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## Corruption and Merit in the African Higher Education System: Legal, Policy and Sociological Reflections

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# **Corruption and Merit in the African Higher Education System: Legal, Policy and Sociological Reflections**

CRISTIANO D'ORSI\*

## **ABSTRACT**

This article analyses, under legal, political, and sociological aspects, the plight of corruption in Higher Education in Africa. On one side, the fight against corruption on the continent seems to use a growing number of legal instruments, at all levels (international, regional, sub-regional and domestic) on the other hand, however, it clashes against rooted traditions and a common mentality that often seem to justify acts of corruption in African academia. Through my work, I shed light on this, at least apparent, dichotomy and to make a synthesis of the various positions that can be found in Africa regarding this sensitive topic and provide recommendations in order to define a corrupted act how it deserves to be defined, which is an act undermining the growth and the real development of academia on the continent.

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## TABLE OF CONTENTS

INTRODUCTION .....	99
I. CONCERNS IN DEFINING AND IDENTIFYING CORRUPTION AND MERIT 100	
II. OBSERVATIONS ON THE ROLE OF <i>UBUNTU</i> IN AFRICAN SOCIETIES 108	
III. CONTRIBUTION OF THE EXTENDED FAMILY SYSTEM TO NEPOTISM AND THE PRACTICE OF GIFT-GIVING AS UNDERMINING THE CREDIBILITY OF HIGHER EDUCATION.....	111
IV. EXAMPLES OF DOMESTIC AND REGIONAL EFFORTS TO FIGHT CORRUPTION IN HIGHER EDUCATION.....	116
CONCLUSION: AFRICAN HIGHER EDUCATION AT A CROSSROAD.....	124

## INTRODUCTION

According to former Tanzanian President, J Nyerere, a university is “an institution of higher learning, a place where people’s minds are trained for clear thinking, for independent thinking, for analysis and for problem solving at the highest level.”<sup>1</sup> Historically, African universities have three key roles to play in boosting national development, namely, the pursuit of learning, preparation for service and organizing, implementing and evaluating research.<sup>2</sup> Yet, in most African countries, corruption<sup>3</sup> is rife. Considered the “bane of African development,”<sup>4</sup> corruption is now systemic, in the form of both “petty corruption” taking place between civil servants and citizens and in the form of “big corruption” involving, for example, senior civil servants, members of parliament and members of the government.<sup>5</sup> In this context, in recent years, many civil servants in Africa have engaged in what can be described as the “privatization of the state,” using its structures as instruments of plunder to accumulate personal wealth.<sup>6</sup> The higher education sector has not been immune from this phenomenon. In his 1967 pivotal study on corruption, Nye argues that corruption involves

Behaviour which deviates from the normal duties of a public role because of private-regarding (family, close private clique), pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence. This includes such behaviour as bribery (use of reward to pervert the judgment of a person in a position of trust); nepotism (bestowal of patronage due to ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private-regarding uses.<sup>7</sup>

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1. Herme J. Masha, *The Role of African Universities in National Development: A Critical Analysis*, 22 COMPAR. EDUC. 93, 94 (1986).

2. *Id.* at 99.

3. See Samuel Zalanga, *The Political Economy of Corruption*, in PALGRAVE HANDBOOK OF AFRICAN POLITICS, GOVERNANCE DEVELOPMENT 869, 869-882 (Samuel Ojo Oloruntoba & Toyin Falola eds. 2018).

4. Ferdinand O. Ottoh, *Ethnic Identity and Conflicts in Africa*, in PALGRAVE HANDBOOK OF AFR. POL., GOVERNANCE DEV. 342, 334-352 (Samuel Ojo Oloruntoba & Toyin Falola eds. 2018).

5. Jean-Pierre Oliver de Sardan, *The Informal Practices of Civil Servants*, in *Routledge Handbook African Politics* (2013, Routledge) 70-80 at 70-71. See also, John Mukum Mbaku, *The International Dimension of Africa’s Struggle against Corruption*, 10 ASPER REV. INT’L BUS. & TRADE L. 35 (2010).

6. See John Mukum Mbaku, *CORRUPTION IN AFRICA: CAUSES CONSEQUENCES, AND CLEANUPS* 64 (Lexington Books 2007).; accord. Victor Ojajorotu, *Resource Control and Conflict in Africa*, in *ROUTLEDGE HANDBOOK AFRICAN POLITICS, GOVERNANCE DEVELOPMENT* 367, 378 (S.O. Oloruntoba and T. Falola eds. 2018).

7. J. S. Nye, *Corruption and Political Development: A Cost-Benefit Analysis*, 61 AM.

According to Fernandez, the identity of the colonial power is strongly correlated with the level of corruption prevalent in Africa. He elaborates that, for example, Lusophone colonies seemed to show lower levels of corruption compared with Anglophone and Francophone colonies. The lower levels of corruption in Lusophone countries could be attributed to the fact that, contrary to what happened in the British and French colonies, Portugal never bothered to give the indigenous population representation at the local level, as it did not regard Africans as citizens. Assimilation into the colonial state was so restricted that *assimilados* (definition) constituted only a small fraction of the indigenous population.<sup>8</sup> On the other hand, Nel maintains that legal institutions based on the common law tradition are associated with lower levels of corruption than other legal traditions because the former entails law-making by judges, based on precedents, rather than on civil codes developed by scholars and passed by governments.<sup>9</sup>

After these preliminary reflections, this study is structured as follows: first, I briefly analyse the role of corruption and merit in the African higher education system, examining the international legal instruments to fight corruption and consequently to promote merit, as applicable to the African context. Second, I investigate the role of *Ubuntu* as a mean of justifying (or condemning) attitudes in African academia. Third, I discuss several practices still in use in African universities, such as nepotism and gift-giving and how these practices undermine the credibility of higher education on the continent. Fourth, I explore legal and policy initiatives at domestic, sub-regional and regional levels to enhance higher education on the continent. At the domestic level, I only analyse a select number of countries. Given the restricted length of this paper, it is not possible to examine higher education in all 54 sovereign states in Africa. As a final point, I conclude with reflections on the present situation of higher education in Africa and propose recommendations to change it.

## I. CONCERNS IN DEFINING AND IDENTIFYING CORRUPTION AND MERIT

The inability or failure of many African countries to establish efficient

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POL. SCI. REV. 417, 419 (1967).

8. See Lovell Fernandez, *A Survey of Corruption and Anti-Corruption Initiatives in Africa*, 2 JACL 31, 39-40 (2018); see, e.g., Simon Coldham, *Legal Responses to State Corruption in Commonwealth Africa*, 39 J. AFR. L. 115, 116 (1995); accord. Stuart S. Yeh, *Corruption and the Rule of Law in Sub-Saharan Africa*, 4 AFR. J. LEGAL STUD. 187, 192 (2011).

9. Philip Nel, *Corruption*, in ROUTLEDGE HANDBOOK AFRICAN DEVELOPMENT 649, 658 (T. Binns, K. Lynch and E. Nel eds. 2018).

and professional bureaucracies with competent, well-trained, and highly skilled civil servants is one of the reasons the prevalence of corruption in Africa is so extensive.<sup>10</sup> In many African countries, especially those with less open and less participatory political systems, a significant number of people in top civil service positions are political appointees with strong connections to the ruling party. Higher education is not exempt from this phenomenon.<sup>11</sup> It is clear that where higher education is corrupt, hiring decisions will not be made based on the candidates' qualifications and skills, but on non-job-related factors such as the candidate's political connections.<sup>12</sup>

Culture is another factor contributing to high rates of corruption in several African societies. The main argument is that corruption in many countries can be traced to flawed cultural norms within those societies. In this way, corruption arises from the clash between traditional cultural values and the norms imported from the so-called 'developed countries,' along with modernisation.<sup>13</sup>

One of the most controversial aspects in higher education systems is the role that merit plays and whether (and how much) it is sacrificed to corruption. To scrutinize this relationship, we should first agree whether there are African concepts of merit and corruption that are shared by the 54 sovereign African states and are applicable to higher education. The 2003 African Union Convention on Preventing and Combating Corruption (AU Convention on Corruption)<sup>14</sup> represents a significant step in the development of continental standards to counteract systemic corruption across Africa. However, this legal instrument has been criticised for several reasons. One of the reasons is that it "[n]either characterises large scale corruption, nor what has been described as indigenous spoliation, as a massive and direct violation of economic, social and cultural rights nor comprehensively addresses the critical links between corruption and those rights."<sup>15</sup> In addition, the AU Convention on Corruption does not provide for the granting of civil remedies to persons who have suffered damage because of acts of corruption nor does it contemplate a single provision, setting out

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10. Mbaku, *supra* note 6, at 64.

11. See, e.g., Ibrahim Oanda, *How Political Interference Keeps Hurting Africa's Universities*, THE CONVERSATION (May 12 2016), <https://theconversation.com/how-political-interference-keeps-hurting-africas-universities-58387> (last visited Oct. 10, 2021).

12. *Supra* note 5.

13. See, e.g., Joseph G. Jabbara, *Bureaucratic Corruption in the Third World: Causes and Remedies*, 22 IND. J. PUB. ADMIN. 673, 673 (1976).

