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Anti-corruption frameworks as an implementation vehicle: Exploring the right to development as a normative lens for UNCAC and AUCPCC

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Abstract: *While international and regional anti-corruption instruments promote governance, transparency and accountability, the right to development emphasises active participation and equitable socio-economic progress. Although the literature treats these as parallel frameworks, this chapter argues that anti-corruption mechanisms should instead advance the right to development. Using a doctrinal and comparative approach – and drawing on the Draft International Covenant on the Right to Development – it demonstrates how existing UNCAC and AUCPCC obligations can be interpreted to advance development rights without requiring treaty amendments. It presents three key findings: first, the instruments share normative principles despite varying obligations; second, the frameworks evolved as parallel silos; and, third, a constructive interpretation is anchored in article 31(3)(c) of the Vienna Convention on the Law of Treaties.*

Résumé : *D'un point de vue général, les instruments de lutte contre la corruption, tant au niveau des Nations Unies qu'au niveau régional, visent à promouvoir la bonne gouvernance, la transparence, la responsabilité, l'intégrité et à lutter contre la corruption systémique. D'autre part, le droit au développement met l'accent sur la participation active, la répartition équitable des bénéfices et la jouissance du développement économique, social, politique et culturel. Compte tenu de ces aspirations, la littérature universitaire a largement traité ces deux concepts comme des cadres normatifs parallèles. Ce chapitre soutient que les mécanismes de lutte contre la corruption devraient être utilisés comme des instruments précieux pour promouvoir, protéger et réaliser le droit au développement. En se concentrant spécifiquement sur les instruments internationaux et régionaux pertinents de lutte*

contre la corruption, ce chapitre explore comment ces instruments peuvent être interprétés pour promouvoir, protéger et réaliser le droit au développement en droit international. Adoptant une approche doctrinale et comparative, et s'appuyant sur le contenu du projet de convention sur le droit au développement, ce chapitre affirme que le droit au développement offre un prisme d'interprétation à travers lequel les obligations découlant de la Convention des Nations unies contre la corruption (CNUCC) et de la Convention de l'Union africaine contre la corruption (AUCPCC) peuvent être interprétées, permettant ainsi aux obligations en matière de lutte contre la corruption de servir et de faire progresser la réalisation des droits au développement sans nécessiter de modification des traités. Ce chapitre aboutit à trois conclusions : premièrement, une conclusion comparative selon laquelle les trois instruments partagent des principes normatifs communs mais présentent des différences au niveau des obligations opérationnelles ; deuxièmement, une conclusion explicative exposant les raisons pour lesquelles les deux cadres ont évolué en parallèle sans interaction ; et enfin, une conclusion interprétative constructive fondée sur l'article 31, paragraphe 3, point c), de la Convention de Vienne sur le droit des traités.

Key words: *corruption; right to development; anti-corruption framework; UNCAC; AUCPCC; draft International Covenant on the Right to Development*

1 Introduction

Following Kéba Mbaye's formal introduction of the right to development (RtD) as a distinct human right,[1] the United Nations General Assembly adopted the Declaration on the Right to Development (DRtD).[2] In 1998, the Intergovernmental Open-ended Working Group on the Right to Development was established by the UN Commission on Human

1 K M'baye 'Le droit au développement comme un droit de l'homme' (1972) 5 *Revue des Droits de l'Homme* 503-534. See also M Bedjaoui 'The right to development' in F Mayor & M Bedjaoui (eds) *International law: Achievements and prospects* (2023) 1179.

2 United Nations General Assembly Declaration on the Right to Development GA Res 41/128 (4 December 1986) (DRtD).

Rights.[3] Subsequent efforts have been made towards a binding treaty. As of 2023, these efforts resulted in the Human Rights Council transmitting a Draft International Covenant on the Right to Development (Draft Covenant) to the General Assembly for negotiation and adoption.[4] Taking a prescriptive approach that articulates the duties of states and recognises the various factors that hinder the realisation of the right to development, the Draft International Covenant highlights the need for state parties to prevent and combat corruption. The Draft International Covenant intends to place obligations on state parties to create an enabling environment for the realisation of the right to development. Regrettably, for Africa, where the RtD has been legally recognised for 40 years following entry of the African Charter on Human and Peoples' Rights (African Charter),[5] the realisation of this specific right has been a significant challenge due to a blend of complex factors.[6] It is argued, based on empirical evidence, that the adverse impact of corruption extends even to the right to development.[7] This is so regardless of how corruption is defined.[8] Corruption perpetuates underdevelopment and erodes public trust.[9] This often occurs when public funds or resources intended for public services are systemically diverted through corrupt conduct, including embezzlement, theft and misappropriation.[10] From the outset, this incapacitates states from providing services, eventually making it a challenge for them to fulfil their basic domestic and international obligations.[11] Simultaneously, corruption deprives

3 Commission on Human Rights Res E/CN.4/RES/1998/72.

4 United Nations Human Rights Council Draft International Covenant on the Right to Development: Report by the Chair-Rapporteur of the Working Group on the right to development, UN Doc A/HRC/54/50.

5 Organisation of African Unity African Charter on Human and Peoples' Rights (African Charter), adopted 27 June 1981, entered into force 21 October 1986, CAB/LEG/67/3 rev 5.

6 E Durojaye & G Mirugi-Mukundi (eds) *Exploring the link between poverty and human rights in Africa* (2020).

7 K Moyo 'Corruption, human rights and extraterritorial obligations' in GE Türkelli and others (eds) *The Routledge handbook on extraterritorial human rights obligations* (2021) 321.

8 I Kerusauskaite *Anti-corruption in international development* (2018) 15-16.

9 See S Bitterhout & BD Simo-Kengne 'The effects of corruption on economic growth in the BRICS countries: A panel data analysis' (January 2020) Economic Development and Well-being Research Group Working Paper 3-2020.

10 A Graycar 'Corruption: Classification and analysis' (2015) 34 *Policy and Society* 87-96, 89-90.

11 Moyo (n 7) 321.

vulnerable communities of access to basic services, thereby establishing a structural relationship between corruption and development.

