently in the 1990s, driven by three main factors: the post–Cold War international order, enhanced global information sharing, and pressure from international/domestic actors and NGOs such as Transparency International. This shift saw corruption increasingly framed as a global issue needing coordinated legal responses.

An Important early development in national anti-corruption law was the introduction of the U.S. Foreign Corrupt Practices Act (FCPA) in 1977. This legislation prohibited the act of bribing officials of foreign governments and imposed strict obligations on corporations to maintain transparent and accurate financial records. Over time, the fundamental principles established by the FCPA were adopted and integrated into international legal frameworks.

The OECD Anti-Bribery Convention (1997), driven by the U.S. and enforced from 1999, criminalized the bribery of foreign officials in international business transactions. This marked a significant shift, as bribery once even tax-deductible in places like Germany became internationally prosecutable.

Transparency International, founded in 1993, institutionalized anti-corruption awareness through tools like the Corruption Perceptions Index (CPI) and strategies aimed at reforming both governmental and business practices.

At the regional level:

- In 1996, the Organization of American States (OAS) formally endorsed the Inter-American Convention Against Corruption, signaling a collective regional effort to address corruption.

- The European Union advanced its anti-corruption agenda by adopting the 1995 Convention aimed at safeguarding the financial interests of the European Communities, along with its supplementary protocols, and later introduced the 1997 Convention targeting corrupt practices more broadly.
- The Council of Europe adopted both the Criminal Law Convention on Corruption (1998) and the Civil Law Convention on Corruption (1999), alongside the creation of GRECO (1999), a compliance monitoring body with 49 members.

On the African continent:

- The establishment of the SADC Protocol and the ECOWAS Protocol in 2001, followed by the African Union Convention on Preventing and Combating Corruption in 2003, played a pivotal role in strengthening Africa's legal and institutional mechanisms to tackle corruption across the region.

These conventions generally require states to criminalize corrupt practices, adopt preventive measures (e.g., codes of conduct, transparency in public service, anti-money laundering mechanisms), and establish independent anti-corruption bodies. However, many of their provisions remain non-binding, leading to debates on the genuine efforts by states in implementation.

The Political and Normative will to Hold the Corrupt Accountable within the International Legal System

Holding corrupt individuals accountable at the international level requires not only legal mechanisms but also strong political and normative will among states and institutions. Political will refers to the commitment of governments to combat corruption, while normative will pertains to the acceptance of anti-corruption as a shared moral and legal obligation within the international legal system.

Despite the existence of frameworks like the United Nations Convention Against Corruption (UNCAC) and the OECD Anti-Bribery Convention, their enforcement often depends on the readiness of individual states to comply. The problem arises when powerful individuals or institutions are implicated, leading to selective application or non-compliance. This shows a gap between the normative development of anti-corruption principles and actual political action. For example, although UNCAC requires states to criminalize various forms of corruption and enhance international cooperation, not all state parties enforce these provisions with equal rigor.

The International Criminal Court (ICC), while currently focused on grave crimes such as genocide and war crimes, has yet to include corruption within its jurisdiction. For corruption to be treated similarly, the Rome Statute would need to be amended, which demands consensus from state parties—a challenging prospect in the current geopolitical climate. Moreover, many states that might be targets of anti-corruption investigations are reluctant to cede sovereignty to international bodies.

From a normative perspective, there is a growing acknowledgment that corruption poses a serious risk to global peace and security. Corruption undermines democratic institutions, enables human rights abuses, and can contribute to conflict and instability, especially in fragile states. However, this

recognition has not fully translated into robust legal obligations at the international level.

Institutions like Transparency International, GRECO, and civil society organizations have played a crucial role in shaping norms and pressuring governments. Yet, without binding enforcement mechanisms, much depends on voluntary compliance. The Siemens bribery scandal, for instance, highlighted both the prevalence of corruption and the need for effective international legal action.

To strengthen accountability, a unified and binding international anti-corruption legal regime, supported by independent enforcement bodies, is necessary. Political will can be reinforced by civil society activism, public pressure, and incentives for compliance, such as linking anti-corruption efforts to international aid or trade agreements.

CONCLUSIONS AND RECOMMENDATIONS

Recognize grand corruption as an international crime: Expand the jurisdiction of international criminal law to include large-scale, systemic corruption that undermines state institutions, violates human rights, and threatens international Stability and safety, akin to the classification of atrocity crimes outlined in the Rome Statute.

Develop a universally accepted definition of transnational corruption: Create a precise legal definition that captures the complexity of cross-border corruption involving state actors, multinational corporations, and illicit financial flows, ensuring consistency in international prosecutions.

