

CRITICAL LEGAL PERSPECTIVE OF INTERNATIONAL ANTI-CORRUPTION LAWS FOR TACKLING CORRUPTION IN SOUTH AFRICA

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Abstract

Undoubtedly, corruption is endemic in South Africa and it is ravaging all spheres of government, sectors of the economy, and the society at large. The news of corruption is aired frequently in the media showing suspects and trials of accused persons. Public officials, elected and unelected politicians and private sector managers and executives have been suspected, accused, or tried for corruption. Corruption is affecting both private and public sectors in South Africa. The core problem is that public officials saddled with providing and rendering quality basic services engage in endemic corruption and as such, good governance, accountability and transparency are held hostage by corruption. Corruption, which is promoted by maladministration cripples the rule of law in South Africa. While there have been many works on the implementation of domestic anti-corruption laws to root out corruption, there is a paucity of research work on how to invoke and use international anti-corruption laws and instruments that have been duly ratified by South Africa to root out corruption. Methodologically, this paper utilises a literature review approach of international and national sources to reveal various corrupt and maladministration activities, highlight and discuss pieces of transformative interventions that have been introduced by the government to root out and tackle corruption. It also showcases case laws that have been decided that punished corrupt officials. The paper found that there should be concerted and deliberate efforts by all role players and stakeholders in the government, private sector and the society at large to ensure that corruption legislation and in particular, international anti-corruption laws and instruments are effectively and efficiently implemented for purposes of tackling corruption.

Keywords: malfeasance, maladministration, public officials, international law, public sector, accountability.

JEL Classification: K30, K33, K38

1. Introduction

When South Africa became a constitutional democracy in 1994, the first bold step taken by the new government of the African National Congress was to reapply and re-join the United Nations (UN) and the international community as a member. It is pertinent to point out that by becoming a member, South Africa voluntarily accepted to abide by all the norms, standards, and ethos of the UN to regulate the conduct and activities of its member States. More importantly, all the treaties duly ratified by South Africa whether bilateral or multilateral affairs of the member States became binding on South Africa.

According to the UN (2012), a treaty, “is a generic term embracing all instruments binding under international law, regardless of their formal designation, concluded between two or more international juridical persons. Thus, treaties may be concluded between (a) States; (b) International organizations with treaty-making capacity and States; or (c) International organizations with treaty-making capacity.”³

In terms of section 231(2) of the Constitution of the Republic of South Africa, 1996 (Constitution), if a treaty has been approved by the resolution of both the National Assembly and the National Council of Provinces, such treaty becomes binding on the Republic of South Africa. Similarly, section 231(3) provides that “an international agreement of a technical nature which does not require either ratification or accession, entered into by the national executive, binds the Republic without approval by National Assembly and the National Council of Provinces.” More significantly,

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³ See United Nations (2012). United Nations. Prepared by the Treaty Section of the Office of Legal Affairs. United Nations Publication available at <https://treaties.un.org/doc/source/publications/THB/English.pdf>, accessed on 25 December 2019.

section 231(4) provides “that any international agreement becomes law in the Republic when it is enacted into law by the national legislation.” Similarly, section 39 of the Constitution provides that “courts have the constitutional mandate to consider international and foreign laws and apply them when there is a need and where applicable.”

It is generally accepted that there is endemic corruption in South Africa and there is a need to look at every anti-corruption instrument to prevent, root out and combat corruption. Although many scholars have written on how to root out corruption in South Africa, there is a paucity of research work that examined how to use existing international laws and instruments duly ratified by South Africa to tackle and combat corruption.

Reemphasizing that South Africa is a constitutional democracy and a member of the UN, the international community and a party to various international anti-corruption laws and instruments which have been duly ratified by South Africa, all these international laws and instruments become applicable and beneficial to the country and as such, they can be validly invoked to prevent, tackle and combat corruption. Pursuant to this, this paper examines these laws and show how they can be used to tackle and combat corruption in South Africa.

2. Exposing the impact and effect of corruption in South Africa

Corruption can be defined as the re-channelling of resources that were meant to improve service delivery to the people, particularly the poor, thereby undermining the values of the Constitution, such as the rule of law, human rights and social progress.⁴ Transparency International- a global movement working different countries of the world to end the injustice of corruption, posits that “corruption is one of the greatest challenges of the contemporary world. It undermines good governance, fundamentally distorts public policy, leads to the misallocation of resources, harms the private sector and private sector development and particularly hurts the poor.”⁵

In South Africa, corruption is endemic and spreading like a wildfire having an impact and footprints in all sectors of the society.⁶ South Africa has, over the years, introduced different types of legislation designed to vigorously fight against, and eradicate corruption. The most relevant piece of legislation enacted to fight against, and eradicate corruption is the Prevention and Combating Corrupt Activities Act (PCCA) which aims to strengthen measures to prevent and combat corruption; to provide for the offence of corruption; to provide for investigative measures, and to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts. However, even with the legislation in place, the whiff of corruption is still moving at a rapid pace. The core repercussions of corruption have seriously impacted service delivery levels within the spheres of government, especially the local sphere of government. The effects of corruption on service delivery was explained by Camerer (2011), who said that “corruption impedes a state’s ability to use its available resources to progressively achieve the full realization of rights because national resources are instead diverted into the pockets of public officials, or because development aid is mismanaged, misused or misappropriated.”⁷

Corruption, particularly within the local government, has devalued section 152 of the Constitution, by failing to provide for, and ensure the provision of services to communities sustainably; and by failing to provide social and economic development.⁸ Oviasuyi (2010) points that corruption impedes service delivery through the inflation of prices of bought items, the overestimation of the cost of projects; the ghost workers syndrome; the awarding and subsequent

⁴ See Thuti, G. M. 2006. The Impact of corruption on governance: An Appraisal of the Practice of the rule of law in Kenya available at https://repository.up.ac.za/bitstream/handle/2263/1222/mirugi,mukundi_gt_1.pdf?sequence=1, accessed on 02 May 2019.

⁵ Transparency International, 2018. A Best Practice Guide for Whistleblowing Legislation. Available at www.unpan.org/DPADM/ProductsServices/Glossary/tabid/1395/language/en-US/Default.aspx, accessed on 12 January 2020.

⁶ See Heath, W.H. 2010. Defining corruption in terms of our legislation and its impact on service delivery – what are practical measures that could be undertaken.

⁷ See Camerer, L 1999. The consequences of corruption available at <https://journal.probeinternational.org/2002/02/01/the-consequences-of-corruption/>, accessed on 12 January 2020.