The international and regional legal framework comprises instruments that are binding on state parties that share common goals: to prevent and combat corruption at all levels and in all forms within states parties, and contain specific measures aimed at preventing and combating corruption. The international and regional regulatory frameworks include the following instruments: the United Nations Convention against Corruption (UNCAC), adopted in 2003;[12] the Council of Europe Criminal Law Convention on Corruption, adopted in 1999 (while limited to members states of the Council of Europre, it offers comparative reference for anti-corruption framework);[13] and the African Union Convention on Preventing and Combating Corruption (AUCPCC), adopted in 2003.[14] While acknowledging these instruments and their global anti-corruption efforts, this chapter focuses on the UNCAC and AUCPCC. The chapter evaluates their structural frameworks and argues that while both are clear in criminalising corruption, they fail to underscore the impact of corruption on development, human rights and social instability in affected communities.

Recognising the normative convergence between anti-corruption frameworks and the RtD, the two frameworks have evolved in parallel. On the one hand, anti-corruption instruments and scholarship mostly focus on governance, institutional and public administration integrity, economic growth and development. On the other hand, instruments and scholarship on the right to development often focus primarily on active participation, equitable distribution of benefits and self-determination.[15] While the academic literature so far recognises the relationship between

12 United Nations General Assembly, United Nations Convention Against Corruption, GA Res 58/4, 31 October 2003, United Nations Treaty Series, vol 2349, 41.

13 Council of Europe Criminal Law Convention on Corruption, adopted 27 January 1999, CETS 173.

14 African Union Convention on Preventing and Combating Corruption (adopted 11 July 2003, entered into force 5 August 2006).

15 See T Weatherall *The right to self-determination in international law* (2025); N Jayawickrama 'The right to self-determination' in N Jayawickrama (ed) *The judicial application of human rights law: National, regional and international jurisprudence* (2017) 185; MZ Matinda 'Realisation of the right to self-determined development and the protection of indigenous women against discrimination in Tanzania' (2018) 1 *Journal of Law Society and Development* 1-18.

corruption and human rights,[16] there is limited scholarship regarding the extent to which anti-corruption instruments may serve as a vehicle for implementing the RtD. This chapter examines conceptual gaps by highlighting how anti-corruption frameworks are underexplored mechanisms for implementing the right to development. Against this background, the primary question is this: To what extent can the right to development function as an interpretative lens for obligations under UNCAC and AUCPCC to advance and foster developmental rights without the need for treaty amendments? The chapter concludes by proposing that the right to development provides an interpretative lens through which obligations under UNCAC and AUCPCC can be read, anchored in article 31(3)(c) of the Vienna Convention on the Law of Treaties (VCLT), concerning treaty interpretation.

The chapter is structured as follows: first, the introduction. The second part analyses governance failures and transnational enablers of corruption in Africa. The third part looks at the evolution of the right to development and anti-corruption frameworks as normative parallels. Part 4 four evaluates the impact of corruption on the realisation of the RtD. Part 5 investigates the normative intersections between the RtD, the AUCPCC and the UNCAC. Part 6 synthesises the findings and offers a right-to-development-based framework for interpreting the obligations set out in UNCAC and AUCPCC. This is followed by a conclusion.

2 Africa, governance failures and political leadership

Scholarship produced by both practitioners and social science scholars on the issues of development and the right to development unravels various layers of philosophical and practical challenges rooted in history, economics, geography, political science, migration, sociology, gender, politics and religion.[17] The debates are profound and extensive, offering differing viewpoints on why underdevelopment seems to be a permanent yoke in which Africans are irretrievably entrapped. For some,

16 See A Peters 'Human rights and corruption: Problems and potential of individualising a systemic problem' (2024) 22 *International Journal of Constitutional Law* 538-561; K Olaniyan *Ownership of proceeds of corruption in international law* (2024) 168.

17 K Kalu *Foreign aid and the future of Africa* (2018) 193-213.

political leadership, governance failures and misaligned policy choices have contributed to persistent underdevelopment in Africa.[18] Other scholars do not hesitate to indict corruption as the invisible enemy that undermines development in Africa.[19] With cogent evidence that discloses the colossal amounts of money and other state-owned property hijacked by senior state officials,[20] it becomes difficult to ignore what role corruption has played in Africa's underdevelopment.[21] Under-resourced healthcare facilities that are replete with outdated equipment, aggravated by staff shortages and unskilled labourers, distant schools with no readiness for innovation and a sheer lack of capacity to deliver, broken infrastructure to provide social services, huge unemployment rates, unsustainable management of the environment, and unsound exploration and exploitation of natural resources, often triggering intra-state armed conflicts, are some of the permanent features that define many African states, especially those in sub-Saharan Africa.[22]

Africa's governance challenges can be traced to its colonial history. The colonial administration prioritised the extraction of resources, imposed territorial borders that neglected existing social and cultural ties and established institutions that serve colonial interests. As a result, when African states formally gained independence, they inherited political and economic structures that did not prioritise the needs of the populations, thus contributing to governance deficits.[23] One would struggle to fend off the instincts of historical amnesia if the details were ignored. Systemic corruption and institutional deficiencies have hindered socio-economic development across Africa, leaving public resources vulnerable to misuse.[24] Corruption in Africa is driven by both domestic governance failures and global systems – transnational enablers

18 AA Agbor & R Matlala 'Political instability, underdevelopment and the misgivings of democracy: Problematising the issue of political leadership in Africa' (2025) 20 *TWIST* 21-30.

19 RA Aborisade & NB Aliyyu 'Corruption and Africa' in O Akanle & JO Adésìnà (eds) *The development of Africa: Issues, diagnoses and prognoses* (2017) 227-254; WB Adisa 'Political opportunism, corruption and underdevelopment in Africa' (2013) 43 *Africa Insight* 42-62.

20 Aborisade & Aliyyu (n 19).

21 As above.

22 Adisa (n 19).

23 MW Mutua 'Africans and the ICC: Hypocrisy, impunity and perversion' in KM Clarke, AS Knottnerus & E de Volder (eds) *Africans and the ICC: Perceptions of justice* (2016) 47.

