



**PROCEEDINGS OF THE WORKSHOP ON AU
CONVENTION ON PREVENTING AND COMBATING
CORRUPTION AND RELATED OFFENCES**

Organised by

**AFRICAN PARLIAMENTARIANS NETWORK AGAINST
CORRUPTION
UGANDA CHAPTER**

In joint collaboration with

TRANSPARENCY INTERNATIONAL UGANDA

GRAND IMPERIAL HOTEL

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Abbreviations and Acronyms

ACCU	Anti- Corruption Coalition of Uganda
APNAC	African Parliamentarians Network against Corruption
AU	African Union
DEI	Directorate of Ethics and Integrity
IGG	Inspector General of Government
NEPRO	Network of Professional Organisations
PAC	Public Accounts Committee
TIU	Transparency International Uganda
UDN	Uganda Debt Network

TABLE OF CONTENTS

Workshop Organisation.....	4
Background to the Workshop.....	4
Workshop Objectives.....	4
Workshop Participants.....	4
Workshop Methodology.....	4
Workshop Resolutions.....	5
Workshop Proceedings.....	6
Climate setting.....	6
Opening Remarks by Chairperson APNAC-U.....	6
Opening Remarks by Hon. Lady Justice Faith Mwendha, IGG.....	6
Presentations	
Why Corruption has persisted in Uganda.....	7
The AU Convention on Combating Corruption and Related Offences; A remedy against Corruption in Uganda.....	8
The Role of Civil Society in Domesticating Anti-Corruption Conventions And Related Offences.....	10
Annex 1	
Background Remarks by Hon. Sarah Nyombi, Chairperson APNAC-Uganda.....	14
Annex 2	
Opening Remarks by Hon. Lady Justice Faith K. Mwendha, IGG.....	16
Annex 3	
Presentation by Hon. Okulo-Epak: Why Corruption has persisted in Uganda.....	18
Annex 4	
Presentation by Edmund Paul Kalekyezi: The AU Convention on Combating Corruption and Related Offences: A remedy against Corruption in Uganda.....	27
Annex 5	
Presentation by Zie Gariyo: The role of Civil Society in Domesticating Anti-Corruption Conventions and Related Offences.....	32
Annex 6	
Workshop Programme.....	36
Annex 7	
List of Participants.....	37

WORKSHOP ORGANISATION

Background to the Workshop

This report covers proceedings of the one-day workshop organised by APNAC-Uganda in joint collaboration with TI Uganda for Civil Society on the AU Convention on Combating Corruption and Related Offences, held on 30th August 2005 at Grand Imperial Hotel, Kampala, Uganda. The workshop was officially opened by Hon. Lady Justice Faith Mwendha, the Inspector General of Government (IGG).

Workshop Objectives

- Raise public awareness and generate public debate on the legal and institutional capacity of Uganda to fight corruption
- Identify the loopholes, which facilitate the persistency of corruption in Uganda and generate strategies to address them,
- Raise awareness about the AU convention and the roles of various stakeholders in the implementation of its provisions.

Participants

The workshop was attended by 67 participants, drawn from Donor Organisations, Network organisations, Government Agencies, Media related organisations, Members of Parliament, International Organisations, and a Consortium of indigenous organisations and the Press.

Workshop Methodology

The workshop was divided into four (4) sessions. For each session, a paper was presented followed by a plenary discussion.

Mr. Charles Mubbale, National Programme Manager TI Uganda, chaired the first session. In this session, Hon. Okullo Epak, Member of Parliament, Oyam South, and also Chairperson PAC made a presentation on “Why Corruption has Persisted in Uganda”.

In the second session, chaired by Prof. Foster Byarugaba, Board Member TI Uganda, a paper on the “African Convention on Combating Corruption and Related Offences: A Remedy against Corruption in Uganda,” was presented by Mr. Edmund Paul Kalekyezi, a Senior Principal Inspectorate Officer, Inspectorate of Government.

In the third session chaired by Mr. Deo Nkuzingoma, Chairperson ACCU and also Executive Director, NEPRO, Mr. Zie Gariyo, Advisor UDN, presented a paper on “The Role of Civil Society in Domesticating Anti-Corruption Conventions and Related Offences.”

The last session, chaired by Mr. Charles Mubbale featured drawing of recommendations from participants on how to stem the campaign against corruption in Uganda.

WORKSHOP RESOLUTIONS

Detection and Prevention of Corruption

- Appointment committees should be set up comprising members of the civil society to vet people appointed to public offices.
- External Monitoring by donors should be strengthened through external audits
- Procurement systems need to be strengthened.
- Whistles blowers should be rewarded
- Increased remuneration for staff of anti-corruption institutions.
- Independent citizen monitoring should be strengthened through a campaign on service charters.
- Simple feedback mechanisms should be developed for citizens to report corruption cases. This can be through Citizen report cards.
- Integrity awards should be given to the least corrupt ministry and personality of the year.

Punishment

- People implicated of corruption should be blacklisted.
- People convicted of corruption should be barred from holding any office
- To recover monies lost in corruption, there should be money repayment and property confiscation from the convicted parties.
- A book of shame should be published annually to expose the corrupt.

Cooperation in the fight against corruption

- Collaborative effort among civil society members needs to be enhanced.
- A government-civil society partnership should be established.
- There is need for more international cooperation in extradition and legal assistance of corrupt persons.

Education and Awareness

- Ethics, Integrity and Accountability should be included in the educational Curriculum.
- Anti-Corruption clubs should be introduced in schools
- There is need to increased participation and involvement of religious leaders in moral regeneration.
- Institutions should develop client charters.
- There is need for a heightened usage of the press.
- Civic education among the citizenry.
- There is need for increased use of street theatres, songs, dance and drama in raising anti-corruption awareness.
- Increased monitoring from the grassroots level.

WORKSHOP PROCEEDINGS

Climate Setting by Mr. Charles Mubbale, National Programme Manager, TI Uganda

He welcomed participants to the workshop, and acknowledged the presence of the guest of honour, Hon. Lady Justice Faith Mwendha (IGG) and other dignitaries. He communicated that the workshop had drawn participants from donor agencies, network organisations, government agencies, media related organisations, Members of Parliament, International Organisations, and from indigenous organisations and members of the press.

Mr. Mubbale appreciated the large turn up of the participants, announced the administrative arrangements of the workshop and expressed his hopes for an engaging discussion of the issues on the agenda.

Opening Remarks by Hon. Sarah Nyombi, Chairperson APNAC- Uganda

She explained the rationale of the project on the AU Convention and gave an overview of the partnership arrangement between APNAC-U and TI Uganda in running the project, its goal and the specific objectives. She informed participants that the workshop was the 2nd in a series of workshops and other activities to be undertaken under the project.

She commended Uganda government for signing and ratifying the Convention and called upon members of civil society to create awareness and lobby for its integration into the current national legislation on corruption. *(See Annex 1 for full presentation)*

Opening Remarks of Hon. Lady Justice Faith K. Mwendha, IGG

She took cognizance of the participant's efforts and vigilance in the fight against corruption and observed that while Uganda, world over, has been hailed for its success against the spread of HIV/AIDS it is among the worst countries in the fight against corruption.

She was apprehensive that although Uganda's ranking according to Transparency International CPI index has been improving, there has been no significant improvement on the score. She observed that corruption is a threat to a peaceful and stable state as it erodes the moral fabric, subverts the rule of law and leads to economic stagnation and under development.

The IGG intimated that corruption has continued to rise in Uganda and hence the need for systematic measures to root it out. She reiterated that the AU convention offers great opportunities for the fight against corruption in Uganda.