14. African Union Convention on Preventing and Combating Corruption, 43 I.L.M. 5 (2004).

15. Kolawole Olaniyan, *African Union (AU): Convention on Preventing and Combatting Corruption*, 43 I.L.M. 1, 4 (2004).

the procedure or forum for settling any disputes that may arise in connection with the interpretation or application of its provisions.<sup>16</sup>

Moreover, highlighting how certain concepts may have a different meaning depending on the context, the four official texts of the convention (English, French, Portuguese and Arabic) often fail to convey exactly the same concepts.<sup>17</sup> However, the AU Convention on Corruption acts as an umbrella over state parties, drafting their domestic legal framework in a way to avoid inconsistencies with international legal frameworks.<sup>18</sup> The doctrine also seems to agree that this convention characterises corruption as a phenomenon depriving people of the enjoyment of human rights in general.<sup>19</sup> Violations of the right to education may occur through the direct actions of state actors or through their failure to take the required action. For example, several acts of corruption can amount to a violation of the right to education. The right to education is consecrated in Article 17 of the 1981 African Charter on Human and Peoples' Rights (Banjul Charter).<sup>20</sup> However, corruption may deny this right, for instance, through the theft of funds or through the appointment of teachers based on political connections. The right to education is also violated when a state fails to establish an effective institutional and regulatory mechanism to avert and fight corruption.<sup>21</sup> Bribery to gain admission to educational institutions or to obtain favourable grades<sup>22</sup> are other examples.<sup>23</sup> Corruption is also mentioned in another African legal document—the African Charter on Values and Principles of

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16. Lucky Bryce Jnr. Jatto, *Africa's Approach to the International War on Corruption: A Critical Appraisal of the African Union Convention on Preventing and Combating Corruption*, 10 ASPER REV. INT'L BUS. & TRADE L. 79, 95-6 (2010).

17. Peter W. Schroth, *The African Union Convention on Preventing and Combating Corruption*, 49 J. AFR. L. 24, 25 (2005).

18. Lesotho Safara and Kola O. Odeku, *Critical legal perspective of international anti-corruption laws for tackling corruption in South Africa*, 10 PERSPECTIVES L. PUB. ADMIN. 203, 215 (2021).

19. Thomas R. Snider & Won Kidane, *Combating Corruption through International Law in Africa: A Comparative Analysis*, 40 CORNELL INT'L L.J. 691, 745 (2007).

20. African Charter on Human and Peoples' Rights, June 27, 1981, 1520 U.N.T.S. No. 26363, 217.

21. Kolawole Olaniyan, *Corruption and Human Rights Law in Africa* 254-55 (2014); accord. SERAP v. Nigeria, Judgment, ECW/CCJ/APP/12/07; ECW/CCJ/JUD/07/10 ¶¶4-¶6, ¶17 (ECOWAS, Nov. 30, 2010).

22. See Monica Kirya, *Curbing Corruption in Higher Education*, CURBING CORRUPTION (June 2021), <https://curbingcorruption.com/wp-content/uploads/2021/06/210618-Curbing-Corruption-in-Higher-Education.pdf> (last visited Oct. 10, 2021).

23. Richard Lapper, *Understanding Corruption in Education as a Human Rights Issue*, in GLOBAL CORRUPTION REPORT: EDUCATION 16, 17 (Transparency International eds. 2013); accord. G.A. Res. 2200A (XXI), International Covenant on Economic, Social and Cultural Rights (Dec. 16, 1966).

Public Service and Administration (African Charter of Administration).<sup>24</sup> Article 12 (“Preventing and combating corruption”) urges state parties to adopt laws and policies to fight corruption by establishing independent anti-corruption institutions (para 1) and “national accountability and integrity systems to promote value-based societal behaviour and attitudes as a means of preventing corruption” (para 3). The main purpose of the African Charter of Administration is to define the general rules and principles superseding African public services, with the objective of building state capability. This charter also functions as a policy framework for the public service administrations of African countries as well as an incentive for the development and strengthening of national codes of conduct pertaining to ethical standards, professionalism, and transparency.<sup>25</sup>

The acts listed in Article 4 (“Scope of application”) of the AU Convention on Corruption can also be applied to higher education while Article 1 defines a “public official,”<sup>26</sup> that is normally the corrupted figure in Higher Education. Similar definitions are also provided by the 2003 UN Convention against Corruption (UNCAC) that has been widely ratified in Africa, except for Eritrea and Somalia.<sup>27</sup> Yet, neither the AU Convention on Corruption nor the UNCAC explicitly address the phenomenon of corruption in academia in any of their articles. However, Snider and Kidane urge states parties to the AU Convention on Corruption to accede to the UNCAC as well because that would be “the best way of addressing issues involved in the cross-continent corruption that is seriously affecting Africa’s development.”<sup>28</sup>

In addition, African states that are parties to the UN Convention against Transnational Organized Crime (Palermo Convention)<sup>29</sup> are under a duty to criminalize corruption (Article 8 “Criminalization of Corruption”)<sup>30</sup> and therefore those African states that have ratified the AU Convention on Corruption and are parties to the Palermo Convention<sup>31</sup> are under a stricter

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24. African Charter on Values and Principles of Public Service and Administration, art. 30, Jan. 31, 2011, O.S.H.S.G.A.U., No.16.

25. M Busieka, *The African Charter: An Enabler of Good Governance*, 10 AFR. J. PUB. AFF. 44, 51-2 (2018).

26. African Union Convention, *supra* note 14, art. 1 (1).

27. U.N. Convention Against Corruption, Oct. 31, 2003, 2349 U.N.T.S. No. 42146, 41.; *accord.* Rep. of the Ad Hoc Comm. for the Negot. of a Convention against Corruption on the Work of Its First-Seventh Session, U.N. Doc. A/58/422 (Oct. 7, 2003).

28. Snider & Kidane, *supra* note 19, at 747.

29. U.N. Convention Against Transnational Organized Crime, Nov. 15, 2000, 2225 U.N.T.S. No. 39574, 209.

30. *Supra* note 6, at 10.

31. U.N. Convention against Transnational Organized Crime, Nov. 15, 2000, 2225

regime. The question is, of course, what these states have done to implement these conventions. Moreover, Article 4(m) (“Principles”) of the AU Constitutive Act<sup>32</sup> suggests that the notion of “good governance” includes anti-corruption as well<sup>33</sup> and, therefore, this should be a principle guiding the function of the AU.

Specifically referencing to corruption within higher education in Africa, anti-corruption experts are urging improvements in the governance and leadership of public universities.<sup>34</sup> According to Salmi, all African governments should establish a regulatory framework for tertiary education systems, with adequate provisions to punish corrupt behaviour at all levels. He suggests that university senates, independent financial review boards and national university accreditation boards should provide leadership in fighting corruption.<sup>35</sup>

To operate in a more transparent manner, African universities are also encouraged to ensure that funds obtained through corruption are not donated or invested in higher education. There have been cases in several countries (e.g. Equatorial Guinea, Libya and Nigeria) where money misappropriated from public institutions had been channelled to universities.<sup>36</sup> When public tertiary education institutions are given autonomy by the state, they must, in return, be responsible for the use of public resources, the orientation of their operations with public policy goals and their overall performance.<sup>37</sup> Given that corruption is endemic in most universities in Africa, it is necessary to crackdown on academic fraud such as “soft marking”, copying from other students, cheating during examinations and impersonation. For example, in Ethiopia, academic dishonesty most commonly takes the form of cheating in exams and plagiarism.<sup>38</sup> These behaviours were often tolerated and swept under the carpet through corruption.

Universities should also monitor and punish cases of falsified academic

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U.N.T.S. No. 39574, 209.

32. Constitutive Act of the African Union, July 11, 2000, 2158 U.N.T.S. No. 37733, 3.

33. *Supra* note 6 at 7; *accord.* A.U. Afr. Gov. Rep., 4.7.1. (2019).

34. Ebrima Sall and Ibrahim Oanda, *Framing Paper on Higher Education Leadership in Africa*, COUNCIL FOR THE DEV. OF SOC. SCI. RSCH. IN AFR., <https://codesria.org/spip.php?article2296> (last visited Oct. 10, 2021).

35. Jamil Salmi, *The Growing Accountability Agenda in Tertiary Education: Progress or Mixed Blessing?* 3-4 (Education Working Paper Series No. 16. (2009); *see also*, Jamil Salmi and R. Matross Helms, *Governance Instruments to Combat Corruption in Higher Education*, *supra* note 23 at 108-109.

36. Kigotho, *supra* note 142.

37. Salmi & Matross Helms, *supra* note 152 at 111.

38. Solomon W. Feday, *Academic Dishonesty in Ethiopian Higher Education and Its Implication for Corruption*, 8 BEIJING L. REV. 10, 13 (2017).

records; paying for grades with gifts, money, or sexual favours;<sup>39</sup> intimidating examiners; and assaulting invigilators. Such practices undermine educational opportunities for students and produce graduates who are ill equipped to succeed in their future careers. To do so, African countries should review their education systems to incorporate moral and ethical teachings, particularly at the primary and secondary levels.

Against this backdrop, merit is not easy to define. The UNCAC mentions it just once, in Article 7 on the public sector, without any further explanation,<sup>40</sup> while the AU Convention on Corruption remains silent on it. The African Charter of Administration is therefore the “bolder” instrument because it proclaims “merit” as an essential element of the recruitment process of public service agents (Article 19 “Recruitment”). Despite its silence on merit, the AU Convention on Corruption introduces several innovations. One of its most innovative provisions, targeting education, is the requirement by which the state parties must

[a]dopt and strengthen mechanisms for promoting the education of populations to respect the public good and public interest, and awareness in the fight against corruption and related offences, including school educational programs and sensitization of the media, and the promotion of an enabling environment for the respect of ethics.<sup>41</sup>

This provision is of paramount importance, especially in humanistic societies where efforts are made to re-interpret morality in every aspect of life.<sup>42</sup> Due to the corruption in the public service of many African states and considering the role that this service plays in national development, state parties must commit to adopting specific measures to grapple with corruption in the public service (public universities included). This includes, *inter alia*, the promise to create an internal committee mandated to establish a code of conduct and to monitor its implementation, sensitise and train public officials on matters of ethics,<sup>43</sup> while at the same time developing disciplinary measures and investigation procedures to fight corruption.<sup>44</sup> Additionally, to promote merit, is also crucial to guarantee transparency, equity, and efficiency in offering and hiring procedures in the public

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39. Fiona Leach, *Corruption as Abuse of Power: Sexual Violence in Educational Institutions*, *supra* note 23, 88-98 at 90.