24 Aborisade & Aliyyu (n 19).

such as foreign corporate bribery and offshore havens and the reluctance of destination states to return stolen assets sustain and deepen regional underdevelopment. To illustrate, Africa loses at least $50 billion annually in illicit financial flows, much of it as a result of foreign corporate bribery and offshore financial havens.[25] In most cases, the destination states are reluctant to return the assets – in turn, this resistance perpetuates development barriers, particularly for Africa and developing countries; hence, cooperation is imperative between the host and the victim state to recover the stolen assets. This is reflected in article 13 read together with article 13(4)(j) of the Draft International Covenant on the Right to Development, which proposes that states cooperate to elmnate illicit financial flows. While not yet binfing, the provision underscores the global consensus that corruption spans borders and assest recovery is a shared resonsibility between states.

These international and regional human rights instruments aside, political leadership in numerous African countries has been neither willing nor able to incubate the necessary socio-economic and political arrangements to engineer and steer their countries toward progress and prosperity, marked by significant access to social and economic justice, peace and stability. Poverty remains extreme, and access to quality education is a challenge. Health care is a privilege, with thousands still dying of preventable and treatable ailments. Infant mortality has not significantly abated, as huge numbers of mothers perish during childbirth. Advances in technology that usher in innovation have hardly percolated into every segment of society.[26]

Extensive and respectable literature on the nature and effects of corruption explains how it would affect both development and the right to development under international and regional human rights law. In summary, states are deprived of the resources needed for development

25 High Level Panel on Illicit Financial Flows from Africa (2015) *Illicit Financial Flow: Report of the High Level Panel on Illicit Financial Flows from Africa* https://www.unodc.org/documents/NGO/AU_ECA_Illicit_Financial_Flows_report_EN.pdf#page=1.

26 According to the World Bank report, at least 847 million people are living in extreme poverty and it projects that by end of 2026, global extreme poverty will slightly decrease. See JH Lønborg and others 'March 2026 global poverty update from the World Bank: New data and updated poverty numbers' (World Bank, 26 March 2026), https://blogs.worldbank.org/en/opendata/march-2026-global-poverty-update-from-the-world-bank--new-data-a (accessed 2 October 2026).

and the realisation of the right to development by corruption. It widens the gap between the rich and the poor and concentrates wealth to those who exploit public resources and public office for private gains. The progressive realisation of any social and economic development is dependent on the constant availability of resources, sourced from both within and outside a state: When senior state officials misappropriate such resources, development and the right to development are automatically paralysed.

Corruption persists even though anti-corruption laws, policies and institutions are in place. Corruption remains entrenched in the social, economic and political fabric of states, occurring at all levels, often normalised or reduced to the logic of negotiations, with things only getting done when a bribe is paid or a reward is promised for a service to be rendered. This chapter contends that for the right to development to be protected, respected and fulfilled, state parties thereto must be willing to eradicate corruption in all forms and at all levels within their states. The eradication of corruption must not be limited to establishing anti-corruption mechanisms, laws and policies. Rather, a normative framework, extrapolated and collated from international and regional instruments, should inform laws, institutions, policies and programmes if the right to development is to be realised. These instruments include the UNCAC, the AUCPCC and the African Charter on Democracy, Elections and Governance (African Democracy Charter). These instruments indirectly reiterate the need for good governance, the rule of law, accountability and integrity in the use of public resources, all geared towards sound policies and laws that propel countries towards progress and prosperity for all, rather than for a few.

3 Normative parallels: The evolution of the right to development and anti-corruption frameworks in international and regional law

Corruption has been a concern and hindrance to development both within states and in international law. The relationship between corruption and development has resulted in the adoption of numerous international and regional instruments. However, those instruments have always evolved and operated in parallel with one another. The emergence of the right to development was part of a post-colonial struggle calling for an equitable international economic order, seeking

to transform development policies to adopt a human rights-based and human-centred approach, rather than measuring development solely by significant increases in indicators such as national income and gross domestic product (GDP).[27] Conversely, anti-corruption frameworks were primarily concerned with institutional governance, accountability and integrity, whistleblower protection and transnational crimes. Despite the independent evolution of these frameworks, their normative aspirations overlap with one another. In other words, equality, human dignity, accountability, active participation, and fair allocation of resources became their primary goals.

3.1 Evolution of the right to development

Traced back to the United Nations (UN) Charter, the RtD emerged at a time when decolonisation debates were prominent and newly independent Third World states demanded global economic equality.[28] Over time, the right to development as a concept evolved from merely seeking economic growth to advancing human entitlements and social justice, and to creating conditions and environments for active participation (individually or collectively).[29] When the DRtD was adopted in 1986, it was a significant normative development, leading to the recognition of development as an inalienable human right. Moreover, the Declaration envisioned development as a process aimed at advancing the well-being of persons, requiring their active, free and meaningful participation.[30] Arguably most importantly, the RtD imposes obligations on both states and the international community. As argued, this is premised on the recognition that development outcomes are influenced by a global economic order that perpetuates structural inequalities.[31] The 1993 Vienna Declaration and Programme of Action

27 MC Branco 'New International Economic Order' in R de Arriba (ed) *United Nations facing global economic disorder: Assessing 20 policy proposals* (2026) 32.
28 AD Mishra *Challenges of 21st century: Gandhian alternatives* (2003) 91.
29 See Declaration on the Right to Development and United Nations, Human Rights Council (18 July 2023) and Draft International Covenant on the Right to Development (n 4).
30 DRtD (n 2) art 2(3).
31 See AO Hart 'International economic order and developing nations: A study of African nations' (2025) 5 *International Journal of Development and Public Policy* 91-106.

reaffirmed the right to development as a universal and inalienable right.[32] Later, this propelled the establishment of the Intergovernmental Open-Ended Working Group on the right to development in 1998 marking a key milestone to formally create a legally binding treaty. In 2020, the first draft of the Convention on the Right to Development was prepared by Dr Mihir Kanade, who served on an *ad hoc* expert drafting group appointed by the UN Working Group on the Right to Development. After revisions and negotiations, the Draft International Covenant was transmitted by the Human Rights Council to the General Assembly – the Resolution passed with a recorded vote of 29 in favour, 13 against and five abstentions.[33] At the time of writing, the General Assembly negotiations are ongoing and the Covenant is not yet in force.