She advised that for it to be more effective;

- The state must translate the commitments it made by signing the convention through domesticating it.
- Civil society must be vigilant in monitoring and holding leaders accountable.

She urged the public to assert itself and say “NO” to corruption whenever it is found. The IGG cautioned the public not to sell their liberty by surrendering to corruption and called upon politicians not to bribe voters when seeking election as this compromises honesty, integrity and the process of building a strong ethical culture which she noted is lacking in Uganda. (*See annex 2 for full presentation.*)

PRESENTATIONS

Presentation 1

WHY CORRUPTION HAS PERSISTED IN UGANDA

*Hon Dr. Y.Okulo- Epak, MP,
Oyam County South and Chairman, Public Accounts Committee of Parliament*

In his presentation, Hon. Epak gave a diagnostic analysis of the causes of corruption in Uganda and the legal and institutional framework to fight it. He defined corruption as the misuse of public power or position for private gain and acquisitions of positions and possessions by unfair means. He noted that corruption manifests itself in various forms such as bribery, nepotism, patronage, influence and outright plundering of resources among others.

The presenter noted that the major challenge to reforms in Uganda is Corruption and that it has changed in character, magnitude and mode. He added that corruption affects the procurement process of goods and services and the lack of transparency and accountability is itself a manifestation of corruption.

He noted that the Constitution of Uganda 1995, under the National Objective and Directive XXVI mandates Parliament to monitor the disbursement of public funds. He noted that although PAC is the most powerful committee of Parliament, it has no powers to impose sanctions, no powers to implement its findings and entirely depends on the investigation of the office of the Auditor General. He observed that while Parliament is mandated to monitor utilisation of public funds, it stops at making recommendations to the executive and other organs and therefore the cooperation of the executive is very vital for the effectiveness of Parliament.

He reported that the 6th Parliament was able to censure two (2) ministers on instances of corruption but the same persons again bounced back as ministers in the 7th parliament, a factor he attributed on the non-cooperativeness of the executive. He noted that Uganda has enacted many anti-corruption laws but expressed his disappointment that these are not eradicating and not even reducing corruption.

The presentation also examined the effectiveness of the current anti-corruption institutions and legislations in combating corruption in Uganda and at the real versus perceived causes of Corruption in Uganda. (*See Annex 3 for full presentation.*)

Plenary discussion of the Paper

- Corruption in public service can be attributed to the meagre salaries given to public servants.
- While the opposition is in a better position to fight corruption, in Uganda this has not been achieved. We don't have a clear cut boundary between members of the opposition and the ruling party.
- The office of the DEI's has reviewed the Prevention of Corruption Act 1970 Cap 1 and 2 to expand the definition of corruption. The review prescribes further offences on illicit enrichment. The department is also in the process of enacting 2 legislations i.e. the Whistle Blower and the Quintum-Act which focuses on rewarding whistle blowers.
- Although the office of the Inspectorate of Government has done a good job to fight corruption, it is constrained by the non-implementation of its recommendations. Often times cases investigated don't lead to prosecution and yet the recommendations made are very effective.
- Participants cautioned that the question of political will needs to be given serious attention. A demand was made that the revisions of the law currently being made by the office of the DEI should consider enforcement and punishment of cases of corruption.
- The major hindrance to a successful crusade against corruption in Uganda is the lack of political will. Participants called for the public servants who are accused of corruption to be relieved of their positions.
- To fight corruption, there is need to build a critical mass able to force government to act on corruption.

Presentation 2

THE AFRICAN UNION CONVENTION ON COMBATING CORRUPTION AND RELATED OFFENCES: A REMEDY AGAINST CORRUPTION IN UGANDA

*Edmund Paul Kalekyezi,
Senior Principal Inspectorate Officer, Inspectorate of Government*

He noted that anti-corruption initiatives are sufficiently many in Uganda but are not reducing corruption. Some of them are for window dressing, imposed by donors. The presenter noted that corruption is a symptom of weak governing systems.

He urged that state parties must not only sign the conventions but they must ratify them and domesticate them to make them applicable. The AU Convention requires state parties to pursue, as a continent, actions against the proceeds of corruption.

Mr. Kalykezi noted that for corruption to thrive there must be a motive, means and the opportunity. He added that the convention strengthens the fight against corruption by specifying the offences regarded as corruption. However, some of these laws are already covered in Uganda's anti-corruption legislations.

The challenges posed by the convention include the lack of effective sanctions to deter culprits, the lack of a peer review mechanism, and the lack of provisions to make private sector companies liable.

Out of 36 countries that signed the convention, only 10 have ratified and deposited instruments to the African Union. Uganda is the only country in East Africa to have signed and ratified this convention. The convention requires at least 15 countries to sign and ratify it for it to come into force. (See annex for full presentation.)

Plenary Discussion

- While the convention is a powerful tool to root out corruption in Uganda and Africa as a Continent, it doesn't discuss the contentious issue of the causes of corruption. There is a need to revisit the question of what causes corruption.
- Like the causes of corruption, there is need to determine the norms and values of society.
- Conventions and legislation alone will not stop corruption; there is need to tackle the moral question in the fight against corruption.
- Civic education should be advocated for and enhanced while incorporating a component of ethics and integrity.
- Corruption needs to be analysed not only from the financial impropriety but also from the ethical considerations. While the top (Head) has always been blamed for corruption, even other actors, (tail) have a hand in perpetuating it. Awareness should focus on rebuilding ethics and integrity not only among the political leadership but also for the future leaders-the youth.
- The fight against corruption is hampered by a lack of political will. The same government that creates anti-graft institutions is the same that protects people implicated in corruption cases. The fight against corruption should begin with a committed leadership ready to take action against those convicted.
- While the government created an enabling environment for the civil society and the media to operate, it has done nothing to help and sustain them.
- The AU Convention risks remaining a paper tiger if its contents are not explained to the public.
- For proper enforcement of the provisions under the convention, there is need to constitute an enforcement commission other than the advisory board as setup up by the convention.
- Although Article 1 of the 1995 Constitution confers powers to the people, they need to be sensitised to become assertive.

Presentation 3

THE ROLE OF CIVIL SOCIETY IN DOMESTICATING ANTI-CORRUPTION CONVENTIONS AND RELATED OFFENCES

Zie Gariyo

Advisor, Uganda Debt Network

The presenter introduced participants to the understating of corruption, and related it to the role of various actors in eradicating it.

He questioned whether our cultures and norms coincide with international conventions and noted that although corruption has generated national and international attention, we need to understand what it actually is.

If corruption is associated with misuse of public office for private gain, then how do we measure private gain? He expressed disappointment that unlike in other countries, in Uganda, issues of public property and integrity are not part of our national values.

The presenter noted that corruption is not simply a management problem but a societal problem. He challenged the participants to champion the cause to correct the imbalance in society. He added that the society we live in today pursues material benefits at the expense of societal norms/practices. People tend to glorify corruption instead of condoning it.

The presenter called upon all citizens to join the fight against corruption and misuse of public property. He sighted article 38(1) and (2) of the 1995 Constitution of Uganda as an instrument that gives citizens the mandate to demand for transparency and Accountability. He argued that to fight corruption, we need to build a National Integrity System where national values, integrity and systems are upheld. We need to monitor government programmes as well as support and strengthen institutions fighting corruption,

He concluded by identifying areas for improvement in order to strengthen the anti-corruption crusade.