⁸ See Section 152 (1) (b) (c) of the Constitution of South Africa. 1996.

abandonment of contracts; and through the outright payment of huge sums of money to political godfathers as bribes and kickbacks.⁹

In the case of the *South African Association of Personal Injury Lawyers v Heath & Others*,¹⁰ Chaskalson spoke of the tension between corruption and the rule of law in South Africa, “corruption and maladministration are inconsistent with the rule of law and the fundamental values of our Constitution. They undermine the constitutional commitment to human dignity, the achievement of equality, the advancement of human rights and freedoms. They are the antithesis of the open, accountable, democratic government required by the Constitution. If allowed to go unchecked and unpunished they will pose a serious threat to our democratic State.”¹¹ This statement demonstrates how corruption demeans the meaning of good governance, as transparency and accountability are being overthrown by corruption. Good governance is defined as “an administration that is sensitive and responsive to the needs of the people and is effective in coping with emerging challenges in society by framing and implementing appropriate laws and measures. It includes strict rules of accountability.”¹²

Corruption hinders development and economic growth, which underpins the success of South Africa’s economy.¹³ The word “economy” is used because the foundation of every progressive country owes its success to the economic channels and opportunities available to the citizens to thrive and prosper.¹⁴ For instance, poor governance results in wasteful expenditure, misallocation of resources and weak investment. Pursuant to this there would be reluctance for foreign corporate countries to invest in a corrupt ridden country.

Corruption is a big threat to the sustainability of the economy and its effective governance. Corruption not only degrades economic efficiency and growth¹⁵ but also creates a system where resources are not distributed equitably. This stands as an obstacle to development and denies quality of life to the most vulnerable members of society.

Corruption in South Africa has become more apparent in the public sector and is now impeding service delivery. Service delivery is meant to provide a high quality of life to all, including the country’s poor by alleviating poverty.¹⁶ Enhancing the provision of water, health, education, housing and empowerment for the marginalised people is the essence of service delivery to the poor.¹⁷ Madonsela (2013), analysing poor service delivery as a result of corruption stated that “corruption has become cancer that impedes on the effectiveness of service delivery, which in turn has disrupted the people of South Africa, more particularly, the rural people who depend on service delivery offered by the Government, corruption affects us all.”¹⁸

In terms of section 152(b) of the Constitution, the local government has been entrusted, as one of its objectives, to, *inter alia*, ensure the sustainable provision of services to all communities.¹⁹ However, corruption has affected democratic governance and the accountability of local government to ensure sustainable provision of services, to promote social and economic development, to promote a safe and healthy environment and to encourage public involvement in municipal affairs.²⁰

⁹ Oviasuyi, P. Idada, W and Isiraojie, L 2010. Constraints of Local Government in Nigeria *Journal of Social Science* pp. 81-86.

¹⁰ *South African Association of Personal Injury Lawyers v Heath and Others* (CCT27/00) [2000] ZACC 22; 2001 (1) SA 883; 2001 (1) BCLR 77 (28 November 2000).

¹¹ *Ibid.*

¹² Ibrahim, S.A. 2019. Role of Governance Strategies on Corruption Reduction in Somalia, *International Journals of Academics & Research*, pp.361-376.

¹³ Farida, M. 2000. The Impact of Corruption on Economic Growth in Lebanon, available at https://www.rdi.uwa.edu.au/__data/assets/pdf_file/0007/32686/FaridaMoe_PhDConf2007.pdf, accessed on 12 March 2020.

¹⁴ Klitgaard, R. 2004. Leadership under Systemic Corruption available at <http://auxbeacon.org/wp-content/uploads/2016/03/corruption22.pdf>, accessed on 16 June 2020.

¹⁵ Chêne, M and Hodess, B.R. 2014. The Impact of corruption on growth and inequality available at <https://www.semantic scholar.org/paper/THE-IMPACT-OF-CORRUPTION-ON-GROWTH-AND-INEQUALITY-Chêne-Hodess/51ccfb553c3931d755f0e643628178eee2d3c846>, accessed on 5 October 2020.

¹⁶ Besley, T and Ghatak, M. 2007. Reforming Public Service Delivery. *Journal of African Economies*, pp. 127-156.

¹⁷ See Section B 1 of the White Paper on Local Development.

¹⁸ Madonsela, T. 2013. Thuli Madonsela: SA’s iron lady - Corruption Watch Corruption watch page available at <http://www.corruptionwatch.org.za/thuli-madonsela-sas-iron-lady/>, accessed on 24 July 2020.

¹⁹ See Section 152(b) of the Constitution of South Africa.

²⁰ Maass, S. 2013. Local Government Law Study Guide.

Corruption threatens sustainable economic development, ethical values and justice; it destabilises society and endangers the rule of law²¹ by paving the way for maladministration.²² Furthermore, corruption results in state capture shows that decisions made by the state (local government) are influenced by corporates, politicians and individuals who want to benefit from corruption.²³

Corruption undermines the institutions and values of our democracy.²⁴ Public officials drift away from their duties because of corruption and delays in infrastructure development, poor quality of buildings and layers of additional costs are all consequences of corruption. Moeti (2017) states that corruption and fraud occur as a result of poor procurement management and control, which affects service delivery and unnecessarily increases the amount of money allocated to one project, leaving other service delivery projects unimplemented due to lack of funds within the local government.²⁵ As such, corruption is initiated by companies who can pay a bigger bribe rather than the skills they offer, because of the connections they have within local government, resulting in projects that are overcharged leading to the delivery of poor quality work.²⁶

Section 76(4)(c) of the Public Finance Management Act 1999 (Act 1 of 1999)(PFMA)²⁷ mandates the National Treasury to devise a system for appropriate procurement and a fair, equitable, transparent, competitive and cost-effective structure²⁸ that ensures that public officials, politicians, and parliamentarians have limited discretion over the decision on the amounts of money to be paid for goods and services. This provision is also supported by Section 217(1) of the Constitution states that when an organ of state in the national, provincial or local sphere government, or any other institution identified in the national legislature, contracts for goods or services, it must do so following a system that is fair, equitable, transparent, competitive and cost-effective. However, many Local governments have been put under administration as a result of public officials and political office holders saddled with the responsibility of providing oversights who turn a blind eye to mismanagement. The consequence of this is the poor implementation of procurement regulations due to rampant corruption which, in turn, impedes quality service delivery.