Although the Declaration remained soft law with no binding effect, the core features of the RtD emphasise active, free and meaningful participation; equality and non-discrimination; accountability through states as duty-bearers; and empowerment, thus underscoring human beings as beneficiaries of the right to development. The latter is pivotal as it deviates from the general framing of development – often perceived as emphasising economic growth and income,[34] whereas the RtD positions human beings as central agents of development rather than passive beneficiaries.[35] Notwithstanding its normative significance, the RtD has been criticised, widely debated and politicised, particularly regarding its legal status, enforceability and implementation.[36] Despite this, the RtD significantly contributed to the consideration of development as a framework for seeking justice, to questions of governance, and to the protection of human rights.

Article 19 of the Draft International Covenant explicitly addresses corruption as a structural impediment to the right to development. As argued in part 5, article 19 operates in isolation from the broader

32 Vienna Declaration and Programme of Action, adopted 25 June 1993, UN Doc A/CONF.157/23 (12 July 1993).

33 Draft International Covenant on the Right to Development (n 4).

34 See C Mlambo 'Financial development and economic growth: Evidence from low-income nations in the SADC region' (2024) 12 *International Journal of Financial Studies* 1-16.

35 S Fukuda-Parr & I Cid-Martinez 'Capability approach and human development' in JA Ocampo & M Nissanke (eds) *The Palgrave handbook of development economics: Critical reflections on globalisation and development* (2019) 459-460.

36 MA Tadeg 'Reflections on the right to development: Challenges and prospects' (2010) 10 *African Human Rights Law Journal* 325-344.

international anti-corruption framework – it recognises corruption as a threat to development, yet fails to connect or engage with existing international anti-corruption law.

3.2 International and regional anti-corruption frameworks and the criminal justice approach

A historical milestone was the adoption of the only universal legally binding anti-corruption treaty, the UNCAC in 2003.[37] This instrument has five core features: preventive measures; criminalisation and law enforcement; international cooperation; asset recovery; and technical assistance and information. Adopted in July 2003, the AUCPCC is the primary regional anti-corruption instrument. Notably preceding the UNCAC, the AUCPCC places strong emphasis on the socio-economic impacts of corruption.[38] The normative foundations of the two instruments, UNCAC and AUCPCC, are grounded in the rule of law, sustainable development, mutual or shared responsibility, institutional integrity and accountability, and inclusive governance.[39] Most importantly, what these instruments underscore is that corruption is not merely individual conduct but a systemic issue with significant, intertwined impacts: weakening institutions and distorting public resources, which undermine the decision-making process and the equitable distribution of resources. The UNCAC and AUCPCC adopt a primarily criminal justice model, as reflected in the specified corruption offences;[40] promoting punitive enforcement and penalties by urging states to establish law enforcement mechanisms; and by promoting transnational criminal procedures by urging states to adopt standardised international criminal law tools such as extradition treaties and mutual legal assistance agreements.[41] While this approach is evident in the instruments, they neither address nor capture enabling conditions of corruption such as inequality, exclusion, unequal access to resources or poverty.

37 United Nations Convention against Corruption (n 12).
38 AUCPCC (n 14).
39 See UNCAC Preamble and art 5(1) and AUCPCC art 3.
40 AUCPCC art 4 and UNCAC ch III.
41 UNCAC ch IV, arts 44 & 46; AUCPCC arts 5 & 15-18.

3.3 The normative intersection between the right to development and international and regional anti-corruption frameworks

The discussion above demonstrates the parallel foundations of the right-to-development and anti-corruption frameworks. While they may have developed separately, they share normative foundations: social justice and equitable distribution of wealth. While this is a fundamental pillar of the right to development, the UNCAC and AUCPCC address this through the asset recovery frameworks;[42] active participation and inclusive governance through emphasis on including individuals and civil society organisations;[43] and international cooperation through emphasis on institutionalising mutual legal assistance and sharing of information. Notwithstanding these intersections, the frameworks have not been integrated sufficiently. The traditional approach to the right to development has been primarily premised on macro-level issues rather than systemic corruption or corruption as a key structural hindrance to development; similarly, anti-corruption frameworks have not consistently positioned corruption as a development and human rights issue. This separation creates a normative gap whereby development frameworks may overlook governance-related failures as major hindrances to meaningful development, while anti-corruption laws may disregard socio-economic conditions. It is this normative gap that informs the arguments in this chapter: to examine the relationship between the right to development and anti-corruption frameworks, and to address the need for an integrated interpretative approach.

4 The impact of corruption on the right to development in Africa

The complex relationship between corruption and the RtD indicates that corruption is not merely an economic hindrance, but a systemic violation of human rights. In fact, corruption has a direct adverse impact on human rights and acts as a hindrance to the realisation of the RtD.[44]

42 AUCPCC art 16 and UNCAC ch V.
43 UNCAC art 13 and AUCPCC art 12.
44 AK Nkwain 'The effects of corruption on the right to development and the challenges in combating it in Cameroon' (2023) 5 *International Journal of Research and Innovation in Social Sciences* 1216-1228; See also JC Mubangizi 'The

The essence of the RtD requires the enjoyment of all human rights, where people actively participate, contribute to and enjoy the outcomes of the development process.[45] Given that corruption violates fundamental principles of human rights, which are core to the right to development, when[46] a state enables or allows severe systemic corruption to persist without any punitive consequences, the state is deemed to have violated its obligations to uphold and protect the rights of people. This is more evident when state funds intended for the realisation of socio-economic rights, such as health care and education, are misappropriated.[47]

Corruption also prevents states from achieving their developmental potential. It restricts access to basic services and reduces states' ability to utilise or mobilise their resources. For example, Sustainable Development Goal (SDG) 3 concerns good health and well-being: When a state's funds for medical facilities are embezzled or misappropriated, the public health infrastructure is incapacitated, which significantly affects people who depend on public healthcare services. Mackey, Vian and Kohler showed how corruption in the health-sector undermines the capacity of the state to provide healthcare services with implication for maternal and child health in sub-Saharan Africa.[48] In another illustration, SDG 4 concerns quality education: Similarly, the embezzlement, theft or misappropriation of education funds limits access to quality schools. In addition, the payment of bribes in the education sector compromises examination integrity.[49] Climate action and life below water are SDGs 13 and 14: Corruption affects these goals when bribes are paid to officials to approve prohibited conduct. For example, in Mozambique, industrial vessel operators pay bribes to authorities to evade regulations.[50] The

impact of corruption on poverty and inequality: A South African human rights perspective' (2025) 14 *Perspectives of Law and Public Administration* 480, 481.