Plenary discussion

- The Leadership Code tribunal was set up to deal with issues nullified by the Constitutional Court ruling in May 2004.
- A regulatory Best Practice/Principle is now in place and can be accessed from the Ministry of Finance, Planning and Economic Development. Under this principle, no legislation can go to Parliament before wider consultation has been made. The purpose of this is to help bring both the public and members of civil society on board.
- Concern was raised from participants on what can be done to avoid recycling of leaders especially those implicated of engaging in acts of corruption.
- Participants demanded to know what happens to the results of the commissions of inquiries that government institutes.

- Participants demanded that punishments should be administered to those found guilty of engaging in corruption irrespective of their relationship with the personalities in the executive.
- When tackling corruption, we should consider the legal, economic, and societal norms as well as values. These are part of our society and determine the way we behave.
- There is enough legislation at our disposal that we can use to hold our leaders accountable.
- We need to collectively aggregate the energy and efforts we put in the anti-corruption campaign.
- Sometimes we deal with the secondary causes and forget the primary causes in the fight against corruption. Is it the governance or the values that needs to be addressed in the fight against corruption?

RECOMMENDATIONS AND WAY FORWARD

Mr. Charles Mubbale chaired this session and four areas were identified for discussion.

Detection and Prevention of Corruption

1. What mechanisms if any are in place for detecting corruption? As a step towards prevention?
2. What can be done to detect corruption effectively?
3. What can be the role of donors, government and civil society in strengthening detection and prevention measures against corruption?

Recommendations

- Appointment committees be set up composing of members of the civil society to vet people appointed to public offices.
- External Monitoring by donors should be strengthened through external audits
- Procurement systems need to be strengthened.
- Whistles blowers should be rewarded and protected.
- Increased remuneration for staff working in anti-corruption institutions.
- Independent citizen monitoring should be strengthened through a campaign on service charters.
- Simple feedback mechanisms should be developed for citizens to report corruption cases. This can be through Citizen report cards.
- Integrity awards should be given to the least corrupt ministry and personality of the year.

Punishment as a tool for fighting corruption in Uganda

There is need to introduce measures that deal effectively with people who are accused/implicated in corruption.

1. Suggest ways in which those accused or implicated in corruption should be punished.
2. What recommendations would you give to donors, government and civil society in promoting punishment as a tool for fighting corruption?

Recommendations

- People implicated of corruption should be blacklisted.
- People convicted of corruption should be barred from holding any public office
- To recover monies lost in corruption, there should be money repayment and property confiscation from the convicted parties.
- A book of shame should be published annually to expose the corrupt.

Cooperation is a very important ingredient in the fight against corruption

1. What modes of cooperation do we need in the campaign against corruption?
2. What makes it difficult for cooperation to take root in the campaign against corruption?

3. What recommendations can you give to donors, government and civil society towards improving cooperation in the campaign against corruption?

Recommendations

- Collaborative effort among civil society members needs to be enhanced.
- A government-civil society partnership should be established.
- There is need for more international cooperation e.g. in extraditions of corrupt persons.

Education and Awareness

The campaign against corruption needs an enlightened and conscious citizenry about the effects and dangers of corruption.

1. What are the current impediments to creating awareness about the dangers of corruption?
2. What should donors, government do to enhance education and awareness on corruption?

Recommendations

- Ethics, Integrity and Accountability should be included in the educational curriculum.
- Anti-Corruption clubs should be introduced in schools
- There is need to increase participation and involvement of religious leaders in moral regeneration.
- Institutions should develop client charters.
- There is need for a heightened usage of the press.
- Civic education should be popularised among the citizenry.
- There is need for increased use of street theatres, songs, dance and drama in raising anti-corruption awareness.
- Increased monitoring from the grassroots level.

ANNEX 1

Background Remarks by Hon. Sarah Nyombi, Chairperson APNAC- Uganda

In September 2004, Uganda signed the AU Convention on Preventing and Combating Corruption and Related Offences, which was adopted in Maputo, Mozambique, in July 2003. The AU convention is a brainchild of the African Charter on Human and Peoples' Rights. It requires State Parties to pursue, as a matter of priority, a common penal policy aimed at protecting society against corruption. To this end, State Parties have pledged to adopt laws to enable them individually, and collectively as a continent, to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors.

Where as Uganda signed the AU Convention Against corruption, the general public knows little about its existence. While the Convention gives very useful recommendations to tackle the problem of corruption in Africa as a continent, Uganda apart from the solidarity expressed through the signing, has not implemented its recommendations. Civil society has to take the lead to lobby for the ratification and implementation of the recommendations of this Convention as an inroad towards building a spirited fight against Corruption in Uganda. Although the Government has registered a recommendable amount of success in the fight against corruption, through awareness and prevention, a lot remains desired when it comes to dealing with those guilty of engaging in corruption. The increasing graft with impunity in the country among mainly the public officials and politicians poses a threat to the anti-corruption crusade that the nation is pursuing

For the AU convention to have a measurable impact on corruption, civil society and other pressure groups will have to effectively participate in the formulation, implementation and monitoring policy frameworks.

APNAC-U and TI-U in collaboration with the Parliamentary Centre of Canada seek to implement a campaign to have the AU convention against Corruption domesticated into Uganda law under the following expected outputs;

The expected output of this pilot project is to have;

- The AU Convention against corruption domesticated into Ugandan law.
- Heightened awareness on the problem of corruption brought to the attention of major stakeholders through publications, Radio Programmes, Television programmes, workshops, dialogues.
- An established collaborative effort between civil society and government.

This workshop is one of the many activities that are going to be carried out during the implementation of this pilot project.

This workshop's objectives are to;

- Raise public awareness and generate public debate on the legal and institutional capacity of Uganda to fight Corruption.

- Identify the loopholes, which facilitate the persistency of corruption in Uganda and generate strategies to address them.
- Raise awareness about the AU Convention and the roles of various stakeholders in the implementation of its provisions.

The Expected Outputs of this Workshop are;

- Enhanced collaboration between Government, Media and Civil Society to combat corruption.
- Strategies drawn for mounting pressure on government to domesticate and implement the provisions of the AU Convention

This workshop has been organised to help answer three concerns by the end of the day. These are;

- Why corruption has persisted in Uganda?
- AU Convention and its importance to the Anti-Corruption crusade in Uganda
- The role of civil society and the media in domesticating the AU Convention on Combating Corruption and Related Offences.

Why Involve Civil Society in the Fight against Corruption?

Civil Society encompasses the expertise and networks needed to address issues of common concern, including corruption. In the recent years, Civil Society in Uganda has made great contributions towards informing and influencing stakeholder decision-making processes at various levels.

Thus, cooperation among civil society organizations, NGOs and government including parliament and other advocacy groups in their common efforts to promote transparency, accountability, and integrity in public administration as well as the private sector will increase their collective clout and produce positive synergies. A successful fight against corruption presupposes political commitment at the highest levels therefore instigation of high-level steering committees comprising the government, the judiciary, parliament, civil society, industry and the business world is a prerequisite to ensuring a holistic approach to the problem of corruption

I therefore call upon civil society members to actively contribute to this cause. Let us join hands, for the good of our country. The struggle continues.

I wish you fruitful deliberations during this workshop.

For God and My Country.

ANNEX 2

Opening Remarks of Hon. Lady Justice Faith K. Mwendha, Inspector General of Government

The Chairperson of the Uganda Chapter of the African Parliamentary Network Against Corruption (APNAC Uganda);

The Chairperson for the Uganda Chapter of Transparency International (TI-Uganda);

All invited guests in your various capacities;

All Protocol observed,

Ladies and gentlemen,

It gives me great pleasure to be here today as Guest of Honour to officiate at this workshop on the African Convention on Combating Corruption and Related Offences.