Radebe (2003), the then Minister of Justice and Constitutional Development alluded to the fact that South Africa embraces international practices, such as the United Nations Convention Against Corruption 2003 (UNCAC).²⁹ This Convention aims to promote and strengthen measures to prevent and combat corruption efficiently and effectively with the cooperation of state parties in criminal matters and by assisting each other (state parties) in investigations of, and proceedings in civil and administrative matters relating to corruption.³⁰

Other Conventions that are relevant to combating corruption are the African Union Convention on Preventing and Combating Corruption 2003 (AU Anti-Corruption Convention)³¹ and the Southern African Development Community 1992 (SADC) Protocol Against Corruption. The African Union Convention on Preventing and Combating Corruption 2003 (AU Anti-Corruption Convention) aims to promote and strengthen the development of mechanisms required to prevent,

²¹ See Thuti, G.M. 2006.

²² Thornhill, C. 2006, 'Effective municipal government and administration as preconditions for efficient service delivery', *Journal of Public Administration*, pp. 317–332.

²³ Ibid.

²⁴ Kututwa, N. 2005. African Anti-Corruption Commitments: A review of eight NEPAD countries available at <https://www.worldcat.org/title/african-anti-corruption-commitments-a-review-of-eight-nepad-countries/oclc/62335777>, accessed on 29 September 2020.

²⁵ Moeti, K. 2014, *Public finance fundamentals*, Juta, Cape Town.

²⁶ Tanzi, V. and Davoodi, H. 1997. "Corruption, public investment and growth", IMF Working Paper WP/93/139, International Monetary Fund, Washington DC.

²⁷ See Public Finance Management Act, 1999

²⁸ Watermeyer, R. 2011. 'Regulating public procurement in Southern Africa through international and national standards', Public procurement regulation in Africa Conference, 25 October, Stellenbosch.

²⁹ See Radebe, J. 2003. Nations Convention Against Corruption 2003 (UNCAC).

³⁰ See United Nations Convention against Corruption 2003 (UNCAC) United Nations resolution 58/4 of 31 October 2003. Sourced <www.unodc.org/crime_convention_corruption.html>.

³¹ See African Union Convention on Preventing and Combating Corruption 2003 (AU Anti-Corruption Convention).

detect, punish and eradicate corruption and related offences in both the public and private sectors.³² The SADC's Protocol against corruption's purpose is to promote and foster the development and harmonization of policies and domestic legislation of the states which are signatories to the convention relating to the prevention, detection, punishment and eradication of corruption in both the public and private sectors.³³

These international institutions are mandated to ensure that the fight against corruption is taken seriously and to assist state signatories with the prevention and detection of corruption.³⁴ South Africa has demonstrated its support for fighting corruption through the proclamation of the Prevention and Combating of Corrupt Activities Act 12 of 2004 (PCCA). PCCA was the country's first attempt at the establishment of a legislation tailored to curb corruption. Section 26(1)(a) of PCCA specifically provides for offences in respect of corrupt activities relating to public officials³⁵ and for the punishment that ought to be imposed on perpetrators. For instance, those utilizing the Asset Forfeiture Unit to confiscate assets that were proceeds obtained as a result of unlawful activities.³⁶

Reference can be made to the case of *S v Selebi* (25/09) [2010] ZAGPJHC 53 (5 July 2010)³⁷ in which the accused was found guilty of the crime of corruption in contravention of section 4(1) (a) of the PCCA. The accused had pursued a personal relationship with Mr. Glen Norbert Agliotti—a criminal suspect which ultimately progressed into a corrupt relationship. The accused had received money and gifts from Mr. Agliotti and, sometimes, from his son. In return, the accused shared sensitive and secret information with Mr. Agliotti regarding an investigation of him driven by law enforcement authorities in the United Kingdom and shielded Mr. Agliotti from criminal prosecution. The accused further agreed to deviate from the normal prescribed procedures of investigation and prosecution to protect one. Rautenbach, alluding to one Sanders and/or one Nassif and others and tendered information about contractual work to be done in Sudan, which helped Mr. Agliotti and his associates to receive preferential or special South African Police Services (SAPS).

The accused pleaded not guilty in all charges laid against him on the basis that the prosecution was not undertaken in good faith and that there was an ulterior motive behind the prosecution to discredit him and to ensure that the existence of the Directorate Special Operations (DSO) is discredited. The accused was found guilty of contravening section 4(1)(a) of act 12 of 2004. However, it was at the Appeal Court *Selebi v S* that a clear explanation was rendered as to why the accused was found guilty. Judge of Appeal, Snyders held that "Section 4, in my view, does not require an agreement between the corruptor and the corruptee, nor does it require a *quid pro quo* from the corruptee. It must be plainly understood that the conviction in this case on the evidence that established an agreement and the giving of a *quid pro quo*, is not the low water mark of the section. Strictly speaking, this finding obviates the need to investigate whether the appellant gave any *quid pro quo* for the payments that he received. But, as I have already pointed out, he did. For these reasons I agree that the appeal should be dismissed."³⁸

Corruption is just not an occurrence in the public sector, it is a phenomenon that takes away resources that the poor benefit from and rely on. Corruption creates a vacuum in which key resources are not utilised to the full effect, rather, they are used to enrich unethical individuals.³⁹ Section 20 of the Public Service Act, 1994 (PSA) deals with misconduct in the public sector.⁴⁰ The Act is used as an instrument to curb the prejudice of the administration and disciplines the acceptance or demand of

³² See African Union Convention on Preventing and Combating Corruption 2003 (AU Convention on Corruption) Sourced www.africa-union.org/.../Treaties_%20Conventions_%20Protocols/off_Treaties_Conventions_&_Protocols.htm.

³³ See Southern African Development Community (SADC) Protocol against Corruption article 2 (c).

³⁴ Fraser-Moleketi, M. G. 2005., The African Union Convention on Corruption and NEPAD's available at <http://www.auanti-corruption.org/uploads/unpan021256.pdf>, accessed on 14 September 2020.

³⁵ See section 4 of Prevention and Combating of corrupt activities Act.

³⁶ See section 26(1)(a) of Prevention and Combating of corrupt activities Act.

³⁷ *Selebi v S* (240/2011) [2011] ZASCA 249; 2012 (1) SA 487 (SCA); 2012 (1) SACR 209 (SCA); [2012] 1 All SA 332 (SCA) (2 December 2011).

³⁸ Ibid.

³⁹ Anassi, P. 2006. Corruption in Africa: The Kenyan experience available at <https://www.amazon.com/Corruption-Africa-Experience-Peter-Anassi/dp/1412034795>, accessed on 17 April 2020.