Amend the Rome Statute to include corruption-related offenses: Propose formal amendments to the Rome Statute to include specific categories of transnational corruption, particularly when it leads to humanitarian consequences such as deprivation of essential services or mass displacement.

Establish a dedicated anti-corruption investigative body under the ICC: Form a specialized unit within the ICC with technical expertise in financial forensics, asset tracing, and transnational networks, to focus exclusively on investigating and prosecuting complex corruption cases.

Strengthen mutual legal assistance treaties (MLATs): Enhance existing MLAT frameworks to improve cooperation between countries in gathering evidence, extraditing suspects, and freezing illicit assets related to transnational corruption.

Introduce universal jurisdiction for corruption-related crimes: Enable national courts to prosecute transnational corruption cases even when the offenses were committed outside their territory, particularly in instances of grand corruption involving human rights violations.

Create international standards for corporate liability in corruption: Develop legal frameworks to hold corporations accountable under international law for their complicity in corrupt practices, including bribery of public officials and facilitation of illicit financial flows.

Mandate asset recovery and reparations mechanisms: Require international criminal proceedings involving corruption to include robust asset

recovery and restitution mechanisms, returning stolen funds to the affected states or communities.

Promote judicial integrity and independence globally: Support institutional reforms and international benchmarks to ensure that domestic judiciaries are insulated from political pressure and capable of prosecuting corruption effectively and impartially.

Protect whistleblowers and corruption witnesses at the international level: Develop global standards and safe reporting mechanisms to protect individuals who expose transnational corruption, ensuring their safety, anonymity, and legal immunity.

Enhance transparency in international finance systems: Advocate for tighter international regulations to monitor and report suspicious financial activities, including the closing of loopholes in tax havens and anonymous shell companies.

Establish an international anti-corruption court or tribunal: Propose the creation of an independent judicial body dedicated to hearing cases of grand corruption, particularly when national systems are unwilling or unable to prosecute.

Encourage political leadership and international advocacy: Mobilize political will through multilateral forums (e.g., UN, G20) to prioritize anti-corruption as a core element of global governance and sustainable development.

Integrate anti-corruption efforts into transitional justice frameworks: Acknowledge the role of corruption in fuelling conflict and repression, and ensure accountability for corrupt acts during peace processes and institutional rebuilding.

Support civil society and media in anti-corruption monitoring: Empower NGOs, investigative journalists, and academic institutions to contribute to evidence collection, awareness campaigns, and international pressure for accountability in high-profile corruption cases.

As the international community grapples with the challenges of globalization, transnational corruption has emerged not merely as a threat to good governance, but as a profound challenge to the very architecture of international law and justice. This paper has argued that large-scale corruption when it destabilizes states, fuels conflict, corrodes democratic institutions, and undermines human rights must be reconsidered not merely as a matter of national concern, but as a candidate for international criminalization.

While traditional international criminal law has been rightly focused on atrocity crimes, the evolving nature of global threats compels a broader understanding of what constitutes a crime against humanity. Systematic corruption, especially when orchestrated by political and corporate elites across borders, results in massive socio-economic harm, perpetuates impunity, and erodes the legitimacy of both domestic and international institutions. The diversion of public wealth, manipulation of judicial processes, and commodification of state functions are not isolated malfunctions they are structural assaults on the rule of law.

International legal frameworks such as UNCAC and the OECD Anti-Bribery Convention have laid a crucial foundation by establishing norms, promoting cooperation, and encouraging preventive measures. However, their reliance on soft-law mechanisms and absence of robust individual accountability mechanisms render them insufficient to address the systemic nature of transnational corruption. The lack of a centralized prosecutorial authority with jurisdiction over corrupt actors acting across borders continues to shield the powerful from meaningful accountability.

This research therefore concludes that the inclusion of transnational corruption within the remit of international criminal law is both necessary and justified. However, this shift would require a transformative approach—one that involves redefining the scope of international crimes, reforming international institutions to provide enforcement capacity, and most crucially, cultivating the political and normative will among states to confront corruption as a threat to global justice.

This progression would not merely bridge the existing accountability void within the international legal system, but would also reinforce the core tenets of international law namely, equal treatment under the law, the safeguarding of human dignity, and the global commitment to justice. If international criminal law is to remain responsive to the most serious threats to peace and security, then it must evolve beyond its traditional boundaries and confront the economic crimes that now lie at the heart of global instability.

FURTHER STUDY

This research still has limitations so further research is still needed on this topic.

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