Uganda has been hailed around the world for its successes in the fight against the spread of HIV/ AIDS. Uganda is also among the worst countries in the fight against corruption being ranked as the 46th most corrupt country in the world by the Corruption Perception Index of Transparency International. Although Uganda's ranking in this index has been improving the score is not improving. With the best score being 10, Uganda at its worst scored 1.9 in 2001. At its best in 1998 and 2004, Uganda scored 2.6 out of 10. Corruption is to economic development what AIDS is to the human body; sooner or later, they both end-up destroying their host¹.

It has now been recognized the world over that corruption is a serious threat to a peaceful and orderly society. Although it exists in all countries around the world its impact is more devastating in developing countries such as Uganda. The Ugandan public needs to appreciate that corruption erodes the moral fabric of society and violates the social and economic rights of the poor and vulnerable. It subverts the rule of law, and retards development. Corruption is so destructive that it maims the human soul and spirit. The corrupt usually lose their sense of shame for their corrupt acts. Where corruption becomes systemic, societal values get eroded to such an extent that a culture of condoning corruption develops in the population. As corruption in Uganda continues to rise, it may well become systemic calling for more revolutionary measures to root it out.

Without doubt the African Convention on Combating Corruption and Related Offences offers great opportunities for the fight against corruption all over the African continent but particularly in Uganda. However, as you seem to have rightly identified there is the challenge of implementing the Convention provisions in the local context.

As you deliberate, I wish to point out that the Convention can only be made effective on two fronts. Firstly, the State which committed itself by signing and ratifying the Convention must translate its commitment into reality at the national level by strengthening its legislative, policy and institutional initiatives against corruption. Secondly, civil society (including the media, NGOs, private sector etc.) must be vigilant in monitoring and holding leaders

¹ Akere Taben Muna in a paper on "Understanding the African Union Convention on Preventing and Combating and Related Offences." Presented at the Global Compact Policy-Africa Workshop Johannesburg 18-19 November, 2002.

accountable. The public must assert itself and say “NO” to corruption in whatever form and wherever it may be found. With the upcoming elections, Ugandans should seize the opportunity to make corruption a major issue in national and local elections and transform the electoral system into a veritable facility for throwing out corrupt public officials and motivating elected officials to keep to an anti-corruption agenda. This would be one of the best ways to counteract the strong tendency for leaders who pay only lip service to combating corruption.

I hope that by the end of this workshop you will have assisted all the actors in the fight against corruption by pointing out a clear way forward on how to domesticate the Convention and effectively implement its provisions. Do not forget to address the issue of monitoring, because without a strong monitoring mechanism the Convention is unlikely to create great impact in Uganda.

I cannot leave without paying tribute to those men and women who have worked hard to root out corruption from our society. More brave people are needed to fight the cancer of corruption that is eating away at our society. The Inspectorate of Government appreciates the supportive role of all its partners in civil society and the private sector. I urge more people to join in the struggle because we have a lot to gain as individuals, society and posterity. In the words of Transparency International's Chairperson: "By tackling corruption, nations strike at a root cause of war, human rights abuse and poverty."

I wish you fruitful deliberations and it is now my pleasure and distinct privilege to declare this workshop open.

I thank you for your kind attention.

May God Bless You!

FOR GOD AND MY COUNTRY.

ANNEX 3

WHY CORRUPTION HAS PERSISTED IN UGANDA

*Hon, Dr. Y.Okulo- Epak, MP,
Oyam County South and Chairman, Public Accounts Committee*

Introduction

This presentation was compiled by the Parliamentary Research Office and edited and presented to the workshop by Hon. Dr. Y. Okulo-Epak. The paper covers the cause of corruption in Uganda, the legal and institutional framework for fighting corruption in Uganda and their weaknesses and the reasons why corruption persists in Uganda.

Corruption may be defined variously as the manipulation of one's position for one's own gain. The misuse of public power or position for private gain and acquisition of positions and possessions by unfair means. Corruption manifests itself in various forms like bribery, nepotism, patronage, influence peddling and outright plunder of resources among other forms. Corruption is bred and nourished by moral decadence, loss of ethics and integrity, shamelessness, societal adoration of wealth and materialism, greed and poverty

Trends of Corruption in Uganda

The major challenge to Uganda's reforms and success is corruption. The Corruption in Uganda has its roots in our traditional society, colonial and post-colonial systems, but it has definitely changed in character, magnitude and mode.

Our traditional system of rulers, leaders, or chieftaincy encouraged or for that matter survived on the bestowing of gifts, patronage and favors. Even women were given as gifts to chiefs for wives. However since the practices were not perceived to be bad or corrupt they were carried out openly. This attitude lives with us up to today, except that today they are done rather privately.

Soon after independence, there emerged leaders who were unused to public control and accountability. Furthermore, Uganda's political leaders used the army and police to overthrow the democratic systems. Out of these new systems new forms of corruption emerged, reflecting not merely economic greed but also the realities of political survival since the continued support of the leaders depended on their bestowing of patronage, which could only be sustained by continuous flow of favors to one's followers and their exploitation of those who were economically well to do, but who also needed favours for their survival, to sustain loyalty to them.

In addition, after independence, many development projects were initiated to fight poverty, disease and ignorance. These projects led to the expansion of the public sector through the formation of numerous parastatals whose numbers were irrationally increased during the expropriation of Asian properties in 1972 by Idi Amin. These establishments became the enclaves of favoritism and political rewards, leading to the abuse of an otherwise well

considered economic approach to solving the problems of poverty and delivery of services in a speedy way.

More especially the systems of control, transparency, accountability and management broke down during Amin's period of dictatorship and chaotic rule. Instability and insecurity of job tenure resulting from the political upheavals of the time made employees feel insecure in their job and hence grabbed whatever they could lay their hands on. Corruption was also exacerbated by the population expanding while the economy contracted, the standard of living deteriorated and the cost of living increased. Corruption permeated every sphere of public life and the population became resigned to it as inevitable. In 1986, when the NRM took over power, tackling the problem of corruption, which had assumed gigantic proportions, was a major priority in the government's programs.

Today there are many local as well as international players in addition to government involved in the fight against corruption, while corruption itself has become more complex, sophisticated and of big scale.

- Corruption in Uganda affects procurement of goods and services, recruitment and promotion in jobs to the extent that the best candidates in a job interview may not be recruited and the best service providers may not be offered contracts.
- To date, there is ample evidence of corruption in Uganda at all levels of society in the form of irregularities in national resource allocation and management.
- Parliament, the media, Transparency International, donors, Government institutions, NGOs or Civil Society Organizations, Officials and Investigators have been at the forefront of exposing and fighting corruption.
- Non compliance with the established public expenditure and accountability laws and regulations by government departments and poor performance are rampant.
- Lack of transparency and accountability, which are mandatory, portray hidden agenda and therefore corruption.

Laws and Institutions in Uganda for Fighting Corruption

The National Objectives on Accountability, part xxvi clause (iii) of the Constitution calls for all measures to be exercised to expose, combat, and eradicate corruption and abuse or misuse of power by those holding political and other public offices.