45 K Moyo 'An analysis of the impact of corruption on the realisation of the right to development' (2017) 33 *South African Journal on Human Rights* 193, 201.

46 These fundamental principles include accountability, non-discrimination and transparency.

47 Mubangizi (n 44) 486; Moyo (n 45) 211.

48 TK Mackey, T Vian & J Kohler 'The sustainable development goals as a framework to combat health-sector corruption' (2018) 96 *Bulletin of the World Health Organization* 634.

49 See W Malinga 'A corruption risk assessment of the education sector in Zimbabwe' (2024) *Transparency International* 1.

50 See M Dominguez & J Bergin 'Corruption and anti-corruption in Mozambique's fisheries sector' (11 October 2024) *Transparency International* U4 Helpdesk Answer.

impact of corruption on the realisation of the SDGs further indicates the extent to which corruption undermines the performance of various sectors, such as extractive industries,[51] infrastructure/utilities,[52] health care and education.[53]

While it is clear that corruption negatively impacts development, it is important to further highlight the mechanisms through which this often occurs. The most common is the diversion of resources. When state resources intended for social amenities, medical supplies or quality education are diverted into the personal accounts of public officials, public expenditure may create a misleading impression of development. In contrast, most people in that state remain impoverished due to corrupt leaders or public officials stealing or embezzling public funds.[54] This 'pseudo-development' impacts the standard of living, whereby households live below the poverty or income line.[55] It results in poor service delivery and the disproportionate widening of the wealth gap.[56] Another mechanism is the imposition of regressive costs on impoverished people who must pay bribes for housing or healthcare services.[57] That said, bribery also applies to the wealthy or those capable of paying bribes for services: In such instances, it transforms from a 'regressive tax' to 'an additional expense'. Another common mechanism is procurement corruption, which often leads to infrastructure failure. In such instances, either substandard materials are used to complete projects, or projects are incomplete, leading to roads quickly becoming damaged or bridges collapsing.[58] For example, in Kenya, a Chinese contractor secured a

51 A Standing 'Corruption and the extractive industries in Africa: Can combating corruption cure the resource curse' (October 2007) 153 *ISS Paper* 1-28.

52 N Khadim and others 'Effects of corruption on infrastructure projects in developing countries' (2021) 12 *International Journal on Emerging Technologies* 284-295.

53 OECD *Consequences of corruption at the sector level and implications for economic growth and development* (2015).

54 MMDH Rudiyansah & MGF Rezki 'The impact of corruption on economic development and community welfare from local and national perspectives' (2025) 2 *Abdurrauf Social Sciences* 138, 150.

55 See SJ Mabeba 'The impact of corruption on service delivery: A topic matter in the South African municipalities' (2021) 12 *The Business and Management Review* 164-167.

56 Mabeba (n 55) 166-167.

57 G Brooks *Healthcare corruption: Causes, costs, consequences and criminal justice* (2024) 73.

58 Rudiyansah & Rezki (n 54) 143.

Sh9 billion road contract using forged licences. This case demonstrates how procurement corruption undermines the integrity of public infrustracture.[59]

Furthermore, when corruption takes the form of 'gendered corruption', it undermines the right to development by restricting access to resources and perpetuating discrimination, particularly against women and other individuals from marginalised communities because of their limited economic power.[60] This often manifests as sex corruption or sextortion, where individuals in power demand sexual favours or acts from primarily women in exchange for employment placements or medical services.[61] Corruption also has a significant impact on people with disabilities, particularly through infrastructural neglect.[62] Collectively, the examples throughout the part demonstrate a systemic pattern: Systemic corruption hinders public development, leaving the most vulnerable to bear measurable harm. In summary, corruption cannot be excluded as a factor hindering the realisation of the RtD.

59 B Wasuna 'How Chinese firm won Sh9 billion contract on forged documents' *Daily Nation* 17 February 2021, https://nation.africa/kenya/news/chinese-firm-forged-licence-to-win-sh9bn-kenha-project-3294032 (accessed 3 June 2026).

60 Stahl reported that informal businesses and corrupt networks act as platforms for gender-based power imbalance and sextortion demonstrating. See C Stahl 'Sexual corruption in Malawi: Initial insights into sextortion and other gendered corruption affecting female businesswomen' (2021) Basel Institute on Governance, https://baselgovernance.org/publications/policy-brief-7-sexual-corruption-malawi-initial-insights-sextortion-and-other-gendered (accessed 2 October 2026). Also, Stahl refers to the 2019 Transparency International report which revealed that at least 57% of women in Zimbabwe have experienced some form of sextortion. See H Feigenblatt 'Breaking the silence around sextortion: The links between power, sex and corruption' (Transparency International 2019). In another report referring to the Middle East and North Africa, 1 in 5 experience sextortion or know someone victim of sextortion in order to access public services. See United Nations Office on Drugs and Crime 'Mainstreaming gender in corruption projects/programmes briefing note for UNODC staff' (2020), https://www.unodc.org/documents/Gender/20-05712_Corruption_Brief_ebook_cb.pdf (accessed 2 October 2026). See specifically G Camacho 'Corruption and gender equality' (2021) Transparency International U4 Helpdesk Answer, https://www.u4.no/publications/corruption-and-gender-equality-hd (accessed 30 June 2026).

61 E Bjarnegård and others 'Sextortion: Corruption shaped by gender norms' in I Kubbe & O Merkle (eds) *Norms, gender and corruption: Understanding the nexus* (2022) 259. See also J Bergin 'Left behind: Corruption in education and health services in Africa' (2024) *Transparency International* 6.