40. *Supra* note 27, at 10-11.

41. African Union Convention, *supra* note 14, art. 5(8), *see also* Olaniyan, *supra* note 15, at 80.

42. Nsongurua Udombana, *Fighting Corruption Seriously? Africa's Anti-Corruption Convention*, *SING. J. INT'L & COMPAR. LAW*, 447 at 485 (2003).

43. African Union Convention, *supra* note 14, art. 7(2).

44. *Supra*, art. 7(3).

service.<sup>45</sup> Finally, state parties to the AU Convention on Corruption also commit to ensure that, subject to the provisions of domestic legislation, any immunity granted to public officials shall not be an obstacle to the investigation of allegations against and the prosecution of such officials.<sup>46</sup> In contrast, Article 13 (“Participation of society”) of the UNCAC mentions university. This is because the participation of society in raising public awareness of the phenomenon of corruption can be also achieved through “[p]ublic education programs including school and university curricula.”

In this context, the applicability of the principle of merit has historically been an argumentative topic and, as I briefly mentioned above, African politicians have traditionally tended to establish control over universities through their administration, usually through political appointments without due consideration for academic merit. Therefore, “yes men” and a culture of silence are maintained at African universities<sup>47</sup> because party loyalty, rather than merit, decides promotion prospects within academia.<sup>48</sup>

Central to the debate between liberals (proponents) and egalitarians (critics) of meritocracy is the notion of “deservingness,” which suggests that individuals should obtain only what they deserve. Against this backdrop, deservingness or reward is dependent on one or more of the following elements—contribution, effort, and compensation—with the latter requiring proportionality of reward and cost.<sup>49</sup> Nevertheless, two requirements should be in place for the principle of “deservingness” to be applied. First, there should be equality of opportunity: everyone should have equal access to compete for the same resources. Second, it is necessary for the measures to be the same for all (the “fairness” condition of meritocracy).<sup>50</sup>

On the other hand, meritocracy, implying a scheme of rewards (based on deservingness), raises questions of justice. This is because if under ideal circumstances, individuals could be rewarded based on their contribution, in the reality, there will always individuals whose reward will not be proportionate to their contribution. Additionally, equitable beginnings are not the norm but the exception. On top of that, some individuals are unable

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45. *Supra*, art. 7(4).

46. *Supra*, art. 7(5).

47. Masha, *supra* note 1, at 98.

48. D. Olowu, *Bureaucratic Morality in Africa*, 9 INT'L POL. SCI. REV. No. 3, 215, at 217 (1988).

49. T.A. Teklu, *Meritocracy and Inequality: Moral Considerations*, 4/4 PALGRAVE COMM'N 1, at 2 (2018).

50. G. Schweiger, *Unemployment, Recognition and Meritocracy*, 3 LAS TORRES DE LUCCA No. 4, 37, at 51 (2014).

to contribute through no fault of their own.<sup>51</sup> How should such a situation be addressed? The situation is not as easy as it may seem at first sight. Recruiting based on merit indicates that the best candidate should obtain a job; however, that does not necessarily mean that there are enough jobs for everyone. In any event, a commitment by African universities to eliminate academic unemployment does not challenge the idea that better positions should be achieved through merit.<sup>52</sup> Several studies have drawn attention to the “paradox of meritocracy.” When the culture of a country clearly promotes meritocracy, recruiters may show more gender favouritism (to the detriment of women).<sup>53</sup> This means that in those countries where women have less access to higher education than men, it would certainly be more “meritocratic” to recruit men for top jobs (because they would be better qualified for those jobs). However, can a society be considered “meritocratic” if men almost exclusively have access to higher education? Certainly not.

Kim and Choi consider meritocracy as a vehicle for social mobility and encourage people to do their best to achieve the ultimate goals of academia—to provide a “higher education.”<sup>54</sup> Yet, the authors note that the concept of meritocracy is still evolving because the notion of merit within a society may differ in relation to the cultural context.<sup>55</sup> In this scenario, African institutions often use the meritocracy explanation by assigning the cause of a student’s failure exclusively to the student. This suggests that the university is neutral when, in fact, it is not.<sup>56</sup> In several African countries, the problem of social class interconnects in multifaceted ways with gender, race, and other social structures of difference. This could trigger concerns about the role of universities in reinforcing, instead of combatting, social inequalities.<sup>57</sup> This may occur because universities convey the idea that education is at the core of meritocracy. Yet, in many African countries, students who are enrolled at the same university have very different cultural backgrounds based on the school they attended before university.<sup>58</sup> Their cultural background may limit their learning ability at university and ultimately affect their future

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51. Teklu, *supra* note 48, at 2.

52. Schweiger, *supra* note 49, at 54.

53. Alikhan Baimenov & Max Everest-Phillips, *Meritocracy for Public Service Excellence*, GLOB. CTR. FOR PUB. SERV. EXCELLENCE 7 (2015).

54. C.H. Kim & Y.B. Choi, *How Meritocracy Is Defined Today? Contemporary Aspects of Meritocracy*, 10 ECON. & SOCIO. No. 1, 112, at 117 (2017).

55. *Id.*, at 118.

56. S. Sobuwa & S. McKenna, *The Obstinate Notion That Higher Education Is A Meritocracy*, 7 CRIT. STUD. TEACHING & LEARNING No. 2, 1, at 4 & 8 (2019).

57. *Id.*, at 5.

58. *Id.*, at 10.

career.

Based on the preceding discussion, it would be easy to agree with Transparency International<sup>59</sup> and U4<sup>60</sup> when they affirm that corruption is common in most universities in Africa.<sup>61</sup> However, the acts representing corruption are not always deemed as such in Africa, and can, in some cases, be justified. I examine this aspect in the next paragraphs.

## II. OBSERVATIONS ON THE ROLE OF *UBUNTU* IN AFRICAN SOCIETIES

*Ubuntu* is an African moral theory that plays an important role in African societies. The concept has received attention from a myriad of scholars. Broodryk defines *Ubuntu* as “a comprehensive, ancient worldview which pursues primary values of intense humanness, caring, sharing and compassion and associated values, ensuring a happy and quality community life in a family spirit or atmosphere.”<sup>62</sup> The concept of *Ubuntu* is found in several countries in Africa although it is known by different names.<sup>63</sup> Its diffusion has allowed scholars to conclude that the foundations of *Ubuntu* exist in “the admittedly embryonic altruistic inclination of humankind”.<sup>64</sup> According to Senghor, the first president of Senegal after independence, the *Ubuntu* philosophy is founded on African family ideology. He emphasises the fact that African understanding of family differs substantially from the “Western” understanding. Senghor elaborates that African family is not restricted to parents but rather, it embraces all individuals sharing the same ancestral lineage. Hence, the African family system is described as a “natural and spiritual union in which the living, dead and the unborn commune with each other in all its extended roots.”<sup>65</sup> Broodryk’s definition shows that *Ubuntu* advocates for the common good of the public. It is a notion of

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59. J. Pope, *Corruption in Africa: The Role for Transparency International (TI)*, 20 COMMONWEALTH L. BULL., 1468, at 1472 (1994).

60. U4 ANTI-CORRUPTION RESOURCE CENTRE, <https://www.u4.no/about-u4> (last visited Oct. 10, 2021).

61. Monica Kirya, *Corruption in Universities: Paths to Integrity in the Higher Education Subsector*, 10 U4 ISSUE 1, 4-5 (2019).

62. Johann Broodryk, *UBUNTU MANAGEMENT PHILOSOPHY: EXPORTING ANCIENT AFRICAN WISDOM INTO THE GLOBAL WORLD 4* (Knowres Publishing 2005); *see also*, R. Mugumbate & A. Chereni, *Now, The theory of Ubuntu Has Its Space in Social Work*, 10 AFR. J. SOC. WORK 5, at 6 (2020).

63. Mugumbate and Chereni, *supra* note 61 at 6.

64. P.D. De Kock & J.M.T. Labuschagne, *Ubuntu as a Conceptual Directive in Realising a Culture of Effective Human Rights*, 62/1 TYDSKRIF VIR HEDENDAAGSE ROMEINS-HOLLANDSE REG 114, at 119 (1999).

65. *See* N.K. Okoro, *Ubuntu Ideality: The Foundation Of African Compassionate and Humane Living*, 8 J. SCI. RSCH. & REP., 1, at 3 (2015).

common good that sees human life as communalistic and inter-connected. On this basis, no individual within the ethic of *Ubuntu* should discriminate, disrespect or act dishonestly while discharging public service. Instead, civil servants should show respect and honesty.