Parliament is mandated under Article 164(3) of the 1995 Constitution to monitor expenditure of all public funds. Broadly, the Constitution of the Republic of Uganda vests in Parliament the power to make laws on any matter for the peace, order, development and good governance of Uganda.

a) Committees of Parliament

Article, 90(3) (c) charges Parliament with the responsibility to assess and evaluate activities of Government and other bodies. This oversight role of Parliament is executed through the Parliamentary Committees in which the Constitution has vested the powers to summon witnesses and obtain information. Committees oversee the different Ministries and

departments of government as well as Commissions and state enterprises. The committees include standing, sessional, select and ad hoc committees.

b) Public Accounts Committee

The Public Accounts Committee of Parliament specifically examines how government finances have been spent in each financial year. Parliament through this committee examines the Auditor General's reports, published annually, on the compliance and performance of public institutions i.e. departments, commissions and state enterprises.

Where there are queries the Committee calls the Accounting Officers of affected institutions to appear before it and account for the expenditures queried by the Auditor General. The Public Accounts Committee then submits its report on the accounts to the House.

c) Parliamentary Local Government (LG) Accounts Committee

This Committee was created to specifically handle Local Governments accounts as laid before Parliament in accordance with Section 89 of the Local Government's Act 1997. This was done to improve on the accountability and transparency in local governments in accordance with article 90 of the Constitution. This scrutiny is done based on the reports of the Public Accounts Committees of Local Governments and the Local Government Councils themselves which are submitted to Parliament through the Minister of Local governments.

Both the Public and Local Governments Accounts Committees recommend punishments in form of disciplinary actions, recoveries according to the Standing Orders and criminal actions against the offending officers.

d) Censure Vote

Article 118 of the Constitution gives Parliament powers to pass a vote of censure against a Minister for abuse of office or willful violation of the oath of allegiance. This is the handiest tool available for Parliament to fight corruption within government. A vote of censure can be applied on the following grounds;

- Abuse of office or willful violation of the oath of allegiance or oath of office.
- Misconduct or misbehavior
- Physical or mental incapacity, namely, that he or she is incapable of performing the functions of his or her office by reason of physical or mental incapacity.
- Mismanagement or,
- Incompetence.

e) The Auditor General

The Auditor General is empowered by the constitution in Article 163 (3) (a) and (b) to audit all public expenditure and presents his/her findings to Parliament for analysis and debate. The Accounts are audited at the end of each financial year. The report to Parliament is expected to be dealt with within six months.

f) The Directorate of Public Prosecutions

Article 120 of the Constitution establishes the office of the Director of Public Prosecution and under the Prevention of Corruption Act (8 of 1970), the Director of Public Prosecution is empowered to investigate and prosecute cases of corruption and bribery.

The Prevention of Corruption Act 1970

This law that came into force on 12th June in 1970 prescribes corrupt procurement and tendering, transactions with agents, bribery of a member of a public body and stipulates avenues of addressing cases of corruption. This Act also enjoins civil servants not to involve themselves in corruption related activities and outlaws insider dealings.

The Penal Code Act Cap 106 contains provisions relating to the offences of abuse of office as well as causing financial loss. It is also the responsibility of the Police to enforce this law especially its CID and Special Branch.

The Leadership Code Act 2002 requires all holders of public offices to declare their wealth to the office of the Inspector General of Government on a two year basis in a bid to crack down on ill-gotten wealth. It also outlaws receiving of gifts for personal use up to a certain value. This Act is enforced by the Inspectorate of Government. The Inspector General of Government (IGG) is established by the Constitution in Article 223 and is empowered by law to keep constant watch over the conduct of government officials and carry out special investigations and propose remedies whenever allegations of misconduct occur. The IGG is expected to take necessary measures for the detection, prevention and prosecution of culprits in public offices on corruption.

Public Procurement and Disposal of Assets ACT 2002

On transparency in the procurement of goods, contracts and services.

Public Finance and Accountability ACT 2003.

Defines the role, responsibility of those entrusted with financial management and penalties for non-compliance.

Access to Information Bill 2004

This Bill was recently passed by Parliament and it empowers those seeking to get information on government documents to do it with ease especially in areas where certain information was deemed sensitive.

The Judiciary

Consists of the courts whose purposes are to administer justice, which includes among others trying anyone suspected of illegal activities including corruption.

Ministry of Ethics and Integrity

The government in a bid to strengthen anti corruption policies and coordinate the anti-corruption drive, created a new Directorate of Ethics and Integrity whose role is to coordinate the already existing institutions in areas of clean leadership, integrity, ethics and corruption. The Ministry may direct the statutory anti-corruption bodies to investigate and prosecute cases of corruption.

The Office of the Vice-President

This office has an additional function of dealing with corruption in high offices also.

The Department of Economic Monitoring in the Office of the President

It has the additional duty of monitoring and detecting cases of economic sabotage and corruption. It may refer cases for further investigations to the police, ISO, ESO and the IGG.

Commissions of Enquiry

Appointed by the President under the **Commissions of Inquiry Act** Cap 56 Laws of Uganda with the approval of Parliament, they conduct special investigations including probes into alleged corruption. The reports of the Commissions are considered by the Cabinet and forwarded to the Ministry of Justice and Constitutional Affairs especially the Directorate of Public Prosecution and to the CID for execution.

Non-Government Institutions

(i) The Media

The media are another vital weapon in the fight against corruption. In Uganda many newspapers have reported alleged cases of corruption and in most cases government has been prompted to act and investigate these matters. The media are vital in alerting the public and government on acts of corruption in the country. Government has been using the mass media like radio and television to inform and warn people on corruption and how they can assist in fighting it or to sensitize the population.

(ii) The Civil Society Organizations

Many civil society organizations have been formed to carry out functions to fight corruption, sensitize the public on corruption and to support government efforts in fighting corruption.

Weaknesses in the fight against and persistence of capital Corruption.

The fight to eradicate corruption in Uganda has had a number of challenges. In the fact of the weaknesses may also be found the reason why it persists. These are highlighted below:

- **Inadequacies in the Laws**

There are weaknesses in the Penal Code Act; the Prevention of Corruption Act and; the Leadership Code of Conduct. There are no provisions for the confiscation of ill-gotten wealth in all the three statutes. The current **anti graft legislation** is inadequate in addressing the now intricate forms of corruption. Parliament should therefore enact a law that enables government to confiscate ill-gotten wealth. Courts also do not impose retribution by persons sentenced to imprisonment for embezzlement of public money.

- There is no measure in place to protect people who report cases of corruption (**Whistle blowers**) hence the public feels insecure in matters of such nature.

- **Inadequate Funding**

All ant-corruption establishments suffer from inadequate funding, staffing and facilities to do their work. Inadequate remunerations may also lead to their being compromised.

- **Cultural Inclinations in Society**

A culture of corruption exists in the society and this is not easy to get rid of, right from pre-colonial times public officers who rendered services were always rewarded with goods, services and in some cases even wives. This bred a deeply rooted culture of having to give something for something and compliancy towards corruption. Accumulation of wealth by whatever means is encouraged and adored by our society.

- **Lack of examples**

Exemplary clean leadership or office is not recognized and rewarded. In fact society scorns such personalities because invariably they do not benefit from their offices and remain relatively unwealthy. Therefore there are no public role models.

- **Lack of integrity, honesty and trustworthiness**

Principles are compromised or sacrificed. Appointments are based on trivial considerations like relationships, ideology etc instead of merit.

- **Poor systems**

Poor book keeping and investigative systems. The burden of proof and poor facilitation further compound the detection and accountability processes.

- **Lack of support from related institutions and leaders**

Parliament has attempted to fight corruption but other institutions including cabinet have tended to be hostile to its efforts including some members even being bribed or compromised.