⁴⁰ See Public Service Act, 1994.

any commission, fee or pecuniary or other rewards in respect of carrying out or the failure to carry out official duties and any contravention of the prescribed code of conduct or any provision thereof.⁴¹ This section ensures that public servants do not act in such a manner that their duties are jeopardised by failing to discharge a professional service as regarded by the PSA to obtain a reward. The Public Service Regulations, 2001⁴² issued in terms of section 41 of the PSA 1994 (Proclamation 103 of 1994) also takes a key interest in fighting corruption in the public sector. Chapter 2 of Public Service Regulations, 2001 provides guidelines on how public servants ought to conduct themselves in order to shield themselves from the advances of corruption.⁴³ These guidelines are there to promote sound, efficient, effective, transparent and accountable administration,⁴⁴ and in the course of their official duties, public servants should report to the appropriate authorities, fraud, corruption, nepotism, maladministration and any other act which constitutes an offence, or which is prejudicial to the public interest.⁴⁵ However, even with such a law in place, public sector corruption is still prevalent and the core reason for the lack of service delivery.

Corruption, in its simplest terms, means the abuse of power, most often for personal gain. Corruption can be in different forms, and can include behaviours like: “public servants demanding or taking money or favours in exchange for services, politicians misusing public money or granting public jobs or contracts to their sponsors, friends and families, corporations bribing officials to get lucrative deals.”⁴⁶ Corruption includes unilateral misuse such as favouritism, misappropriation, nepotism, bribery and embezzlement by government officials.⁴⁷ Corruption within the government is mainly found in political and bureaucratic offices when political or bureaucratic officers use their positions to award tenders. An example of this is when the City Manager of the Ekurhuleni Metropolitan Municipality, Mr. Ngema, appointed legal practitioners who were not on the Municipality database, which was a violation of clause 11(1)(a) and (b) and clause 14(1)(a)(b) of the Ekurhuleni Municipality Supply Chain Management policy.⁴⁸ Also, corruption often results in criminal activities, such as racketeering and money laundering, however, it is much broader than that.⁴⁹ In the case of *S v Van der Westhuizen*,⁵⁰ Mr. Justice Baker accepted Hunt’s view that “the law of corruption is designed to protect the community generally against public administration.” Gong (1994) said that corruption is not a static notion but a dynamic one which evolves over time and differs from society to society.⁵¹ The World Bank defines the stigma of corruption as an abuse of public authority for the purpose of acquiring personal gain (Kaufmann, 2004).⁵² Transparency International also states that, „corruption is an abuse of entrusted power for personal gain.”⁵³

From the perspective of international instruments, the UNCAC does not adequately provide for what corruption is, although Article 15(b) of the UNCAC prohibits „the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, so that the official acts or refrains from acting in the exercise of his or her official duties.”

In legal terms, corruption is defined as the practice of offering and/or receiving a private favour for the presentation of a duty.⁵⁴ This also means, simply put, the misuse of delegated power

⁴¹ See Republic of South Africa, 1994, Public Service Act, 1994 (Proclamation 103 of 1994).

⁴² The Public Service Regulations, 2001.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Transparency International, 2018.

⁴⁷ Thompson, D. 1992 “The Paradoxes of Administrative Ethics” *Public Administration Review*, p. 3.

⁴⁸ See Report no: 62 of 2019/2020.

⁴⁹ Ibid.

⁵⁰ See *S v Van der Westhuizen* (256/2002) [2003] ZAFSHC 27 (30 October 2003).

⁵¹ Gong, T. 2004. The politics of corruption in contemporary China: An analysis of policy outcomes, available at <https://www.amazon.com/Politics-Corruption-Contemporary-China-Analysis/dp/0275946894>, accessed on 7 November 2020.

⁵² See Kaufmann, D. 2005. ‘Corruption, Governance and Security: Challenges for the Rich Countries and the World’ World Bank Global Competitiveness Report 2004/2005 (2004).

⁵³ Transparency International, 2018.

⁵⁴ Snyman, C.R. 2008. Criminal law, available at https://openlibrary.org/books/OL22533162M/Criminal_law, accessed on 7 November 2020.

for a private favour, which systemically entails an official doing something, or omitting to do something, for gain.

The effects of corruption on service delivery are rampant and cannot be overlooked as they are the main causes of underdevelopment and poverty.

- Corruption creates an imbalance in our societies, in that countries which are loaded with natural resources, that ought to be directed to developing the marginalised, are looted by unscrupulous corrupt persons. This creates a gap in societies.⁵⁵
- Corruption encroaches on the rights of civilians. Constitutional rights such as the right to adequate housing are not provided due to the diversion of funds and misappropriations of resources.
- Corruption distorts incentives and market forces, leading to the misallocation of resources.
- Corruption diverts talent and resources, including human resources from productive activities resulting in waste and destruction.
- Corruption may also decrease the productivity of investments by reducing the quality of resources. For example, by undermining the quality and quantity of health and education services, corruption decreases a country's human capital.
- Rent-seeking behaviour is also likely to create inefficiencies, fuelling waste of resources and undermining the efficiency of public expenditure.⁵⁶

Local governments have been tasked with ensuring that service delivery is provided to their local communities.⁵⁷ Section 73 of the Local Government: Municipal Systems Act 32 of 2000 (LGMSA) stresses that a municipality ought to give effect to the provisions of the constitution by:

- a) Giving priority to the basic needs of the local community;
- b) Promoting the development of the local community;
- c) Ensuring that all members of the local community have access to at least the minimum

level of basic municipal services.

Municipal services must, therefore,

- a) Be equitable and accessible;
- b) Be provided in the manner that is conducive to the prudent, economic, efficient and effective use of available resources and the improvement of standards of quality overtime;
- c) Be financially sustainable;
- d) Be environmentally sustainable; and
- e) Be regularly reviewed with a view to upgrading, extension and improvement.⁵⁸

A fundamental question that arises is, what does service delivery entail? In simple terms, service delivery refers to services that the government is required to provide to their citizens within the area in which the local municipalities operate. The scope of service delivery is broad and includes services such as healthcare, education, water and housing. These services are at the heart of human rights. Article 21(2) of the Universal Declaration of Human Rights (UDHR) states that, "everyone has the right of equal access to public service in his country,"⁵⁹ while Article 25(1) emphasises that, "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to social security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."⁶⁰

3. Analysis of international laws against corruption

There are international instruments in place that are being used to identify the causes and

⁵⁵ M. Chene. Anti-corruption help desk: the impact of corruption on growth and inequality (2014) 2.