*Ubuntu* considers human action by the level at which it affects public life. The concept believes in the human being and his/her different behaviours, which brings about harmonious living and thereby produces happiness in people.<sup>66</sup> By extension, this means that individuals are treated equally. As *Ubuntu* is about relationships between people, it calls individuals to see the law as part of the normative structure that links them together. In obeying the law, people celebrate that normative structure and contribute to its conservation. *Ubuntu* considers the act of obeying law as part of caring for others; it is in the interests of other members of the community. However, *Ubuntu* also calls on individuals to disobey a “bad” law, as disobeying it is in the interests of the broader community.<sup>67</sup> The problem often lies in what exactly constitutes a “bad” law. This term could be interpreted as a law oppressing the community. By extension, a law that guarantees transparency in academia should not be considered “bad,” given that it is not oppressing the community.<sup>68</sup> Against this backdrop, human rights violations are ways of seriously undermining people’s capacity for communal relationships. Communal relationships that are conceived as identity and solidarity, whose disrespect principally takes the form of a significant degree of anti-social behaviour, for instance, division.<sup>69</sup> Another unique feature of *Ubuntu* is the emphasis it places on reconciliation as opposed to punishment or retribution.<sup>70</sup>

*Ubuntu* made its debut in the jurisprudence of the South African Constitutional Court in *S v Makwanyane*. On that occasion, Justice Mokgoro held that:

Metaphorically, [*Ubuntu*] expresses itself in *umuntu ngumuntu ngabantu*,<sup>71</sup> describing the significance of group solidarity on survival

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66. A. Schutte, *AFRICAN ETHICS: AN ANTHOLOGY OF COMPARATIVE AND APPLIED ETHICS*, 85, at 97 (M. F. Murove ed., University of Kwazulu-Natal Press) (2009); *see also*, N. Ahiauzu, *Ubuntu and the Obligation to Obey the Law*, 37 *CAMBRIAN L. REV.* 17, at 33 (2006).

67. Ahiauzu, *supra* note 65 at 33-34.

68. *Id.*, at 35-36.

69. T. Metz, *Ubuntu as a Moral Theory and Human Rights in South Africa*, 11 *AFR. HUM. RTS. L. J.* 532, at 545 (2011).

70. C. Himonga, M. Taylor & A. Pope, *Reflections on Judicial Views of Ubuntu*, 16 *POTCHEFSTROOM ELEC. L.J.* 369, at 381 (2013).

71. The literal translation from this Zulu proverb is “a person is a person through other persons”.

issues so central to the survival of communities. While it envelops the key values of group solidarity, compassion, respect, human dignity, conformity to basic norms and collective unity, in its fundamental sense it denotes humanity and morality. Its spirit emphasises respect for human dignity, marking a shift from confrontation to conciliation.<sup>72</sup>

Justice Langa continues:

It is a culture, which places some emphasis on communality and on the interdependence of the members of a community. It recognises a person's status as a human being, entitled to unconditional respect, dignity, value and acceptance from the members of the community [that] such person happens to be part of. It also entails the converse, however. The person has a corresponding duty to give the same respect, dignity, value and acceptance to each member of that community. More importantly, it regulates the exercise of rights by the emphasis it lays on sharing and co-responsibility and the mutual enjoyment of rights by all.<sup>73</sup>

Critics of *Ubuntu* question the concept on several grounds. First, they claim that it is too vague to be of any effective use.<sup>74</sup> However, Bennett maintains that as a "metanorm," *Ubuntu* is unavoidably broad. Bennett describes *Ubuntu* as "a representation of the right way of living."<sup>75</sup> Against this backdrop, Justice Patel notes that the essential basis to the South African Constitution and democracy is *Ubuntu*.<sup>76</sup> Finally, according to Okoro, the *Ubuntu* ideal also constitutes the seed of African jurisprudence. A crime committed by one individual involves the entire community.<sup>77</sup> Notably, African social justice tends to sustain remedies along with punishments, aiming to bring people together in a mutual and harmonious life of the

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72. *S. v Makwanyane & Another*, 1995 SACLR LEXIS 218, ¶308 (Jun. 6, 1995) (6) BCLR 665.

73. *Id.* at ¶224; see also, I.J. Kroeze, *Doing Things With Values II: The Case of Ubuntu*, 13 STELLENBOSCH L. REV., 252, at 256 (2002).

74. Metz, *supra* note 68 at 558 ("This defence has taken the form of showing that even if various construal of Ubuntu up to now have been vague...."). Contra, Himonga, *supra* note 69 at 384-85 ("We might accept the claim that terms derive their meaning from specific linguistic contexts; but in our view this is part of the reason that the terms are not empty. We submit that they can be legitimately and meaningfully employed by judges. It is difficult to see why words like humaneness, compassion or dignity are emptier than any other terms. The fact that abstract notions are difficult to explain does not make them empty.").

75. Thomas Bennett, *Ubuntu: An African Equity*, 40 POTCHEFSTROOM ELEC. L.J. 29, 46-47 (2011). See also, Kroeze, *supra* note 72 at 260 ("[U]buntu is said to include the following values: communality, respect, dignity, value, acceptance, sharing, co-responsibility, humaneness, social justice, fairness, personhood, morality, group solidarity, compassion, joy, love, fulfilment, conciliation...."); Himonga, *supra* note 69 at 382.

76. Himonga, *supra* note 69 at 392.

77. Okoro, *supra* note 64 at 6.

community.<sup>78</sup>

### III. CONTRIBUTION OF THE EXTENDED FAMILY SYSTEM TO NEPOTISM AND THE PRACTICE OF GIFT-GIVING AS UNDERMINING THE CREDIBILITY OF HIGHER EDUCATION

In Africa, nepotism is often associated with ethnic balance,<sup>79</sup> it is the act of favouring a member of one's family in the distribution of resources at the expense of others. It is therefore necessary to examine whether it is best to practice nepotism or whether, within the *Ubuntu* ethical system, the best result would be produced if civil servants did not favour their family members in the distribution of government resources at the expense of others. According to Heath, consistent with the logic of academic nepotism, "[p]eople are appointed not because of their qualifications or experience; [consequently, they] are not able to do, nor interested in doing, the work pertaining to the position."<sup>80</sup> Practically, the word "nepotism" falls short of *Ubuntu*. *Ubuntu* demands that the happiness of everyone in the community should be promoted.<sup>81</sup> Where family members are favoured over others, the happiness produced will be limited, compared with the pain it will produce in the community since a community is always bigger than a family. Applying *Ubuntu* in this regard throws things open to those who are best qualified, so that it will be clear from all indications that there were no traces of bias. It is with this attitude that the community can begin to experience harmony. What this shows is that *Ubuntu* and nepotism do not make good bedfellows; they contradict one another. In view of this, within academia, it has been suggested that when cooperation among actors is socially harmful (for example, collusion among academics), nepotism should be discouraged through anonymity rules. Thus, the grading of students be conducted while maintaining their anonymity, without revealing their gender or ethnic background. By avoiding identification through group affiliation, it is hoped that uniform treatment will naturally ensure.<sup>82</sup>

Nonetheless, it should be borne in mind that the socio-cultural structure in Africa often has its origins in tribal and kinship relations. These extended

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78. Janis Sarra & Kim Berman, *Ubuntu as a Tool for Resilience: Arts, Microbusiness, and Social Justice in South Africa*, 34 CONFLICT RESOL. Q. 455, 466 (2017).

79. Olowu, *supra* note 47 at 218.

80. William Heath, *South Africa: Public Sector Corruption*, 7 J. FIN. CRIME 373, 374 (2000).

81. E.g., Drucilla Cornell & Karin van Marle, *Exploring Ubuntu: Tentative Reflections*, 5 AFR. HUM. RTS. L.J. 195, 219 (2000) (quoting Justice A Sachs).

82. Chaim Fershtman, Uri Gneezy & Frank Verboven, *Discrimination and Nepotism: The Efficiency of the Anonymity Rule*, 34 J. OF LEGAL STUD. 371, 372 (2005).

family ties constitute the basic institutions that shape the individual's social values and norms.<sup>83</sup> In turn, these values and norms encourage nepotism in African societies, prompting individuals to fulfil their responsibilities towards their family. Tribal systems require strong commitment from individuals towards their tribe, which promotes nepotism if it concerns relatives. This observation confirms the fact that there is an existential link between the extended family system and nepotism. The African extended family places significant pressure on the civil servant, forcing him/her to engage in nepotism.<sup>84</sup> The fact that nepotism is common in Africa clearly indicates that the kinship bond is strong on this continent as compared with other parts of the world. Does this mean that traditional African society promoting such practices is immoral? This may be how it appears at first glance, but to draw such a conclusion would amount to imposing modern systems of moral evaluation on a society where there is no basis for such imposition. Traditional African societies, in which the language of nepotism is alien, see nothing wrong with a civil servant helping his relatives, friends, and in-laws, when he is in a position to do so. The reason for this is clear: peoples' culture, despite the presence of *Ubuntu*, requires them to help relatives in need and to be their brothers' keepers. No traditional African would be ashamed to be caught helping a relative, friend or in-law. It is this traditional African interpretation of the extended family system that is imported wholesale into modern society without taking cognisance of the differences between both societies. Accordingly, those who are involved in nepotism, (to the detriment of common good) and those who benefit from this misconduct may see nothing wrong with it or try to downplay its gravity because they think that it is a part of society. Consequently, instead of opposing nepotism, what most Africans do is to wait for their turn when their ally occupies the same position and favours them in the same way. In this

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83. Monde Madiwane & Chammah Kaunda, *Families and Inclusive Societies in Africa*, U.N. DEPT. ECON. SOC. AFFS., 2 (undated) (last visited Oct. 10, 2021) <https://www.un.org/development/desa/family/wp-content/uploads/sites/23/2018/05/1-2.pdf> ("A family is generally constituted by three processes, which are blood relations, sexual unions or adoption. Societally sanctioned sexual unions between (two and in cases of polygamous unions, which are not uncommon in Africa, more than two) adults, and on the other hand, blood relations in Africa typically constitute wider relationship than those that are characteristically in western nuclear families. African families are typically extended to aunts, uncles, grandparents, cousins and other relatives that form a family that functions in unison .... This may be viewed as a very inclusive family system, which models the broader inclusive nature and type of African communities, creating a family-like lens through which several social actors are included and relationships interpreted. Obligations to wider kin vary with time, and typically more widely invoked during times of crises .... and this remains a common practice in extended families on the continent, despite social change.").