- **Investigation and prosecution processes**

Lack of or refusal to provide information, unlimited time to carry out investigations, lack of cooperation by those concerned and the potential to compromise the investigators and prosecutors make handling of corruption very unsuccessful.

- **Problems with Tender Bodies** especially with their composition.

Elected Leaders especially those at District level appoint some of their campaign managers so as to influence the process and to reward them. Procurement information is leaked to potential bidders and so compromises transparency and competitiveness. Bribes or kickbacks are included in the pricing and often there is a 10% commission in the pricing which a client dishes out as kickback.

- **Lack of political will**

There has been a saying in Uganda that the fish rots from the head. The case of junk helicopters and ghost soldiers implicate very high political level. Patronage is also exercised at the highest level. Without political accountability and good governance corruption is exercised with impunity. Politicians bribe voters during elections. Political offices are more prone to influence peddling.

Real and perceived causes and persistence corruption

The causes of corruption may be the very reason why corruption persists in Uganda. The causes of corruption in Uganda include among others the following;

- **The income-expenditure gap**

The extremely low salaries/wages compared to extremely high cost of living contribute to corruption. The disparities between the low and high income earners widen every other year so the low income earner strives to survive through corrupt ways or abuses the office.

- **Shortages of goods and services**

When demands outstrip supply in every sphere it leads unfair means of accessing the goods and services. This applies in the public as well as private sector.

- **Broad discretionary powers**

Public officials, who enjoy or acquire personalized political and administrative powers, use them to protect their friends and relatives and to abuse their offices thus encouraging corruption.

- **Weak Administrative Controls**

Senior as well as junior public officials embezzle huge amounts of public funds and get away with it due to weak administrative controls that exist in government and due to political patronage.

- **Complex and Cumbersome Bureaucracy**

Cumbersome, complicated and often unwritten procedures are deliberately, or intrinsically employed which result into long delays and those seeking such services try to get them through short-cuts leading to corruption.

- **Insecure and Precarious Tenure of Office**

When public officials feel insecure, and threatened by the possibility that they could be removed from their office at any time or are appointed on temporary or contract terms and do not see the next move, they try to grab as much as they can within the shortest possible time.

- **Personal Greed and Materialism**

Some persons simply have an unrestrained desire to get rich or to acquire material wealth quickly. This means that however much they are paid they will never be satisfied. These are the most dangerous lot.

- **Lack of Political Threat**

Bad governance systems and longevity in political office breed Complacency and temptations for corruption. Where there is no threat by political change and demand to account in future, the system tends to be corrupt. This breeds systemic corruption, which is very dangerous.

- **Weak Sanctions**

Weak laws and weak social or moral standards which fail to impose strict and deterrent sanctions encourage corruption. The official and social attitude towards corruption matters a lot here.

Conclusion

If the number of laws, regulations and institutions could fight corruption, it is clear from the above that those we have are sufficiently many and yet they alone are not eradicating, not even reducing corruption.

Corruption impairs political and economic development as well as undermines administrative effectiveness and efficiency. Corruption undermines ethics and integrity of political leaders and political institutions, since it brings the leadership of the country into disrepute and contempt and makes the government less able to rely on cooperation and support of the public. Corruption is an impediment to democracy because it subverts the democratic process in society, government administration, law enforcement and the judiciary. It is an injustice that condemns civil society to abject poverty. Parliament and other stakeholders should strengthen their efforts in curving out the evil of corruption.

Corruption in governance or political leadership and corruption in the public/civil service reflect weak legal and enforcement capacities. The political leaders supervise the public servants but both can easily become accomplices in corruption. The people supervise the political leaders, but a poor society is easily compromised by political leaders and fails to demand political accountability and to exercise their right to recall elected leaders or to vote them out of leadership or office at elections.

The above are the most serious preponderances regarding the fight against corruption.

It is worth noting the following significant effects of corruption

- Corruption leads to economic waste and inefficiency because it affects the allocation of resources, whether local or external sources. The least efficient contractor with the greatest ability to bribe may receive government contracts. Corruption therefore lowers the welfare of the people by raising prices, damaging the structure of

production and reducing consumption. The cost of bribes, "commissions" or kickbacks is usually added to the goods supplied or services rendered.

- Corruption contributes to the persistence of underdevelopment and poverty in countries that are well endowed with natural resources and hardworking, enterprising populations.
- Corruption exacerbates poverty especially in Africa. It becomes systemic and self-perpetuating, even when there is political change; the new people soon assume the legacy of those they have replaced.
- Corruption is an impediment to foreign investment and foreign assistance. Countries where corruption is endemic and their institutions non-functional often attract less serious entrepreneurs and not the more respectable investors. Foreign aid gradually reduces until it disappears, as the donors cannot continue throwing their taxpayers money in a bottomless pit.
- Corruption distorts official decisions. The development priorities of a country may be neglected in favor of the projects officials and bribers find more personally rewarding.

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ANNEX 4

THE AFRICAN UNION CONVENTION ON COMBATING CORRUPTION AND RELATED OFFENCES: A REMEDY AGAINST CORRUPTION IN UGANDA

*Edmund Paul Kalekyezi,
Senior Principal Inspectorate Officer, Inspectorate of Government.*

Introduction

- ✓ Corruption has pervaded the political, social, economic, private and public sectors in Ugandan society. It is for this reason that Uganda looks to the AU Convention on Combating Corruption and Related Offences as a possible remedy for Corruption in Uganda. It should however, be noted that Conventions are international legal instruments and that by the principle of state sovereignty do not automatically create liabilities for states in the local context. States parties must not only sign but they must ratify and domesticate the provisions of a Convention in order to make it applicable.
- ✓ Resolution AHG-Dec 126 (XXXIV) adopted in June requested the Secretary General of the African Union to convene, in cooperation with the African Commission on Human and Peoples' Rights, a high level meeting of experts to consider ways and means of removing obstacles to the enjoyment of economic, social and cultural rights, including the **fight against corruption** and impunity and propose appropriate legislative and other measures.
- ✓ The Convention was adopted in Maputo (Mozambique) on 11 July 2003. Uganda signed the Convention on 18th December 2003, ratified it on 30th August 2004 and deposited its ratification instrument on 29th October 2004.

Salient features of the Convention

- ✓ **Prevention.** Several articles of the Convention provide measures for prevention, with measures directed at both the public and private sectors. These include model preventive policies, such as the establishment of anticorruption bodies and enhanced transparency in the financing of election campaigns and political parties, and strengthening Government control systems to prevent corruption. States must endeavor to ensure that their public services are subject to safeguards that promote efficiency, transparency and recruitment based on merit. Once recruited, public servants should be subject to codes of conduct, requirements for financial and other disclosures, and appropriate disciplinary measures. Preventing public corruption also requires an effort from all members of society at large. For these reasons, the Convention calls on countries to promote actively the involvement of non-governmental and community-based organizations, as well as other elements of civil society, and to raise public awareness of corruption and what can be done about it.