⁵⁶ Ibid.

⁵⁷ See Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

⁵⁸ Ibid.

⁵⁹ See Article 21(2) of the Universal Declaration of Human Rights.

⁶⁰ See Article 25 (1) of the Universal Declaration of Human Rights.

impacts of corruption and, more importantly, to formulate a strategic mechanism that countries will use in the fight against corruption. Also, institutions such as Organisation for Economic Cooperation and Development (OECD), the United Nations conventions (UN), the African Union (AU) and the South African Development Community (SADC), *inter alia*, aim to promote and strengthen the development of mechanisms and policies to prevent, detect, punish and eradicate corruption,⁶¹ have played a critical role in ensuring that developing countries have effective ostensible legislation to curb corruption. Within the scope of the UN, multiple instruments have been established in the fight against corruption. These instruments include:

The UNCC, aims (a) to promote and strengthen measures to prevent and combat corruption more efficiently and effectively; (b) to promote, facilitate and support international cooperation and technical assistance in the prevention of, and fight against, corruption, including asset recovery; and (c) to promote integrity, accountability and proper management of public affairs and public property.

The United Nations Declaration Against Corruption and Bribery in the International Commercial Transactions 1996 (UNDCBICT),⁶² aims to take effective and concrete action to combat all forms of corruption, bribery and related illicit practices in international commercial transactions. In particular, this Declaration aims to (a) pursue effective enforcement of existing laws prohibiting bribery in international commercial transactions; (b) to encourage the adoption of laws for those purposes where they do not exist; (c) to call upon private and public corporations, including transnational corporations, and individuals within their jurisdiction engaged in international commercial transactions to promote the objectives of the present Declaration; and, (d) to criminalize bribery of foreign public officials in an effective and coordinated manner, but without, in any way precluding, impeding or delaying international, regional or national actions to further the implementation of the present Declaration.⁶³

The International Code of Conduct for Public Officials 1996 (ICCPO),⁶⁴ states the aims of the code, which are to determine standards of integrity and conduct, help public officials meet those standards and tell the public what it is entitled to expect from its public officials.⁶⁵

This paper focussed on the UNCAC, which South Africa has ratified and is a signatory to. This is because the UNCAC pays attention to key fronts in the fight against corruption including; prevention, criminalization, international cooperation and asset recovery,⁶⁶ calling on state parties to develop and establish preventative anti-corruption bodies or bodies specialised in combating corruption through law enforcement.⁶⁷

From a South African legal framework perspective, the legislature enacted the PCCA is the potent and viable anticorruption tools. The deployment of the international anti-corruption instrument together with the PCCA are formidable tools toward fighting and curbing corruption in South Africa.

4. The United Nations Convention Against Corruption 2003 (UNCAC)

The UNCAC was endorsed by the international community after extensive negotiations between countries for the establishment of a flexible convention that could cater to the interests of all countries in their fight against corruption. Article 5(3) specifically sets out that State parties must take it upon themselves to scrutinize and examine their legal frameworks, and their administrative measures, in order to strengthen them with a view of fighting corruption.

Articles 7, 8 and 9 of the UNCAC focus on how the public sector ought to practice and affiliate itself, not only with the required standard of practice envisaged by the UNCAC but also with the standards imposed by their domestic legal systems. These articles also aim to develop, implement

⁶¹ Thuti 2006.

⁶² See United nations convention against corruption.

⁶³ See United Nations Declaration against Corruption and Bribery in the International Commercial Transactions G.A. U.N. Doc. A/51/49 (Vol. I) (1996).

⁶⁴ See United Nations International Code of Conduct for Public Officials.

⁶⁵ See Codes for public officials: recommendations rec (2000) 10 and explanatory memorandum.

⁶⁶ See The United Nations Convention against Corruption: A Model Academic Course

⁶⁷ Thuti 2006.

and maintain effective coordinated anti-corruption 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.⁶⁸ Article 7(4) empathises the need for elected public officials to align themselves with the domestic law within which they operate and, in so doing, promote transparency and avoid conflicts of interest.⁶⁹ This interrelates with our Public Finance Management Act (PFMA), which stipulates that public officials must recognise and disclose any conflict of interest that may arise,⁷⁰ to reinforce transparency, as expected by the UNCAC.

Within the scope of the code of conduct of public officials, Article 8(1) of the UNCAC provides that, to fight corruption, a State party must promote, *inter alia*, integrity, honesty and responsibility among its public officials.⁷¹ Further, the State party ought to ensure that public officials familiarise themselves with the codes of conduct imposed on them by legal frameworks, to enable public officials to properly perform their duties and, at the same time, to ensure a corrupt-free working environment. The establishment of the codes of conduct creates an element of transparency within public institutions and include instruments such as the International Code of Conduct for Public Officials and the Executive Members Ethics Act, 1998 (EMEA). Codes of conduct are designed to uphold the credibility and integrity of the public office or the government.⁷² This is evident in the establishment of the Public Service Commission (PSC) in our country. The PSC is mandated by Section 196(4) of the Constitution of South Africa to do the following, *inter alia*:

- promote the constitutionally prescribed values and principles governing public administration in the public service;
- investigate, monitor and evaluate the organisation and administration, and the personnel practices, of the public service;
- propose measures to ensure effective and efficient performance within the public service;
- give directions aimed at ensuring that personnel procedures relating to recruitment, transfers promotions and dismissals comply with the constitutionally prescribed values and principles;
- report in respect of its activities and the performance of its functions, including any finding it may make and directions and advice it may give, and to provide an evaluation of the extent to which the constitutionally prescribed values and principles are complied with.

The UNCAC requires State parties to root out corruption in public institutions by installing measures to report misconduct that can lead to corruption by public officials.⁷³ Anti-corruption Institutions are tasked with investigating corruption in public sectors. This consistently requires that public officials do not deviate from their mandates and the rule of law. On a broader scale, public officials must disclose any business activities that they have outside of their scope of employment in the public sector to promote the progression and witness of openness. Also, the UNCAC limits public officials from promoting their side businesses, and s. 136 (2) of the Constitution of South Africa provides that a Premier must not engage her/himself in a situation that would result in the risk of a conflict arising between her/his official duties and private interest. Moreover, section 2 (1) of the EMEA directs the President of the Republic of South Africa to publish a code of ethics to promote a transparent, integral and accountable government to which public officials must conform while performing their functions. The code of ethics was published in 2000 and clause 2.3 (f) of the code provides that Member of the Executive Committees (MECs) must not expose themselves to situations that would lead to a risk of a conflict between their public duties and private interests at the expense of state resources. This code of ethics also enhances the performances of public officials to render quality service delivery as their attention will not be shifted.