62 Bergin (n 61) 12.

5 Normative convergences between the UNCAC, the AUCPCC and the right to development framework

In light of the earlier discussions that traced the evolution of UNCAC, AUCPCC and the RtD frameworks, a critical question remains: To what extent, if at all, do UNCAC and the AUCPCC deal with the principles that inspire the RtD? The discussion below provides a comparative analysis of five components in order to assess the extent of the normative convergence across the three frameworks: good and accountable governance; inclusive participation; accountability and state obligation; social justice; equality and equity; and victims and rights holders.

5.1 Governance as institutional integrity versus governance as a rights condition

Chapter II of UNCAC is firmly anchored on the principles of institutional and good governance. Article 5 urges states to develop and implement effective anti-corruption policies that reflect 'principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability'. Articles 7 and 8 extend these principles to public-sector recruitment, management and code of conduct. Similarly, article 11 obliges states to strengthen the integrity of the judiciary and prosecutorial independence. Altogether, the governance and accountability framework in chapter 2 specifically concerns institutional integrity as opposed to the substantive outcomes good governance should produce for citizens. The foundations of good governance and accountability in the AUCPCC can be traced to article 3, which obliges states to give consideration to democratic principles, the rule of law, transparency and accountability and good governance. Article 5 of AUCPCC requires states to adopt measures that strengthen accounting and auditing systems. Similar to UNCAC, the AUCPCC's governance foundation focuses on institutional integrity and criminal responsibility as opposed to the welfare of citizens. However, it is worth noting that article 2 of the AUCPCC, among its objectives, lists the promotion of 'socio-economic development by removing obstacles to the enjoyment of economic, social and cultural rights as well as civil and political rights', and article 3 of the AUCPCC includes popular participation, 'respect for human and peoples' rights in accordance with the African Charter on Human and Peoples Rights' and the promotion

of social justice. Articles 3 and 5 are operative provisions that estbalish principles and objectives aimed at guiding impmentation as opposed to directly confering enforcement of individual rights. Thus, the treaties offer normative aspirations without a legal mechanism to enforce. In other words for example, the AUCPCC does not offer mechanisms for those affected to invoke article 3(4) on social justice in order to obtain a remedy. Therefore, the provisions only carry a strong normative weight without offering a legal mechanism for right-holders. In contrast to the UNCAC and the AUCPCC, the proposed Draft Covenant's approach to good governance is not merely institutionally focused – it is also a condition for the realisation of rights. For instance, article 8 urges states to ensure transparent, accountable and participatory development policies. Given the provision, governance failures can be understood as not simply administrative or institutional, but as violations of obligations owed to ordinary citizens. This contrasting approach with UNCAC and AUCPCC is significant: All three instruments recognise good governance standards; however, the Draft Covenant underscores standards directly to the rights and entitlements of people.

5.2 Participation: A policy versus a justiciable right

All three instruments recognise inclusive participation with differences in either scope, purpose or normative importance. Article 5 of the UNCAC urges society to participate in anti-corruption policy development, whereas article 13 specifically focuses on participation of society: that states must promote active participation of individuals and groups, including civil society and non-governmental organisations (NGOs). From a strict international law interpretation perspective, UNCAC approaches civil society participation in order to ensure that anti-corruption efforts are effective, not because participation is inherently a right that the state must protect. The AUCPCC also takes a similar approach. Article 12 obliges states to ensure participation by involving civil society in monitoring and public oversight efforts. Once again, participation is not recognised as an entitlement. In contrast, article 3(a) of the Draft Covenant intends to takes an individual and peoples-centred approach to development by providing that 'individual and peoples are the central subjects of development and must be the active participants and beneficiaries of the right to development'; whereas article 3(b) provides that the RtD must be realised in a manner

that promotes human rights principles, including the principle of participation. Aside from the general principles contained in article 3 of the Draft Covenant, article 4(2) provides that 'every individual and all peoples have the right to active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom'. Holistically, it is evident that intended participation is not merely a tool to achieve good governance outcomes, but as a right that states are obliged to protect. Doctrinally, this distinction is important as it shifts the premise of participatory obligation from a policy effectiveness tool to a rights compliance.

5.3 Shifting the scales: State obligations versus rights holders' responsibility

Across all three instruments, accountability is key. For UNCAC, state accountability is reflected in the obligations to criminalise corrupt practices, establish anti-corruption agencies or institutions, cooperate with other states in investigations, prosecutions and the recovery and return of stolen assets. From this perspective, the accountability framework UNCAC adopts is outward-looking in that states are accountable to one another through the formal process of mutual legal assistance, and perhaps also the review by the UNCAC Implementation Review Mechanism. Consequently, within UNCAC's framework, there is no direct accountability to the people or rights holders. Article 22 of the AUCPCC provides for the establishment of the Advisory Board on Corruption which monitors the implementation of the Convention and collects information. While also outlining provisions on the recovery and return of assets, the AUCPCC takes a state-centric accountability approach. The Draft Covenant intends to position accountability from a rights-based approach. The obligation to respect, protect and fulfil the RtD is outlined in articles 10 to 12. Under article 10 – once in force, states will be prohibited from any conduct that 'nullifies or impairs the enjoyment and exercise of the right to development'; the proposed article 11 urges states to adopt necessary measures to ensure that persons, groups or other states do not nullify or impair the RtD; and while article 12 urges states to take a progressive approach or measures in enhancing the RtD. Additionally, once the Covenant enters into force, article 28(7)(c) provides for the implementation mechanism to, amongs, 'review requests by rights holders to comment on situations in which

their right to development has been adversely affected by the failure of states to comply with their duty to cooperate'. While the provision not yet in force, its inclusion underscores that right-holder standing is an intentional feature in the RtD framework as opposed to state-centered accountability approach evident in the UNCAC and the AUCPCC.