- ✓ **Criminalization.** The Convention goes beyond previous instruments of this kind, criminalizing not only basic forms of corruption such as bribery and the embezzlement of public funds, but also trading in influence, illicit enrichment and the concealment and laundering of the proceeds of corruption. Offences committed in support of corruption, including money laundering and obstructing justice, are also dealt with. Convention offences also deal with the problematic areas of private-sector corruption.
- ✓ **International cooperation and mutual legal assistance.** Countries agreed to cooperate with one another in every aspect of the fight against corruption, including prevention, investigation, and the prosecution of offenders. Countries are bound by the Convention to render specific forms of mutual legal assistance in gathering and transferring evidence for use in court, to extradite offenders. Countries are also required to undertake measures which will support the tracing, freezing, seizure and confiscation of the proceeds of corruption, extradition and prosecution of culprits.
- ✓ **Asset recovery.** Several provisions specify how cooperation and assistance will be rendered. In particular, in the case of embezzlement of public funds, the confiscated property would be returned to the state requesting it; in the case of proceeds of any other offence covered by the Convention, the property would be returned providing the proof of ownership or recognition of the damage caused to a requesting state; in all other cases, priority consideration would be given to the return of confiscated property to the requesting state, to the return of such property to the prior legitimate owners or to compensation of the victims.
- ✓ **Implementation mechanisms.** The Convention needs 15 ratifications to come into force. An Advisory Board of 11 members elected by the AU Executive Council is established with broad responsibilities for promoting anti-corruption work and is required to report to the Executive Council progress by each state party in implementing the Convention.

Opportunities for Uganda's fight against corruption in the Convention

- ✓ Strengthens the laws on corruption by listing offences that should be punishable by domestic legislation. Some of the offences highlighted by the Convention are currently not covered by Uganda's penal law e.g. influence peddling.
- ✓ Outlines measures to be undertaken to enable the detection and investigation of corruption offences;
- ✓ Indicates mechanisms for the confiscation and forfeiture of the proceeds of corruption and related offences;
- ✓ Jurisdiction of State Parties extends beyond national borders in realization of the international nature of corruption.
- ✓ Organizes mutual assistance in relation to corruption and related offences;
- ✓ Encourages the education and promotion of public awareness on the evils of corruption

- ✓ Calls for the involvement of the media and civil society organizations in monitoring and supervision of enforcement of Convention.
- ✓ Emphasizes the protection of whistleblowers. Uganda needs legislation and other measures to protect whistleblowers especially against reprisals.
- ✓ The Convention provisions aim at ensuring that there is no safe place for the proceeds of corruption outside the country where the corrupt commit their acts of corruption.
- ✓ By setting out a regional framework of agreed rules and standards for addressing corruption, the Convention can provide guidance and support for anti-corruption work in Uganda. It is now an internationally agreed reference point for collective efforts that can be used by national anticorruption bodies, civil society and development partners to hold the Uganda Government accountable.

Challenges posed by the Convention

- ✓ The access to information provision is too limited compared to the provisions in the UN Convention against Corruption, which are more comprehensive.
- ✓ No provisions on sanctions yet in the UN Convention Against Corruption, sanctions are provided for e.g. in articles 31, 34 and 35.
- ✓ The Convention permits reservations, which may adversely impact its implementation in the regional context yet the Convention attempts to extend the jurisdiction of countries in corruption and related offences beyond their borders.
- ✓ No real peer review process is envisaged by the Convention. The Convention establishes an Advisory Board with no real powers to make countries comply with the Convention which may compromise effective implementation of the Convention. This however calls for strong national monitoring mechanisms and vigilance by civil society.
- ✓ Mobilization of resources for implementation of the Convention especially for technical assistance where many countries in the region rely on donor funding. If corruption is not a priority for donor countries, then this provision risks non-implementation unless parties to the Convention are innovative.
- ✓ Its provisions on private sector companies do not make companies liable. Corruption must be made expensive in the long run for companies. The language companies understand is "what is the bottom line?" If corruption is expensive they will not engage in it.

Domesticating the Convention - Way forward in the fight against Corruption in Uganda

- ✓ Lay the Convention before Parliament as required by the Constitution and Ratification of Treaties Act CAP 204 to ensure Parliament is aware of its obligation to enact

legislation to ensure Uganda's legal regime on corruption is in conformity with the Convention.

- ✓ Legislation should be passed e.g. amend the Prevention of Corruption Act, 1970 to widen the scope of penal provisions as detailed in the Convention; legislate against whistleblower reprisals, money laundering and enact access to information legislation; amend laws on the criminal and civil jurisdiction of Uganda's courts; strengthen laws on electoral processes etc.
- ✓ Revisit Uganda's extradition treaties to include corruption as an extraditable offence where this is not specifically provided for.
- ✓ Strengthen national anti-corruption agencies such as the Inspectorate of Government in terms of technical capacity to detect, investigate and prosecute corruption especially in world where technology is growing at a fast pace. Strengthening national anti-corruption agencies also calls for motivation of the staff as required under Article 20 (5).
- ✓ Establish witness protection laws and programs.
- ✓ Develop national civic education programs to cover all sectors of society.
- ✓ Call upon the private sector to establish self-regulatory mechanisms to ensure those companies participating in corruption are punished by making corruption too expensive a venture.
- ✓ Enhance partnerships with civil society organizations, the media and private sector by providing space for their interaction with government agencies on corruption.
- ✓ Establish exchange programs to facilitate information exchange and to enable Uganda's agencies to learn from their counter-parts who are parties to the Convention.
- ✓ Regularly report to the Advisory Board on Uganda's progress in implementing the Convention.
- ✓ Forward names of competent Ugandans to sit on the Advisory Board.

Conclusion

- ✓ Yes, the AU Convention is part of the remedy but not a remedy in itself. The mere passage of legislation is unlikely to be effective unless it is accompanied by a raft of measures designed to ensure implementation, which maximize accountability and transparency and which also minimize areas in which corruption is most likely to flourish. State parties must carry out their obligations under the Convention. The civil society, the media and the private sector must also perform their role in order to facilitate investigation and prevention of corruption. Unless this is done the Convention shall remain on paper with no effect.

- ✓ Although no peer review mechanism is envisaged in the Convention, the African Peer Review Mechanism (APRM) under NEPAD is not too remote from the Convention and may indirectly be utilized to enforce the Convention.
- ✓ Uganda has also ratified the UN Convention Against Corruption¹ and where the AU Convention falls short, the higher standards in the UN Convention Against Corruption may be applied.

ANNEX 5

THE ROLE OF CIVIL SOCIETY IN DOMESTICATING ANTI-CORRUPTION CONVENTIONS AND RELATED OFFENCES

Zie Gariyo

Advisor Uganda Debt Network

Introduction

My understanding of the topic you have given me to present on is two-fold: a) is to understand whether international anti-corruption conventions that are enacted at international level and ratified at the national level are made part and parcel of the national laws and implemented accordingly b) whether national institutional norms, cultures and practices adapt to provisions within the international conventions as required at the time of the ratification.

At the first level there are two international conventions that are of significance. These are a) The UN Convention against Corruption that was enacted in Mexico in December 2003. The second one is the African Union Convention on Preventing and Corruption and Related Offences

Article 5 (1) of the United Nations Convention against Corruption that was *"Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anticorruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability"*

Objectives and principles of the African Union Convention on prevention and combating corruption and related offences:

- To promote and strengthen the development by each State Party of mechanisms required to prevent, detect, punish and eradicate corruption and related offences in Africa.
- To ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offenses in Africa

Understanding Corruption

Corruption is a phenomenon that is not well understood in the African society. For instance the National Strategy to fight corruption and build ethics and integrity in public office 2004 - 2007 defines corruption as the *" use of public of office for private gain"*. And further argues that *"Corruption is not only a question of individual criminal actions but also a result of failure of public administrations systems"*. (P8)

Corruption, however, is not simply a management problem but a societal problem that reflects the values, norms, culture and practices in the society. A society where the pursuit of material benefits and conscious consumption to the extent that we are willing and able to sell our children in servitude in the name of culture and tradition underlies the dilemma called

corruption. I do not think that such an individual is either fit or able to hold public office and become responsible for equitable distribution of scarce national resources.