At the heart of Article 7 of the UNCAC is the placement of public officials according to merit,

⁶⁸ See UNCAC article 7.

⁶⁹ Ibid, Article 7(4).

⁷⁰ See Public Finance Management Act (1999).

⁷¹ See UNCAC Article 8 (1) .

⁷² See Executive Members Ethics Act, 1998.

⁷³ See UNCAC Article 8 (4).

equity and aptitude, under the umbrella of transparency and efficiency,⁷⁴ to avoid maladministration that might lead to corruption. Party states must invoke educational programmes for public officials, such as the National Anti-Corruption Program directed at raising awareness and prevention measures, especially among those who are more susceptible to corruption. Moreover, the party-state must set up a rotation strategy to avoid public officials from holding positions for too long. Article 7 of the UNCAC encourages State parties to facilitate awareness programmes for public officials for them to detect the corruption that is inherent their work performance.

Article 9 of the UNCAC deals with public procurement and the management of public finances and expects the State parties to enact mechanisms, such as the Preferential Procurement Policy Framework Act (PPPFA) Act No 5 of 2000 which aims to give effect to section 217(3) of the Constitution⁷⁵ by providing a framework for the implementation of the procurement policy contemplated in section 217(2) of the Constitution; and to provide for matters connected therewith.⁷⁶ This Act regulates procurements concerning how tender bids should be evaluated and paid out transparently, competitively and by objective criteria in order to prevent corruption.⁷⁷ This is in line with section 76 (4) of the Public Finance Management Act, 1999, which provides that the National Treasury develops regulations, or issue instructions, regarding the determination of a framework for an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective.⁷⁸

For the purpose of this mini-dissertation, the last article which is imperative is Article 10 of the UNCAC. Article 10 of UNCAC reiterates the need for transparency within the public administration. A relevant example of this in South Africa is the Open Tender Process (OTP) implemented by the Gauteng Provincial Government (GPG), which requires that bid documents are open to public scrutiny and that tenders are awarded based on price and quality to restore transparency within the government.⁷⁹ Party states are tasked with adopting procedures, such as giving adequate notice to the public, holding consultations with the public, and providing the general public with information on the organization, functioning and decision-making processes of the province's public administration. Party states must also publicise information about the risk of corruption in the public sector. Implementation of such procedures has been carried out in South Africa by the promulgation of the Promotion of Administrative Justice Act (PAJA).⁸⁰ Section 4 of PAJA deals with administrative actions that affect the public. This relates to Article 5 of the UNCAC which states that the society must participate in the implementation of anti-corruption measures.⁸¹

5. The African Union Convention on Preventing and Combating Corruption 2003

The adoption of this Convention was done to tackle corruption within the public and private sectors. The African Union (AU) Anti-Corruption Convention was drawn up by the AU, inviting state parties to enact within their domestic laws legislation frameworks and policies aimed at fighting corruption, which is said to cost Africa approximately \$148 billion annually.⁸² The preamble to this Convention states that the AU Anti-Corruption Convention acknowledges that corruption undermines accountability and transparency in the management of public affairs, as well as the socio-economic development of the continent.⁸³ Article 2 of the AU Anti-Corruption Convention lays out the following objectives:

⁷⁴ See UNCAC Article 7.

⁷⁵ See section 217(3) of the Constitution of South Africa.

⁷⁶ See Preamble of Act No 5 of 2000.

⁷⁷ Ibid.

⁷⁸ See section 76 (4) of the Public Finance Management Act, 1999.

⁷⁹ See Sizani input on the Improving transparency and accountability in the government by examining how to depoliticise executive governance, including professionalism of the public sector, state owned enterprises and public procurement.

⁸⁰ See Act 3 of 2000.

⁸¹ See Article 5 of the UNCAC.

⁸² Olaniyan, K 2004. The African Union Convention on Preventing and Combating Corruption: A critical appraisal, *African Human Rights Law Journal*, pp.74-75.

⁸³ See AU Anti-Corruption Convention preamble para 7.

- To promote and strengthen the development in Africa of anti-corruption mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors;
- Promote, facilitate and regulate cooperation among state parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa;
- Coordinate and harmonize the policies and legislature between state parties for prevention, detection, punishment and eradication of corruption in the continent;
- Promote socio-economic development by removing obstacles to the enjoyment of economic, social, cultural rights as well as civil and political rights;
- Foster transparency and accountability in the management of public affairs.

In accepting these objectives, South Africa introduced the National Anti-Corruption Forum (NACF) 'as the formal mechanism to bring the public, business and civil society sectors together to fight corruption in all aspects of the society'.⁸⁴ South Africa's approach to give effect to these objectives was brought about with the inception of the Anti-Corruption Task Team (ACTT). This task team was empowered to ensure that corruption within the government structures was curtailed. The government agencies that participate in the ACTT are the Directorate for Priority Crime Investigation (DPCI), the South African Revenue Services (SARS); the Special Investigative Unit (SIU); the National Prosecuting Authority (NPA) and the Assets Forfeiture Unit (AFU).

Article 4 of the Convention describes what amounts to corruption and related offences, which includes the offering of illicit payments,⁸⁵ acts or omissions by government officials to obtain a bribe,⁸⁶ the fraudulent diversion by a public official or any other person of any property belonging to the state or its agencies,⁸⁷ the offering or giving, promising, soliciting or accepting, an undue advantage to or by any person in a private sector entity,⁸⁸ the use or concealment of proceeds derived from the acts enumerated in the Convention, and participation as a principal, co-principal, agent, instigator, accomplice, accessory after the fact, in a conspiracy to commit enumerated acts.⁸⁹ The Constitution provides for a public sector that is accountable, efficient and transparent. However, this has not been the case. For example, the Public Protector investigated a Limpopo-based company by the name of On-Point Engineering. This investigation exposed tender rigging practices within the Limpopo Province's Public Works Department. The company was associated with Julius Malema, the then African National Congress (ANC) Youth League president. The Public Protector's report revealed fraud, maladministration and enrichment at the expense of state resources.⁹⁰

State parties are directed by the AU Anti-Corruption Convention in Article 5 to enact legislative and other measures, such as the Public Finance Management Act (1 of 1999), which was enacted to regulate and oversee public finances in South Africa, the Prevention and Combatting of Corrupt Activities Act (12 of 2004) to punish all forms of corruption and the Municipal Finance Management Act (56 of 2003) which aims to regulate municipality finances and prevent corruption. State parties are encouraged to freeze assets that were obtained through corrupt activities.⁹¹ A particular legislative framework that is of use in this regard is the Prevention of Organised Crime Act 121 of 1998 which provides that property obtained through corruption may be forfeited to the state.⁹² Furthermore, the AFU was established to focus on chapters 5 and 6 of the Prevention of Organised Crime Act 121 of 1998.⁹³ The AFU aims to seize assets that were obtained from criminal activities,

⁸⁴ See Sangweni "S 2005. Overview of Anti-Corruption Programmes and Strategies in South Africa." Address at the Free State Provincial Anti-Corruption Summit, Bloemfontein, 29 July 2005.