5.4 Blind spot? Distributive justice deficits in anti-corruption law

UNCAC focuses on the integrity of public institutions or agencies, and the suppression of corrupt practices; it does not explicitly contain social justice language or address the distributional consequences of corrupt conduct or issues surrounding structural inequalities. While it addresses asset recovery in chapter V and may be considered the closest provision on redistribution, the chapter does not address wider redistribution concerns aside from focusing on states having the primary obligation to return assets to the requesting state. The Preamble to the AUCPCC recognises that corruption undermines the principles of accountability and transparency, particularly in the public sector, which consequently compromises the socio-economic development of African people. Similarly, articles 2 and 3 include the promotion of socio-economic development and social justice, respectively. Normatively, the provisions demonstrate awareness of the impact of corruption on development. That said, these provisions remain as principles and objectives as opposed to operative or binding obligations that impose legal duties on states. Moreover, while this recognition exists, it is not an operative obligation that specifically transforms the development concerns to specific legal obligations of social justice or equitable distribution of assets. In contrast, the Draft Covenant positions social justice and equity as a core pillar of the RtD. For example, article 3(b) intends to position equity and equality as one of the universal principles for realisation of the RtD. Under the proposed covenant, article 12(2), on the other hand, concerns the obligation to combat social injustice through

> non-discrimination and equality of opportunity, including through digital inclusion where applicable, for all individuals and peoples in their access to basic resources, education, health services, food, housing, water and sanitation, employment, and social security and protection, and in the fair distribution of income ... carry out appropriate economic and social reforms with a view to eradicating all social injustices.

Lastly, article 15 urges states to recognise certain people and their marginalisation or vulnerability when dealing with specific and remedial measures in order to 'achieve *de facto* equality in the enjoyment of the right to development'. The failure of UNCAC and AUCPCC to engage with how systemic corruption distorts access to resources and favours those in political or economic power highlights a normative gap across the three instruments.

5.5 Structural divergence: Passive victims versus active rights holders

The treatment of victims across the three instruments highlights the conceptual divergence. The engagement or recognition of victims in UNCAC is limited. Article 35 urges states to allow individuals or entities harmed by corruption to take legal action against those responsible to seek financial compensation for their damages. While meaningful, the provision accommodates civil liability or civil law and fails to address the collective harm caused by grand or systemic corruption. Moreover, UNCAC provides for neither collective remedies nor state obligations to ensure that anti-corruption measures yield tangible outcomes or benefits for affected communities or persons. For the AUCPCC, while it recognises corruption harm, its operative provisions, similar to UNCAC, do not provide for collective claims or remedies. In contrast, the Draft Covenant intends to position those affected by corruption as rights holders to whom the state owes obligations. Article 3(a) places the individuals and peoples as 'the central subjects of development and must be the active participants and beneficiaries of the right to development'. Article 4, on the other hand, provides for the inalienable right to RtD, including to participate in, contribute to and enjoy development, whereas article 8(1) obligates states to 'respect, protect and fulfil the right to development for all, without discrimination of any kind'. Importantly, concerning the establishment of an implementation mechanism, article 28(7)(c) of the Draft Covenant proposes to grant the implementation mechanism mandate to review requests by right holders – a provision absent from both UNCAC and the AUCPCC. For the Draft Covenant, rights holders are intended to have entitlements that the state must respect, protect and fulfil, and not merely passive recipients.

The above comparative discussion has revealed that UNCAC, the AUCPCC and the Draft Covenant engage, to varying degrees, with the

five components. The convergence is superficial in that at the operative obligation level, neither UNCAC nor the AUCPCC adopts a human rights-based approach that recognises the RtD, nor do they establish direct accountability for rights holders for redress for any developmental harm suffered as a result of corruption. However, holistically, both instruments recognise corruption as a hindrance to socio-economic and sustainable development.[63] In contrast, article 19 of the Draft Covenant recognises 'that corruption presents a serious obstacle to the realisation of the right to development'. Under the proposed Draft Covenant development is positioned as a right and corruption as a structural hindrance. What these three instruments demonstrate is a non-integration gap whereby the anti-corruption instruments and the Draft Covenant deal with corruption in isolation despite acknowledging it as a problem. Moreover, UNCAC and the AUCPCC focus on criminal acts of corruption, whereas the proposed Draft Covenant treats corruption as a hindrance to human rights – neither instrument takes a simultaneous approach to recognising corruption as a criminal conduct and a human rights violation with punitive and restorative, institutional and rights-based responses. Crucially, under article 3 of the AUCPCC, states must respect human and peoples' rights in accordance with the African Charter. Article 21 of the African Charter safeguards the right to freely dispose of wealth and natural resources, whereas article 22 safeguards the rights of all peoples to economic, social and cultural development. This reference in the AUCPCC to the African Charter – which also provides for the RtD – creates a textual gateway for integrating RtD in the AUCPCC framework. This is developed further in part 6 below.

6 A rights-based informed interpretation of anti-corruption obligations

The above discussion set out the normative gaps and convergences across five components. What the discussion revealed was that UNCAC and AUCPCC are compatible with RtD despite the absence of explicit interpretative integration. This raises the question of whether these instruments can be interpreted to align with the RtD framework. This chapter argues that they can. For instance, article 5 of UNCAC obliges

63 Preambles to the UNCAC and AUCPCC.

states to develop and implement effective anti-corruption policies that reflect the principles of integrity, transparency, accountability and the proper management of public affairs. Strictly, this is an institutional interpretation of the provision. However, read in light of article 31(3)(c) of the VCLT, which provides that in treaty interpretation, account shall be taken of 'any relevant rules of international law applicable in the relation between the parties'.[64] Thus, article 5 of UNCAC can and should be read in light of the RtD framework. This approach reflects the principle of systemic integration – international treaties should not operate in isolation; rather, they are interconnected parts of a shared or unified system of legal order.[65] According to McLachlan, article 31(3)(c) of the VCLT functions as a conflict-avoidance function, thus setting it apart from traditional conflict-resolution rules. When there is conflict between international legal norms, principles such as *lex specialis* (specificity), *lex posterior* (timing) or *jus cogens* (hierarchy) determine which rule prevails and which is set aside. However, judicial interpretation needs to occur first in order to establish whether there is a genuine conflict. Article 31(3)(c) allows courts to refer to the wider landscape of international law, and provides a way to harmonise conflicting norms or rules instead of completely excluding one.[66] McLachlan emphasises that article 31(3)(c), alongside articles 31(1) and (4) allows tribunals to take into account external treaties and instruments, including those that are not binding or in force between the litigating parties.[67] Two approaches analytical interpretations reinforce this perspective. The first approach applies to the AUCPCC. For AUCPCC Member States, article 22 of the African Charter sets a binding legal ground for an RtD-informed interpretrative approach of obligations – thus becoming a relevant international rule under article 31(3)(c) of the VCLT. Put simply, the ratificaton of the AUCPCC binds states to the African Charter and article 31(3)(c) requires the AUCPCC to be interpreted according to the Charter's recognition of the RtD. The second approach applies to