84. John Mbaku, *Bureaucratic Corruption in Africa: The Futility of Clean-ups*, 16 CATO J. 99, 104 (1996).

regard, Otaluka explains:

To encourage corruption is not the same thing as being corrupt. That the extended family system encourages corruption does not make the practice corrupt. Just as the best intention can lead to the worst results, a good cultural practice can become perverted and put into the most heinous use.<sup>85</sup>

However, a survey of university students in Ghana and Nigeria found that nepotism was one of the main forms of corruption in higher education in that country.<sup>86</sup> This suggests that while the extended family remains the cornerstone of many African cultures, the nuclear family is starting to become a reality, particularly in large cities.<sup>87</sup> Finally, there is nothing wrong with a person helping their relative, so long as it does not cause damage to others or undermine the common good. More importantly, Africans should not badge their important relatives with requests, because doing so is considered abuse of the extended family system, and therefore, should be considered as one of the causes of corruption on the continent.<sup>88</sup>

In this context, the idea that some African cultural practices and values have elements that favour the spread of corruption is real. This occurs, for example, in the African customary exchanges of gifts. In African culture, “there are conventions which demand or expect that a person show appreciation for favours done to him.”<sup>89</sup> In this regard, Rose-Ackerman affirms that corruption may have different connotations in different societies: “One person’s bribe is another person’s gift”, she says.<sup>90</sup> In this context, gift-

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85. Wisdom Otaluka, *The Cultural Roots of Corruption: An Ethical Investigation with Particular Reference to Nepotism*, 12 (Jan. 2017) (Ph.D. thesis, University of KwaZulu-Natal) (on file with author).

86. Kirya, *supra* note 60 at 11.

87. Mbaku, *supra* note 5 at 695. Cf., Joan Aldous, *Urbanization, the Extended Family, and Kinship Ties in West Africa*, 41 SOC. FORCES 6, 11 (1962) (“[K]inship relations are not maintained unless they serve some purpose for those involved. In the African cities of Brazzaville, Dakar, Lagos, Leopoldville and Stanleyville, the extended family is indeed functional. Besides filling recreational, religious, legal or economic needs of urbanites, it substitutes for a non-existent public social welfare programme.”). *See also*, *Shibi v. Sithole* 2005 (1) SA 580 (CC) at 49-50 (S. Afr.).

88. Otaluka, *supra* note 84 at 116.

89. Veronica Okeke, CORRUPTION IN NIGERIA: A THEORETICAL APPRAISAL, IN CORRUPTION IN NIGERIA: CRITICAL PERSPECTIVES 128, 131 (Christopher Ugwu eds. 2002). *See also*, Kempe Hope, *Politics, Bureaucratic Corruption, and Maladministration in the Third World*, 51 INT’L REV. ADMIN. SCI. 1, 3 (1985) (“Over time, corruption corrodes popular confidence in public institutions thus making it harder to raise the standards of public service while deflecting public debate away from economic performance toward this single issue, as is the case in most of the African nations. In Nigeria, for example, the daily evidence of bureaucratic corruption has driven a wedge between public institutions and the people’s trust in them.”).

90. Susan Rose-Ackerman and Bonnie J. Palifka, CORRUPTION AND GOVERNMENT: CAUSES, CONSEQUENCES AND REFORM, 37 (Cambridge University Press, 1995).

giving in Africa today is no longer for appreciation alone, but also comes with an expectation through the ulterior motives that some individuals now assign to this practice. For example, by giving small gifts, people in Benin attempt to “customise” their relationship with government officials to avoid harsh treatment.<sup>91</sup>

Gift-giving may at times appear to be the same as bribery, but there is a thin line separating the two. Gift-giving and bribery are similar in some ways, as both contribute to corruption. In both cases, something is given by one person to another to encourage the receiver of the gift to carry out a desired action. There is a giver and a receiver in both gift-giving and bribery. The gift itself may come in the form of cash or it may be in kind. Another shared characteristic is that if disappointment occurs, neither party will have the courage to sue the other in a court of law to demand a refund.<sup>92</sup> The offence of giving and receiving a bribe are well explained in the Kenyan 2016 Bribery Act in sections 5 and 6. Section 7(1)(a)(i) (“Function or activity to which a bribe relates”) explains that a bribe can be related to “any function of a public nature.”<sup>93</sup>

In traditional African societies, gifts were usually given to people to thank them for a job well done.<sup>94</sup> Additionally, leaders were sometimes obliged to give gifts to people. This was done as a sign of acknowledgement

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91. Adam Graycar & David Jancsics, *Gift Giving and Corruption*, 40 INT'L J. PUB. ADMIN. 1013, 1014 (2017).

92. Otaluka, *supra* note 84 at 101-02. *See also*, Graycar, *supra* note 90 at 1015 (“Gifts and bribes are both socially functional institutions and operate as complex rule systems. According to anthropologists, both gifts and bribes are informal exchange processes regulated by multiple (formal and informal) rule systems. Beyond their instrumental advantages, both have important social functions which keep together social groups at different levels of society.”).

93. The Bribery Act, No. 47 (2016) Kenya Gazette Supplement No. 143 § 5(1) (“A person commits the offence of giving a bribe if the person offers, promises or gives a financial or other advantage to another person, who knows or believes the acceptance of the financial or other advantage would itself constitute the improper performance of relevant function or activity”. Section 6(1)(a)(b)(c) stipulates: “A person commits the offence of receiving a bribe if a) the person requests, agrees to receive or receives a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly whether by that person receiving the bribe or by another person; b) the recipient of the bribe requests for, agrees to receive or accepts a financial or other advantage and the request, agreement or acceptance itself constitutes the improper performance by the recipient of a bribe of a relevant function or activity; c) in anticipation of or as a consequence of a person requesting for, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly by that person, or by another person at the recipients' request, assent or acquiescence.”).

94. N. Egbue, *Africa: Cultural Dimensions of Corruption and Possibilities for Change*, 12 J. Soc. Sci. 83, 86 (2006).

to the community for their support of the rulers.<sup>95</sup> What is interesting in the traditional culture of gift-giving is the type of materials offered as gifts. The fact that gifts were often of no economic significance highlights the difference between gift-giving and bribery in traditional society.<sup>96</sup>

Nevertheless, gift-giving—originally an innocent practice in traditional African society—has evolved to become the ember stoking corruption. Thus, in modern times, gift-giving encourages corruption as givers have ulterior motives—unlike in traditional society when people were motivated by gratitude.<sup>97</sup> Egbue explains that, in modern times, it is no longer the person who gives the gift who expects something, but also the potential recipient, who believes that, if he helps the gift-giver to secure a job, a gift will follow. The recipient of the gift may not see this gesture as corruption.<sup>98</sup> A common situation that occurs in universities is when there are many people vying for the same prestigious job. In this case, employment may be given based on the gift received. Usually, the gift required may be significant, and this can lead serious problems when the expected favour does not eventuate. When it comes to employment, gift-giving disregards the consideration of merit. The practice circumvents normal recruitment procedures and is therefore equivalent to corruption.<sup>99</sup> It is unfair to use corruption as a way of getting what one is not qualified to have. However, people give gifts because they do not have an alternative to obtain what they want. Once they have given, they also demand to receive, and in this way, corruption becomes a vicious cycle at the expense of society. In sum, gift-giving in modern African society engenders corruption, especially in the public sector. This is because of the ulterior motives of gift-givers in the context of scarce resources.<sup>100</sup> In the words of Gildenhuis:

[T]he purpose of ethics in the public sector is to eliminate the uncertainty between what seems to be right and what is in effect wrong; to identify each possibility of conflict between rights and wrong lies, however, beyond the ability of the average person [. . .] The truth is that no member of the public presents gifts to politicians or civil servants without ulterior motives.<sup>101</sup>

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95. Monday Ekpo, *Gift Giving and Bureaucratic Corruption in Nigeria*, in *BUREAUCRATIC CORRUPTION IN SUB-SAHARA AFRICA: TOWARDS A SEARCH FOR CAUSES AND CONSEQUENCES* 161, 174 (Monday Ekpo eds. 1979).

96. Otaluka, *supra* note 84 at 105.

97. *Id.* at 116.

98. Egbue, *supra* note 93 at 86.

99. Otaluka, *supra* note 84 at 107.

100. *Id.* at 116.

101. J.S.H. Gildenhuis, *Manifestations of Corruption and Maladministration*, in *Ethics and the Public Sector: Speeches and papers presented at the Second Winelands Conference*

Finally, it is interesting to note that for a number of scholars, such as Ekpo, “[i]t is the emphasis placed on the exchange of gifts in traditional social relations that is a particularly significant key to the meaning of the contemporary problem of corruption in Africa.”<sup>102</sup> As de Sardan concludes, “[t]he borderline between corruption and everyday practices is quite thin. The multiplication of gifts in everyday practice leaves room for the drowning of illicit gifts within the mass.”<sup>103</sup>

#### IV. EXAMPLES OF DOMESTIC AND REGIONAL EFFORTS TO FIGHT CORRUPTION IN HIGHER EDUCATION

In Africa, efforts to fight corruption date back to the early days of independence in many countries. For example, many Commonwealth African countries have established an ombudsman’s office. The first, the Tanzanian Office of the Ombudsman, was set up back in 1966. The mandate of the ombudsman was to investigate cases of abuse of office in the public administration, including cases of “outright corruption.”<sup>104</sup> Similarly, in Rwanda, an office of the ombudsman was established in 2003. Its organisation and functions were instituted by Law no. 25/2003 of 15 August 2003,<sup>105</sup> which was modified and complemented by Law no. 17/2005 on 18 August 2005.<sup>106</sup> The office became operational in 2004. Apart from investigating instances of injustice in public administration, in Rwanda, the Ombudsman has the additional task of preventing and combating corruption and other related offences, this serves as a *de facto* serving as an anti-corruption authority. Furthermore, Rwanda adopted an anti-corruption policy in June of 2012,<sup>107</sup> although higher education is not addressed explicitly. Nevertheless, this document aims to educate the youth in the fight against corruption through anti-corruption education, which should be strengthened in higher institutions of learning.<sup>108</sup>

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held at the University of Stellenbosch 41-2 (J.S.H. Gildenhuys eds. 1991).