⁸⁵ See AU Anti-Corruption Convention Article 4 (b).

⁸⁶ Ibid, Article 4 (c).

⁸⁷ Ibid, Article 4 (d).

⁸⁸ Ibid, Article 4 (e) (f).

⁸⁹ Ibid, Article 4 (i).

⁹⁰ See Public Protector (2012). On the Point of Tenders. Office of the Public Protector.

⁹¹ See AU Anti-Corruption Convention article 6 (a).

⁹² See The Prevention of Organised Crime Act 121 of 1998.

⁹³ Ibid.

i.e., fraud, corruption and unjustified enrichment.⁹⁴

In an attempt to eradicate corruption in the public sector, public officials are required to declare and disclose the assets they have at the time of assuming their positions.⁹⁵ This promotes transparency in the public sector. Internal committees, or similar bodies such as Public Service Anti-Corruption Strategy (PSACS) and the Public Service Commission, must be formed to ensure that ethics in the public service are upheld.⁹⁶ The public sector must also strive to ensure that transparency, equity and efficiency are of priority when tendering and hiring.⁹⁷ This could be achieved by informing the public of the available resources the State has and the official(s) in charge of appointing and awarding tenders. This creates an opening for the public to utilize this approach to suggest improvements to service delivery and to know who to hold accountable when corruption and wasteful expenditure take place.

In view of uncovering corrupt activities, the Convention provides, in Article 7(3),⁹⁸ for State parties to develop disciplinary measures and investigation procedures for the sake of keeping up with technological developments and for the increment of efficiency. For instance, Section 17(4)(b) of the regulations of the National Credit Act⁹⁹ provides for the prevention of fraudulent activities by checking a person's credit information and allowing forensic investigators to use lifestyle audits as a tool for detecting illicit activities by employees whose lifestyles are not commensurate with their income. Because corruption is widespread, the AU Anti-Corruption Convention calls for cooperation between State parties to prevent corruption. The effect of international cooperation is simply to stop international trade transactions that are undertaken through corruption.¹⁰⁰

Article 22 of the AU Anti-Corruption Convention proposes a board of members who are tasked with overseeing that State Parties are acting within the scope of what the Convention stands for.¹⁰¹ The board of members must resemble the characters of impartiality, integrity and must exercise their fiduciary duties when combating and preventing corruption at the request of State parties.¹⁰² The functions of this board are to promote and encourage the adoption and application of anti-corruption measures on the continent, collect and document information on the nature, scope, and extent of corruption, and develop methodologies that are directed to detect corruption. For instance, Radebe asserts that the "e-Tender Publication Portal has been created to improve the transparency of procurement spent specifically in the tender space to cripple corruption associated with tenders." The Government also established the Office of the Chief Procurement Officer (OCPO) to modernise and consolidate the State's fragmented and archaic legislative framework for procurement and supply chain management; strengthen accountability arrangements through focused governance monitoring and compliance arrangements; use technology smartly to reduce red tape, bring efficiency and effectiveness in the procurement process; establish strategic procurement principles in government processes; and increase centre led common spend items/transversal contracts in collaboration with key procuring Institutions to leverage the State spend. Since it was founded, the OCPO has taken bold steps to curb waste, leakages, wrongdoing and corruption".¹⁰³ This had the effect of analysing the problem of corruption and employing safeguards by enacting such in Africa, disseminating information and sensitising the public on the negative effects of corruption.

⁹⁴ Kempen, A. "Taking Profit out of the Crime": The Assets Forfeiture Unit, available at <https://www.npa.gov.za/sites/default/files/files/FAQs%20on%20AFU.pdf>, accessed on 24 January 2021.

⁹⁵ See AU Anti-Corruption Convention Article 7 (1).

⁹⁶ *Ibid.*, Article 7 (2).

⁹⁷ *Ibid.*, Article 7 (4).

⁹⁸ *Ibid.*

⁹⁹ See National Credit Act, 34 of 2005.

¹⁰⁰ See AU Anti-Corruption Convention Article 19 (2).

¹⁰¹ *Ibid.*, Article 22 (2).

¹⁰² *Ibid.*, Article 22 (5) (a-e).

¹⁰³ Radebe, J. 2016. International Anti-Corruption Day available <https://www.gov.za/speeches/minister-jeff-radebe-international-anti-corruption-day-9-dec-2016-0000>, accessed on 24 December 2020.

6. Conclusion

International conventions that are directed to combat corruption have constructed their legal frameworks to include codes and standards that public officials must acquaint themselves with. The essence of these conventions is to promote integrity, accountability and proper management of public affairs. The AU Anti-Corruption Convention acts as an umbrella over how state parties must formulate their domestic legal framework in such a manner that the framework corresponds with the international legal frameworks, to avoid discrepancies. Although corruption is a worldwide challenge, country-specific domestic challenges faced by diverse countries may result in different levels and forms of corruption. In developing countries, for example, the challenges are unemployment, poverty, lack of resources, while in developed countries, corruption occurs in the quest for power.