Thus it is not a surprise that many African leaders do not view public office indeed as a public good but as private property. Former DR Congo (then Zaire) was reported to remark that the "State is me and I am the State" and went ahead to loot his country of billions of dollars. In Zambia, Malawi, Kenya and other African countries former presidents are being taken to court or commissions of inquiry over corruption scandals.

In Uganda as anywhere in Africa most public servants do not distinguish between public service and private services. The United Convention against Corruption defines a Public official" to mean:

- Any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority;
- Any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party;
- Any other person defined as a "public official" in the domestic law of a State Party.
- However, for the purpose of some specific measures contained in chapter II of this Convention, "public official" may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party;

Given the above definition therefore corruption is not simply a management issue but a governance issue. Corruption is also a developmental issue that has social and economic consequences. Corruption undermines the entire social fabric of a society and must be shunned. Corruption undermines the economy because those that could save and invest their money are likely to shun those countries such as Uganda where corruption is endemic thus denying the population the much needed employment and services.

As a governance issue it implies that management practices at family, community and national levels must espouse and operate values that entrench not undermine systems in public office that are open, accountable and transparent. As a Governance issue, it implies that decisions whether at family (the smallest governance unit in society), community and national level must be taken in a democratic and transparent manner and public officers are accountable to those that expect their services. A system where secrecy is the norm rather than the exception is a primitive and anachronistic system that seeks to entrench corruption rather than eliminate it. It also means promoting governance institutions, norms and values that are the *sine qua non* for eradicating corruption. These include:

- a) Functioning and well-motivated bureaucracy - job security, better pay, (reasonably) adequate human resource capacity, (reasonably) adequate financial resources.
- b) Independent judiciary - strengthened and independent decisions

- c) Autonomous Parliament - adhere to the norms of separation of powers between executive and legislature
- d) Political parties - promotion of political pluralism - the right and freedom to form and belong to political parties of one's choice irrespective of another person's beliefs
- e) A Free Press - access to public information, free discussion of local, national and international issues.
- f) A culture that allows and promotes democratic decision making - upholding rights and freedoms of individuals to organize, challenge and participate
- g) Integrity in Leadership - leadership by example, strict adherence to ethics in public office (distinguish between public and private office)

The Role of Civil Society in domesticating International Conventions

Article 17 (i) of the Constitution of Uganda 1995 *"It is the duty of every citizen to combat corruption, wastage and misuse of public property"*. Article 38 (1) of the Republic of Uganda Constitution 1995 further provides that: *"Every Ugandan citizen has the right to participate in the affairs of government individually or through his or her representative in accordance with the law"*.

However, this duty can only be achieved under certain specific conditions. Of importance the capacity and ability of civil society need to be built and strengthened. Civil Society, it should be recognized is not a monolithic entity. It is composed of individual both women and men with divergent cultural backgrounds and societal expectations. In a society where individuals in public office are measured not by the level of honesty they exhibit but by the level of material wealth accumulated, it becomes difficult for such individuals to adhere to the universal norms and values of openness, accountability and transparency. We live in a society where a whole historical generation in the Buganda Land Agreement of 1900 that was disposed of its rights to land by a few elites and remains a source of political instability in this country.

For civil society to play its role therefore, it has to demand that such historical imbalances must first of all be corrected. In a society where young girls are denied an education that would help liberate them and are used as a bargain to accumulate wealth by some uncouth sections of the population in the name of culture and traditions. We must challenge those cultures and traditions that deny people an opportunity to make their own decisions since their lives are permanently affected by those very decisions. In a society where conspicuous consumption is the norm rather than the exception, civil society should challenge these types of practices that undermine the whole moral and ethical fabric of a society.

In my view therefore it is within the arena of civil society that the challenge to corruption and corrupt practices should take place. In so doing, it is imperative that we should build institutions of governance that are independent, adequately resourced with financial and human resources capacity. Equally important is to build a National Integrity System (NIS) where such universal values as accountability, transparency and open systems of governance are upheld. For some of us this has been our struggle and will continue for some time to come. However, for civil society organizations there is need to:

- a) Monitor government commitments to upholding and promoting the universal values of accountability, transparency and open-systems of governance as enshrined in the International Conventions to fight Corruption.
- b) Support and strengthen governance institutions to play their role and challenging those practices whether at family, community, and national that seem to entrench rather the eliminate the vices of corruption
- c) Support and participate in building a National Integrity System (NIS) that makes our country and society attractive and desirable for its citizens to live and others to invest in.

Conclusion

Thus while the presence of conventions such as the UN Convention and African Union Convention that have been ratified by our governments and public officials are useful instruments for holding Governments accountable and monitoring their commitment to good governance, these remain on paper and are not put into practice. The problem is not that civil society is not making an effort at getting governments to become sensitive to these conventions or that there is no legislation to combat corruption at local and national level. The problem is that even where such exist, those who should promote them ignore them.

Thus the role of civil society organizations in domesticating UN and AU Conventions to fight corruption is to:

- e) Monitor government commitments to upholding and promoting the universal values of accountability, transparency and open -systems of governance as enshrined in the International Conventions to fight Corruption.
- f) Support and strengthen governance institutions to play their role and challenging those practices whether at family, community, and national that seems to entrench rather the eliminate the vices of corruption and abuse of public office and property.
- g) Support and participate in building a National Integrity System (NIS) that makes our country and society attractive and desirable for its citizens to live in and others to invest in.

ANNEX 6

PROGRAMME FOR THE ONE-DAY WORKSHOP ON THE AU CONVENTION ON COMBATING CORRUPTION AND RELATED OFFENCES ON 25TH AUGUST 2005 AT GRAND IMPERIAL HOTEL

TIME	ACTIVITY	RESPONSIBLE PERSON
08.00am-08.30am	Arrival and Registration of Participants	Barbara Nambi
08.30am-09.00am	Opening Remarks	Hon. Sarah Nyombi
09.00am-09.15am	Remarks by Guest of Honour	Inspector General of Government
09.15am-09.45am	1 st Presentation: Why has Corruption Persisted in Uganda?	Hon Okullo Epak (Chairperson, PAC)
09.45am-10.30am	Discussion	All Participants
10.30am-11.00am	Tea Break	All Participants
11.00am-11.30am	2 nd Presentation: The AU Convention as a Remedy to Corruption in Uganda	Mr. Kalekyezi Edmond (Senior Principal Inspectorate officer-IGG)
11.30am-12.45	Discussion	All Participants
12.45- 02.00pm	Lunch	All Participants
02.00pm-02.30pm	Over View of the role of CS and media in domesticating Conventions	Mr. Zie Gariyo, (Advisor Uganda Debt Network)
02.30pm-03.30pm	Group discussions	All Participants
03.30pm-04.00pm	Presentation of group findings	Group Members
04.00pm-04.30pm	Recommendations and Wrap Up	Mr. Charles Mubbale
04.30pm	Departure	All

ANNEX 7

ATTENDANCE LIST-AU WORKSHOP IN GRAND IMPERIAL HOTEL

No	Name of Participant	Organization	Telephone	Email address
1	Kasoma Jackline	Foundation for Human Rights Initiative	071 411526	Javie22@hotmail.com
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3	Mike Opio	UTV	-	-
4	Vincent Wagona	DPP	041332536	wagona@dpp.go.ug
5	Sarah Nyombi Nansubuga	Parliament of Uganda	077 401198	nyombi@parliament.go.ug
6	Konwhangi.D	World Vision	077 592873	Doreen_kinwhangi@wvi.go.ug
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