102. Ekpo, *supra* note 94 at 174.

103. J.P. Oliver de Sardan, *A Moral Economy of Corruption in Africa?*, 37 J. MOD. AFR. STUD. 25, 40 (1999).

104. Patrick Norton, *The Tanzanian Ombudsman*, 22 INT’L COMPAR. L. Q. 603, 625 (1973). *See also*, Bernard Frank, *The Tanzanian Permanent Commission of Inquiry: the Ombudsman*, 2 DENVER J. INT’L L. POL’Y 255 (1972); Mark Kimicha, *The Ombudsman and the Permanent Commission of Enquiry*, 12 J. OF ADMIN. OVERSEAS 46 (1973).

105. *Establishing the Organization and Functioning of the Office of the Ombudsman*, No. 25 (2003) (Rwanda).

106. *Ombudsman*, No. 17 (2005) (Rwanda).

107. *Rwanda Anti-Corruption Policy* (June 2010).

108. *Id.* at 10. For a general analysis of higher education in Rwanda, *see also*, Aryn Baxter, *Higher Education Mission and Vision in Rwanda: A Comparative and Critical Discourse*

The Prevention and Combatting of Corrupt Activities Act (PCCAA)<sup>109</sup> is the key statute on corruption in South Africa, a country that has been experiencing continuous high levels of corruption over the past years.<sup>110</sup> Although it does not address the issue of corruption directly in relation to higher education, the PCCAA is comprehensive, creating a general offence of corruption and specific offences with reference to corrupt activities relating to public officers, members of the legislative authority, judicial officers and members of the prosecuting authority.<sup>111</sup> It also provides for investigative measures<sup>112</sup> as well as preventative measures in the fight against corruption.<sup>113</sup> Another relevant instrument is the Public Services Act,<sup>114</sup> which provides for the organisation and administration of the public service. The act regulates conditions of employment and discipline within the public service. Section 41(1)(b)(v) requires the Minister for the Public Service and Administration to make regulations on a Code of Conduct, in terms of which public servants must act in the best interests of the public, act honestly in dealing with public money and report fraud and corruption.<sup>115</sup> The code also prohibits employees from undertaking outside remunerative

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*Analysis*, 2 RECONSIDERING DEVELOPMENT 1-26 (2012): “The success of the country’s current leadership in targeting corruption and its strong history of collaboration between the government and development partners have made it a desirable context for donor organizations to operate.”

109. *Prevention and Combating of Corrupt Activities*, Act No.12 (28 April 2004). For an analysis of the PCCAA see, e.g., Zaakir Mohamed, *Fundamentals of Anti-Bribery and Anti-Corruption Compliance in South Africa*, 3/2 J. OF ANTI-CORRUPTION L. 193, 194-196 (2019).

110. Trevor Budhram and Nicolaas Geldenhuys, *Corruption in South Africa: the Demise of Nation: New and Improved Strategies to Combat Corruption*, 31 S. AFR. J. OF CRIM. JUST. 26, 26-57 (2018). At 57, the authors explain: “[C]orruption in its many forms has penetrated insidiously into South African society. This is an indisputable fact, which cannot be ignored. The effectiveness of law enforcement and the criminal justice system to combat corruption is questionable, and government and civil society should do everything in its power to improve efforts in this regard”. For a less recent analysis on corruption in South Africa see, e.g., Jeremy Sarkin, *Evaluating the Constitutional Court’s Decision in South African Association of Personal Injury Lawyers v. Heath & (and) Others in the Context of Crime and Corruption in South Africa*, 118 S. AFR. L.J. 747, 747-71 (2001).

111. *Prevention and Combating of Corrupt Activities*, *supra* note 103, at sections 3-9.

112. In this regard, see especially sections 19 (“Intentional interference with, hindering or obstructing of investigation of offence”), 22 (“Investigations regarding property relating to corrupt activities”) and 23 (“Application for and issuing of investigation direction in respect of possession of property disproportionate to a person’s present or past known sources of income or assets”).

113. In this regard, see especially section 24 (“Presumptions”) and 25 (“Defences”).

114. *Public Service Act* (Proclamation 103 published in GG 15791 of 3 June 1994). As amended until the *General Intelligence Laws Amendment Act 11* (2013).

115. John C. Mubangizi, *A Human Rights Based Approach to Fighting Corruption in Uganda and South Africa: Shared Perspectives and Comparative Lessons*, 24 L., DEMOCRACY & DEV. 225, 234 (2020).

work without prior approval.<sup>116</sup> Unfortunately, the National Anti-Corruption Strategy (2020–2030)<sup>117</sup> does not contain any explicit reference to possible corruption in higher education in the country. However, on several occasions, the strategy recalls the 2014 Public Administration Management Act (PAMA)<sup>118</sup> establishing the Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit (PAEIDTAU: section 15). The unit has a number of functions: “(b) to develop the norms and standards on integrity, ethics, conduct and discipline in the public administration . . . (d) to strengthen government oversight of ethics, integrity and discipline and where necessary, in cases where systemic weaknesses are identified, to intervene; (e) to promote and enhance good ethics and integrity within the public administration.” Section 16 (“Minimum norms and standards”) prescribes that the minister responsible for the public service and administration may recommend minimum norms and standards regarding integrity, ethics and discipline (section 16(1)(b) and (16(1)(f)) “measures to improve the effectiveness and efficiency of institutions.” For the purpose of this study, it is also worth mentioning section 4 (“Basic values and principles governing public administration”). This section stresses that a public institution should “(a) promote and maintain a high standard of professional ethics; . . . (d) provide such services impartially, fairly, equitably and without bias; . . . (g) foster transparency by providing the public with timely, accessible, and accurate information.” Furthermore, section 12(1) (“Directive by Minister relating to education”), in which the minister responsible for the public service and administration, in consultation with the minister responsible for higher education and training, may direct the National School of Government<sup>119</sup> to provide qualifications and non-formal education as recognised by the National Qualifications Framework or the

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116. *Public Service Act*, *supra* note 113, at section 30 (“Other remunerative work by employees”).

117. *National Anti-Corruption Strategy 2020-2030* (2020).

118. *Public Administration Management Act*, Act No. 11 (22 December 2014).

119. *Id.*, at section 11 (“National School of Government”): “1) The National School of Government will, in consultation with the Minister responsible for higher education and training, be established as a higher education institution contemplated in the Higher Education Act, 1997 (Act No. 101 of 1997). 2) The School must, through education and training, promote the progressive realisation of the values and principles governing public administration and enhance the quality, extent and impact of the development of human resource capacity in institutions.”

South African Qualifications Authority (SAQA).<sup>120</sup> On two occasions,<sup>121</sup> the PAMA refers to the 1997 Higher Education Act,<sup>122</sup> which mentions the term “transparency” only when it comes on the allocation of public funds to higher education institutions. This allocation needs to be “fair and transparent” (section 39(2): “Allocations of funds by Minister (of Education)”). Finally, in the South African Code of Conduct for the Public Service,<sup>123</sup> employees must, in the course of their duties, promote transparent administration<sup>124</sup> and report to the appropriate authorities any instances of corruption, nepotism or maladministration.<sup>125</sup> The Constitutional Court has highlighted the negative effects of corruption:

Endemic corruption threatens the injunction that government must be accountable, responsive and open; that public administration must not only be held to account but must also be governed by high standards of ethics, efficiency and must use public resources in an economic and effective manner. As it serves the public, it must seek to advance development and service to the public [. . .] It is incontestable that corruption undermines the rights in the Bill of Rights and imperils democracy. To combat it requires an integrated and comprehensive response. The state’s obligation to “respect, protect, promote and fulfil” the rights in the Bill of Rights thus inevitably, in the modern state, creates a duty to create efficient anti-corruption mechanisms.<sup>126</sup>

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120. SAQA is a statutory body, regulated in terms of the *National Qualifications Framework Act No. 67* of 2008. It is made up of 29 members appointed by the Minister of Education in consultation with the Minister of Labour. SAQA is mandated by legislation to oversee the development and implementation of the National Qualifications Framework (NQF). The NQF is a set of principles and guidelines by which records of learner achievement are registered to enable national recognition of acquired skills and knowledge, thereby ensuring an integrated system that encourages lifelong learning.

121. Section 10 (“Capacity development by institutions”) and section 11 (“National School of Government”).

122. *Higher Education Act*, No 1655 (19 December 1997).

123. *Code of Conduct for the Public Service*, No. R825 (10 June 1997).

124. *Id.*, at para 4(4)(9).

125. *Id.*, at para 4(4)(10).