Bibliography

1. African Union Convention on Preventing and Combating Corruption 2003 (AU Anti-Corruption Convention).
2. African Union Convention on Preventing and Combating Corruption 2003 (AU Convention on Corruption) Sourced www.africa-union.org/.../Treaties_%20Conventions_%20Protocols/offTreaties_Conventions_&_Protocols.htm.
3. Anassi, P. 2006. Corruption in Africa: The Kenyan experience available at <https://www.amazon.com/Corruption-Africa-Experience-Peter-Anassi/dp/1412034795>, accessed on 17 April 2020.
4. Besley, T and Ghatak, M. 2007. Reforming Public Service Delivery. *Journal of African Economies*, pp. 127-156.
5. Camerer, L 1999. the consequences of corruption available at <https://journal.probeinternational.org/2002/02/01/the-consequences-of-corruption/>, accessed on 12 January 2020.
6. Chêne, M and Hodess, B.R. 2014. The Impact of corruption on growth and inequality available at <https://www.semanticscholar.org/paper/THE-IMPACT-OF-CORRUPTION-ON-GROWTH-AND-INEQUALITY-Chêne-Hodess/51ccfb553c3931d755f0e643628178eee2d3c846>, accessed on 5 October 2020.
7. Codes for public officials: recommendations rec (2000) 10 and explanatory memorandum
8. Farida, M. 2000. The Impact of Corruption on Economic Growth in Lebanon, available at https://www.rdi.uwa.edu.au/_data/assets/pdf_file/0007/32686/FaridaMoe_PhDConf2007.pdf, accessed on 12 March 2020.
9. Fraser-Moleketi, M. G. 2005., The African Union Convention on Corruption and NEPAD's available at <http://www.aumaticorruption.org/uploads/unpan021256.pdf>, accessed on 14 September 2020.
10. Gong, T. 2004. The politics of corruption in contemporary China: An analysis of policy outcomes, available at <https://www.amazon.com/Politics-Corruption-Contemporary-China-Analysis/dp/0275946894>, accessed on 7 November 2020.
11. Chene M. Anti-corruption help desk: the impact of corruption on growth and inequality (2014) 2.
12. Heath, W.H. 2010. Defining corruption in terms of our legislation and its impact on service delivery – what are practical measures that could be undertaken.
13. Ibrahim, S.A. 2019. Role of Governance Strategies on Corruption Reduction in Somalia, *International Journals of Academics & Research*, pp. 361-376.
14. Kaufmann, D. 2005. 'Corruption, Governance and Security: Challenges for the Rich Countries and the World' World Bank Global Competitiveness Report 2004/2005 (2004).
15. Kempen, A. "Taking Profit out of the Crime": The Assets Forfeiture Unit, available at <https://www.npa.gov.za/sites/default/files/files/FAQs%20on%20AFU.pdf>, accessed on 24 January 2021.
16. Klitgaard, R. 2004. Leadership under Systemic Corruption available at <http://auxbeacon.org/wp-content/uploads/2016/03/corruption22.pdf>, accessed on 16 June 2020.
17. Kututwa, N. 2005. African Anti-Corruption Commitments: A review of eight NEPAD countries available at <https://www.worldcat.org/title/african-anti-corruption-commitments-a-review-of-eight-nepad-countries/oclc/62335777>, accessed on 29 September 2020.
18. Maass, S. 2013. 'Local Government Law Study Guide.
19. Madonsela, T. 2013.Thuli Madonsela: SA's iron lady - Corruption WatchCorruption watch page available at <http://www.corruptionwatch.org.za/thuli-madonsela-sas-iron-lady/>, accessed on 24 July 2020.
20. Moeti, K. 2014, *Public finance fundamentals*, Juta, Cape Town.
21. Olaniyan, K 2004. The African Union Convention on Preventing and Combating Corruption: A critical appraisal, *African Human Rights Law Journal*, pp.74-75.
22. Oviasuyi, P. Idada, W and Isiraojie, L 2010. Constraints of Local Government in Nigeria. *Journal of Social Science* pp. 81-86.
23. Radebe, J. 2003. Nations Convention Against Corruption 2003 (UNCAC).
24. Radebe, J. 2016. International Anti-Corruption Day available <https://www.gov.za/speeches/minister-jeff-radebe-international-anti-corruption-day-9-dec-2016-0000>, accessed on 24 December 2020.

25. Republic of South Africa, 1994, Public Service Act, 1994 (Proclamation 103 of 1994).
26. *S v Van der Westhuizen* (256/2002) [2003] ZAFSHC 27 (30 October 2003).
27. Sangweni, S. 2005. Overview of Anti-Corruption Programmes and Strategies in South Africa. Address at the Free State Provincial Anti-Corruption Summit, Bloemfontein, 29 July 2005.
28. United Nations Convention against Corruption 2003 (UNCAC) United Nations resolution 58/4 of 31 October 2003. Sourced www.unodc.org/crime_convention_corruption.html.
29. *Selebi v S* (240/2011) [2011] ZASCA 249; 2012 (1) SA 487 (SCA); 2012 (1) SACR 209 (SCA); [2012] 1 All SA 332 (SCA) (2 December 2011).
30. Sizani input on the Improving transparency and accountability in the government by examining how to depoliticise executive governance, including professionalism of the public sector, state owned enterprises and public procurement.
31. Snyman, C.R. 2008. Criminal law, available at https://openlibrary.org/books/OL22533162M/Criminal_law, accessed on 7 November 2020.
32. *South African Association of Personal Injury Lawyers v Heath and Others* (CCT27/00) [2000] ZACC 22; 2001 (1) SA 883; 2001 (1) BCLR 77 (28 November 2000).
33. Southern African Development Community (SADC) Protocol against Corruption article 2 (c).
34. Tanzi, V. and Davoodi, H. 1997. "Corruption, public investment and growth", IMF Working Paper WP/93/139, International Monetary Fund, Washington DC.
35. Thompson, D. 1992 "The Paradoxes of Administrative Ethics" *Public Administration Review*, p. 3.
36. Thornhill, C. 2006, 'Effective municipal government and administration as preconditions for efficient service delivery', *Journal of Public Administration*, pp. 317–332.
37. Thuti, G.M. 2006. The Impact of corruption on governance: An Appraisal of the Practice of the rule of law in Kenya available at <https://repository.up.ac.za/bitstream/handle/2263/1222/mirugi>.
38. Transparency International, 2018. A Best Practice Guide for Whistleblowing Legislation.
39. United Nations (2012). United Nations. Prepared by the Treaty Section of the Office of Legal Affairs. United Nations Publication available at <https://treaties.un.org/doc/source/publications/THB/English.pdf>, accessed on 25 December 2019.
40. United Nations Declaration against Corruption and Bribery in the International Commercial Transactions G.A. U.N. Doc. A/51/49 (Vol. I) (1996).
41. Watermeyer, R. 2011. 'Regulating public procurement in Southern Africa through international and national standards', Public procurement regulation in Africa Conference, 25 October, Stellenbosch.