126. *Glenister v President of the Republic of South Africa and Others* (CCT 48/10) [2011] ZACC 6; 2011 (3) SA 347 (CC); 2011 (7) BCLR 651 (CC) (17 March 2011). *See also, e.g., S v Shaik and Others* (Criminal Appeal) (62/06) [2006] ZASCA 105; [2007] 2 All SA 9 (SCA); 2007 (1) SA 240 (SCA) (6 November 2006) para 223: “The seriousness of the offence of corruption cannot be overemphasised. It offends against the rule of law and the principles of good governance. It lowers the moral tone of a nation and negatively affects development and the promotion of human rights. [...] Corruption threatens our constitutional order. We must make every effort to ensure that corruption with its putrefying effects is halted. Courts must send out an unequivocal message that corruption will not be tolerated and that punishment will be appropriately severe”. In this regard, see also, what Heath affirms about South Africa. For the author, corruption in South Africa can be defeated, among others, “creating specific bodies to deal with corruption and effectively prosecute it — institutions

In Southern Africa, the 2001 Protocol against Corruption adopted by the Southern African Development Community (SADC) is another relevant document.<sup>127</sup> The preamble of the SADC Protocol recognises that corruption “undermines good governance, which includes the principles of accountability and transparency.” Article 4 provides for prevention, Article 3 for detection, Articles 5–9 for punishment of corruption and Article 10 for cooperation between member states. The protocol covers corruption in both the public and private sectors, recognising that demonstrable political will and leadership are essential in the fight against corruption. It affirms the need to garner public support for initiatives to combat corruption. One of the measures that the protocol prescribes is the development of standards of conduct for public officials. One standard that is relevant to this study is the call for public officials not to use their positions to obtain private gifts or other advantages for themselves in the course of their duties.<sup>128</sup> Carr makes an example of corruption forbidden by Article 3(1)(c)<sup>129</sup> of the SADC Protocol:

Where a public official sitting on a panel with authority to peruse confidential science funding council documents uses the information to help his friend, a university vice-chancellor, in drafting a good bid for research development to the research council, an offence under Article 3(1)(c) would have been committed.<sup>130</sup>

In these circumstances, it is important for SADC states to integrate the implementation procedures of the AU Convention on Corruption with the SADC Protocol to fight corruption more effectively.<sup>131</sup>

Kenya is another country where the problem of corruption is relevant.<sup>132</sup>

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investigating corruption must be in a position to consolidate their actions and clearly define parameters of operation. The more confusion that is evident with regard to what office does what, the more opportunity is opened to the would-be corrupt official or businessman to strike. Internal structures must be created that are effective and efficient and that strike fear into the very heart of corrupt and dishonest officials.” See Heath, *supra* note 79 at 375.

127. South Africa is a party to SADC since 30 August 1994.

128. D.D.N. Nsereko and Z. Kebonang, *The SADC Protocol against Corruption: Example of the Region's Response to an International Scourge*, 1 UNIV. OF BOTSWANA L.J. 85, 92 (2005).

129. Article 3(1) (c) stipulates “This Protocol is applicable to the following acts of corruption: [...] c) any act or omission in the discharge of his or her duties by a public official for the purpose of illicitly obtaining benefits for himself or herself or for a third party”.

130. Indira Carr, *Corruption, the Southern African Development Community Anti-Corruption Protocol and the Principal-Agent-Client Model* (2009) 5/2 INT. J. OF L. IN CONTEXT 147-177 at 159.

131. Olaniyan *Corruption and Human Rights Law in Africa*, *supra* note 21, at 368.

132. Douglas Kimemia, *Perception of Public Corruption in Kenya*, 2 AFR. J. OF GOV. & DEVELOP. 55, 56 (2013): “The rampant levels of corruption woven deep into the fabric of the lives of most Kenyans, and in the public sector in particular, has resulted in debilitating

In 2016, the Kenyan government dissolved the national examinations board and ordered the arrest of its leaders after accusations of widespread cheating in university entrance tests.<sup>133</sup> In 2017, corrupt university officials graduated prominent, but academically unqualified, students from shorter (than normal) or non-existent study programs. As a result, the Kenyan Commission for University Education<sup>134</sup> requested several universities to revoke these illegitimately awarded degrees.<sup>135</sup>

Kenyan legislation has provided other instruments to curb corruption. The Public Officer Ethics Act<sup>136</sup> contains an annex with a Code of Conduct and Ethics for Public Universities. The code underlines the importance of integrity and impartiality (section 5), where gifts and donations are discouraged but not prohibited (section 9). In this regard, section 9(4) reflects the importance of certain cultural traditions: “Where a gift is given without the officer’s knowledge or where refusal of a gift would be offensive to custom or might amount to bad public relations, the officer shall inform the chief executive of the university who shall decide how the gift is to be disposed of.” However, section 11(1) is unequivocal in condemning activities considered to be corrupt by stating that “[a] public officer shall not use his office to improperly enrich himself or others,” section 17 stresses that “[a] public officer shall not practice nepotism or favouritism,” while section 21 condemns sexual harassment. In 2011, Kenya established the Ethics and Anti-Corruption Commission, whose powers are to, *inter alia*, “[u]ndertake

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economic, political, and social effects that can be felt everywhere.”

133. Kirya, *Curbing Corruption in Higher Education*, *supra* note 22 at 15.

134. “The Commission for University Education, hereinafter CUE, was established under the Universities Act, No. 42 of 2012, as the successor to the Commission for Higher Education. It is the Government agency mandated to regulate university education in Kenya. The CUE undertakes recognition and equation of Diplomas, Degrees, Post-graduate Diplomas and Post-graduate Certificates conferred or awarded by Foreign Universities and Institutions in accordance with Section 5 (1) (g) of The Universities Act No. 42 of 2012; Section 5(A)(2) of The Universities Act No. 42 of 2012, Revised Edition 2016 [2015]; Part XI of The Universities Regulations, 2014 and The Universities Standards and Guidelines, 2014”. Information available at <http://international.ku.ac.ke/wp-content/uploads/2018/12/Kenya-Commission-for-University-Education2019.pdf> (last accessed Oct. 10, 2021).

135. Kirya, *Curbing Corruption in Higher Education*, *supra* note 22 at 10. *See also, id.*, at 9-10: “Uganda’s first lady Janet Museveni was allegedly awarded a degree in education despite not fulfilling the requirement for teaching practice. When she was admitted as a student, she did not go through the usual application process and the admission requirements were waived for her.” “In Uganda, Busoga University awarded more than one thousand degrees to (mostly) Sudanese government officials in exchange for a “premium-tuition” fee of USD 1,000 whereas average fees are USD 300 per year. Many were admitted even though they did not meet the admission criteria and graduated in “fast track” two-month degree programmes. The officials, supposedly, needed the degrees to maintain their positions in the government.”

136. *The Public Officer Ethics Act*, CAP 183 (Apr. 30, 2003).

preventive measures against unethical and corrupt practices [and] conduct investigations on its own initiative or on a complaint made by any person.”<sup>137</sup> In 2012, the Kenyan government also adopted the Universities Act, which promotes “inclusive, efficient, effective and transparent governance systems” in Kenyan universities.<sup>138</sup> However, this act does not tackle any of the important issues in higher education, such as nepotism and bribery.

Another relevant piece of legislation in Kenya is the Bribery Act of 2016. An alleged offence contravening section 6(1)(a)<sup>139</sup> of this act was at the centre of the 2018 *Mbindo Kathumo* case. This case involved a lecturer at the University of Nairobi who was accused of requesting a sum of money from a certain “Duncan Kibet with intent that he would forgive the said Duncan Kibet for examination irregularities in the Land Forms and Soil Formation unit, a function to which a bribe relates.”<sup>140</sup> In his judgment, Justice Mumbi Ngugi concluded: “[I] am . . . in no doubt that the response to the first issue is that the appellant requested . . . a bribe with intent to improperly perform a public function and was properly convicted of the offence” (para 59).

Kenya is not alone in its fight against corruption in the eastern African region, as on 28 September 2007, the Eastern Africa Association of Anti-Corruption Authorities was established. This main goal of this association is to promote regional cooperation and mutual legal and technical assistance in

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137. *The Ethics and Anti-Corruption Commission Act* (No. 22 of 2011) (Aug. 27, 2011, revised in 2016). In detail, see section 13(2)(b)(c). *See also, The Ethics and Anti-Corruption Commission (Amendment) Act* (No. 12 of 2015) (1 September 2015). For the analysis of the Anti-Corruption Commission, *see*: Jesse Wachanga “The Kenya Anti-Corruption Commission” 34 *Commonwealth Law Bulletin* 673, 673 (2008): “The Kenya Anti-Corruption Commission (KACC) is a public body established by the Anti-Corruption and Economic Crimes Act, 2003 (the Act) as the main agency with a statutory mandate to spearhead the fight against corruption in Kenya. Established on May 2, 2003 the KACC has all the features of a body corporate including perpetual succession, the capacity to sue and be sued, and to acquire and dispose of property. Presently the headquarters of KACC is based at Integrity Centre in the Capital City of Nairobi. KACC has opened a regional office at the port city of Mombasa.”

138. THE UNIVERSITIES ACT, No. 42 (Dec. 2012). For an analysis of this act, *see*: Gilbert Nganga, *Far-reaching reform as new universities law is enacted*, UNIV. WORLD NEWS (Jan. 26, 2013), <https://www.universityworldnews.com/post.php?story=20130122145646505> (last accessed Oct. 10, 2021).

139. *The Bribery Act*, No. 47 (Dec. 23, 2016). In detail, section 6(1)(a) (“receiving a bribe”) stipulates as follows: “1) A person commits the offence of receiving a bribe if: the person requests, agrees to receive or receives a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly whether by that person receiving the bribe or by another person.”

140. *Vincent Mbindo Kathumo v Republic* (Appeal No. 23 of 2018, Sept. 30, 2020), para 1. For another, recent case involving corruption, *see: Republic v Feliz Nzomo Mutinda and Frederick Omanyanya Marenbo* (Anti-Corruption Case No. 16 of 2014, Jan. 8, 2019) where both the accused were found guilty to have solicited and received a bribe.

preventing and combating of corruption in the region.<sup>141</sup> Kenya is also a party to the Intergovernmental Authority of Development (IGAD), which is an endeavour to fight corruption in the region,<sup>142</sup> although IGAD has not yet adopted any document that could provide a more detailed framework on how to prevent and eliminate corruption. However, Ethiopia,<sup>143</sup> another member of IGAD, adopted the Higher Education Proclamation<sup>144</sup> in 2009. The proclamation explicitly recognises merit and fighting corruption as “guiding values of institutions” (articles 7(10) and (7), respectively). Additionally, merit is considered paramount in the recruitment of academic staff (Article 24(6): “Research and research directions”), the promotion of academics (Article 31(1)(d): “Rights of academic staff”), the appointment of members of the Academic Senate (Article 49(10): “The Senate”) and of the vice-presidents of a public academic institution (Article 52(3): “Appointment and performance evaluation of President and Vice Presidents of a public institution”).

However, I am still doubtful as to the efficacy of these legal instruments in fighting corruption in higher education in Africa. I question whether, and to what degree, the African stakeholders implement them, not only by individual countries, but also by sub-regional and regional organisations. In this regard, the AU regularly organises “anti-corruption dialogues,”<sup>145</sup> which aims to discuss how to enhance transparency and fight corruption through efficient judicial systems by urging stronger action and collaboration among the different sub-regional organisations.<sup>146</sup> The AU proclaimed 2018 as the African Anti-Corruption Year and, on the Africa Human Rights Day (21

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141. Website of the Eastern Africa Association of Anti-Corruption Authorities, <https://eaaaca.com/about-eeaaca> (last visited Oct. 10, 2021).

142. INTERNATIONAL AUTHORITY ON DEVELOPMENT (IGAD) (2021), <https://igad.int/divisions/peace-and-security/1990-igad-provides-training-on-the-fight-against-corruption>.

143. FRED BOATENG, HIGHER EDUCATION SYSTEMS AND INSTITUTIONS 1-6 (J.C. Shin, P. Teixeira eds., Ethiopia Encyclopaedia of International Higher Education Systems and Institutions 2020).

144. *Id.*

145. The Fifth Anti-Corruption Dialogue took place on Nov. 9-11 2021.

146. See, for example, *African anti-corruption dialogue on the theme: “regional economic communities: critical actors in the implementation of the African Union Convention on Preventing and Combating Corruption”* (Concept Note, 9-11 November 2021). In this regard, see also *Outcomes of the 4<sup>th</sup> edition of the anti-corruption dialogue fighting corruption through effective and efficient judicial systems* (2-4 November 2020) para B(i): “To be a credible and effective actor in the fight against corruption, the judicial system must fight effectively against corrupt practices and bribes within it. Actors in the judicial system must develop strategies in close cooperation with national anticorruption institutions to eradicate corruption in the judiciary. Similarly, magistrates in charge of corruption procedures and issues must be recognised for their probity and moral integrity”.

October), it adopted a Concept Note entitled 'Fighting corruption and advancing human rights: Our collective responsibility.' In this document, the AU resolutely proclaims:

Corruption . . . matters in human rights because it compromises the ability of Nation States to fulfil their obligation to uphold, respect and protect the human rights of individuals within their jurisdictions and impedes the full realization of these rights by the beneficiaries. Corruption is therefore a structural obstacle to the enjoyment of human rights.

However, Olaniyan emphasises that while a human rights approach to corruption is necessary, it is unrealistic to imagine that this would inevitably and instantly eradicate extensive corruption and its associated human rights violations across the continent.<sup>147</sup>

Several initiatives have been launched as part of the commitment made by many African countries, either individually or at a regional or sub-regional level, to tackle corruption in higher education. "Tell the Truth" is a pilot project implemented in the universities of several African countries (e.g. Liberia and South Africa). The project aims to overcome the culture of silence on issues related to bribery, abuse of resources and sex-for-grades.<sup>148</sup> All stakeholders on campus—students, academic staff, and administrative staff—can text a free short code through their mobile phones and then be called back by an operator who gathers details about the problem. Alternatively, they can fill in a document directly on Google to denounce the issue.<sup>149</sup> Subsequently, university administration and student representatives consider the information and both sides agree on a way forward. On certain issues, whistle-blowers have their identities protected to avoid retaliation. Universities' political and corporate links may create conflicts of interest and undermine their autonomy, academic freedom, and impartiality. In this regard, some African countries have acted more effectively than others have, this is because they have a clearer vision of the phenomenon and make greater efforts to curb it.

### CONCLUSION: AFRICAN HIGHER EDUCATION AT A CROSSROAD

According to Mbaku, the ability of a democratic system to deal

147. Olaniyan, *supra* note 21 at 354.

148. Wachira Kigotho, *Tackling corruption in African Higher Education*, UNIV. WORLD NEWS (Oct. 1, 2013), <https://www.universityworldnews.com/post.php?story=20131001155326466>

149. *Tell the Truth Project Homepage*, [https://docs.google.com/forms/d/e/1FAIpQLScC9expHcMs\\_UDOzCghtOpN5EAZcK6W3v6CrXNTJ551JzUntQ/viewform?fbclid=IwAR1WUqHiRz573czYEi6OqLkAi90RwagSZ3mHZzyhfmmwmsTfeh0b-6kqXNQ](https://docs.google.com/forms/d/e/1FAIpQLScC9expHcMs_UDOzCghtOpN5EAZcK6W3v6CrXNTJ551JzUntQ/viewform?fbclid=IwAR1WUqHiRz573czYEi6OqLkAi90RwagSZ3mHZzyhfmmwmsTfeh0b-6kqXNQ) (last visited Oct. 10, 2021).

effectively with corruption is determined by the extent to which that system establishes institutional structures to limit itself from corrupt activities. Openness and transparency in government communication, supremacy of law, voluntary acceptance of and respect for the law and a robust civil society are key elements that can curtail academic corruption at a domestic level. For example, civil society can use its organisations to expose corruption and force the government to prosecute those who are complicit in corrupt activities.<sup>150</sup> However, a state cannot efficiently deal with corruption if the majority of its citizens do not voluntarily accept and respect the law.<sup>151</sup> Yet, corrupted cultures lead to distortions in the making of policy because many citizens do not accept corruption as a crime to be severely punished.<sup>152</sup> An effective anti-corruption strategy in Africa would require a combination of legal reform and administrative reorganisation. A reduction in corruption ensues from the building of state capacity and political modernisation.<sup>153</sup> One step that could be adopted in this direction would be to amend the constitutions of many African countries to specifically recognise corruption as a violation of human rights. Preventing and combating corruption is possible only if the legal framework against corruption is entrenched in the constitutional foundation of a state and is consistent with the fundamental principles of the rule of law.<sup>154</sup> It is also clear that African states should review and adopt national legislation to align them with their international anti-corruption commitments under both the AU Convention on Corruption and the UNCAC.<sup>155</sup> Public education programmes aimed at developing anti-corruption awareness would complement such reforms.<sup>156</sup>

Moreover, curricula should emphasise values such as integrity and honesty, which are points of reference for progress in any society.<sup>157</sup> Academic corruption may have negative repercussions not only in the short but also in the long term. Academic dishonesty in higher education institutions produces semi-educated professionals.<sup>158</sup> These poorly trained

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150. *Supra* note 6. *See also*, Olaniyan, *supra* note 21, at 368-369.

151. *Id.* at 373.

152. Adam Graycar, *Corruption: Classification and Analysis*, 34/3 POL'Y & SOC'Y, 87-96 at 95 (2015).

153. Nel., *supra* note 9 at 660.

154. Olaniyan, *supra* note 21 at 359.

155. *Id.*, at 361.

156. Alhaji B.M. Marong, *Toward a Normative Consensus Against Corruption: Legal Effects of the Principles to Combat Corruption in Africa*, 30/2 DENVER J. OF INT'L L. & POL'Y 99, 104 (2002).

157. Nsongurua Udombana, *Fighting Corruption Seriously? Africa's Anti-Corruption Convention*, 7 SINGAPORE J. OF INT'L AND COMP. L. 447, 486 (2003).

158. Feday, *supra* note 38 at 17.

professionals can have a negative impact on society from the day they start to work. Finally, African universities should realise that merit is a reflection of democracy. Any appointment based on patronage, and nepotism should be fought against.<sup>159</sup> Perhaps de Sardan is right when he proposes

[m]ovements of a 'puritanical' tendency, intended to bring about a reform of public morals (which can assume, in Islam as in Christianity, a fundamentalist hue) may be among the ultimate means . . . to attempt to change the present course of affairs.<sup>160</sup>

In reality, it is unlikely that corruption will ever be completely eradicated because, as it is often said, man is corrupt by nature. Despite this, we must continue to make a concerted effort to reduce corruption to its barest minimum.<sup>161</sup>

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159. Moshia, *supra* note 1 at 106.

160. de Sardan, *supra* note 102 at 48. *See*, Teklu, *supra* note 48 at 4. However, as noted by Zalanga: "Africans should expect no one from outside the continent to solve this problem [corruption] for them. And they should not expect a religious miracle to get them out of this quagmire, as fifty years of successful expansion and penetration of Islam and Christianity into the continent does not seem to have halted the worsening problem of corruption in public institutions". *See*, Zalanga, *supra* note 3 at 880.

161. THE PALGRAVE HANDBOOK OF AFRICAN POLITICS, GOVERNANCE, AND DEVELOPMENT 582 (Samuel Ojo Olorunfoba & Toyin Falola eds. 2018); *see also*, Heath, *supra* note 79, at 375.