64 United Nations Vienna Convention on the Law of Treaties, 1155 UNTS 331 (1969).
65 C McLachlan 'The principle of systemic integration and article 31(3)(c) of the Vienna Convention' (2005) 54 *International and Comparative Law Quarterly* 279-280.
66 McLachlan (n 65) 285.
67 McLachlan (n 65) 315.

UNCAC. In contrast to the AUCPCC, ratification of UNCAC are not strictly bound by any instrument that recognises the RtD. In other words, the Draft Covenant cannot be enforced or invoked under article 31(3)(c) of the VCLT. Therefore, as a *lex ferenda*, the Draft Covenant demonstrates universal consensus that corruption is a structural barrier to development. This could imply that a state that is party to UNCAC and susequently committed to combating corruption must consider development outcomes as well.

The International Law Commission Study Group on Fragmentation establishes that international law is a unified rather than an isolated system.[68] It establishes international law as an integrated system, affirms the principle of harmonisation, that the VCLT provides a mandatory and unifying framework for treaty interpretation, and that adjudicators and states have an obligation not to read treaty provisions in isolation.[69] Concerning the AUCPCC, the binding African Charter, which enriches the RtD in article 22, affirms that, under article 31(3)(c) for the proposed interpretative reading, this is a reflection of a directly applicable rule of international law.

The chapter acknowledges that this interpretative argument may receive objections. Three concerns are worth addressing: first, state consent. It is argued that some state parties to UNCAC did not give consent to RtD obligations when they ratified the Convention. In response, article 31(3)(c) does not impose or create a new obligation; rather, it helps in the interpretation of existing obligations using other international law. The second concern involves the principle of legality in criminal law. In response, employing a rights-based approach to preventive obligations does not affect criminal law provisions of the Convention – these provisions will continue to operate independently and retain their meaning. In other words, the interpretative approach argument is directed to the preventive obligations in article 5. The last concern involves the potential dilution of enforcement; in other words, the fear that a rights-based approach will weaken enforcement. In response, the approach does not weaken enforcement; instead, it broadens how to evaluate anti-

68 See International Law Commission 'Fragmentation of international law: Difficulties arising from the diversification and expansion of international law' (2006) UN Doc A/CN.4/L.702.

69 As above.

corruption measures by requiring states to show tangible outcomes for affected communities. A rights-based interpretation approach of article 5 of UNCAC will not contradict the provision; instead, it will fulfil it. An anti-corruption policy that criminalises corrupt practices without making provisions on the development entitlements of persons affected by the conduct does not fully reflect the principles of accountability or proper management of public affairs as outlined in article 5 of UNCAC. Similarly, a policy that assesses the developmental impact of corruption and reflects on the benefits of asset recovery to affected communities strengthens participatory mechanisms and actively involves rights -holders in anti-corruption governance. Thus, article 5 requires this interpretative approach.

The same applies to the AUCPCC. Article 3 requires member states to uphold transparency and accountability in public management, popular participation, respect for human rights under the African Charter and to promote social justice. When article 3 is read alongside the African Charter, particularly articles 21 and 22, the interpretative approach supports a reading of the AUCPCC that places the development rights of African peoples at the centre, rather than treating them as background aspirations confined to the Preamble.

Once in force, article 25 of the Draft Covenant provides for harmonised interpretation. According to article 25(3), 'the provisions of the present Covenant shall not affect the rights and obligations of any State Party deriving from any existing international law'. Two points emerge from this provision. First, the explicit cross-reference to article 25(3) of the Draft Covenant to the VCLT demonstrate that the drafters of the Covenant intended the latter to be positioned within established treaty interpretation framework. Second, the proposed Draft Covenant's interpretative salience is not dependent on its formal entry into force. As *lex ferenda*, it reflects an emerging position that corruption is a structural barrier to the realisation of the RtD. Consequently, it informs purposive interpretation of existing anti-corruption obligations under article 31(1) of the VCLT. In other words, a state party to UNCAC committed to combating corruption cannot argue that development outcomes are irrelevant to its anti-corruption mandate when emerging international law explicitly frames corruption as a violation of development rights.

Prospectively, the provision signals states to align their obligations under UNCAC and AUCPCC with the objectives of the Covenant

once it enters into force. In other words, article 25 then serves as an interpretative bridge that takes a forward-looking approach where existing anti-corruption instruments align with the RtD goals. This interpretative approach has three practical implications: asset recovery, reporting and participation. As far as asset recovery is concerned, recovered assets should benefit communities affected by corruption as opposed to being handled as a private matter between involved states. With respect to reporting, states should report not only arrest and prosecution rates, but also how their anti-corruption measures yield tangible development outcomes for affected communities. Concerning participation, articles 13 of UNCAC and 12 of the AUCPCC, read through the RtD lens, support broader civil society participation in anti-corruption governance. This approach affords communities (especially those affected by corruption) to contribute meaningfully in anit-corruption policy design. These practical implications serve as best practices measures and interpretative development as opposed to strictly binding duties.

7 Conclusion

Corruption threatens development and the two phenomena are intertwined conceptually and structurally; yet international instruments designed to address each operate in isolation of one another. This chapter advanced three contributions. The first contribution is comparative. The chapter has demonstrated a structural normative difference between anti-corruption instruments, UNCAC and AUCPCC and the Draft International Covenant. Across the five discussed components, the three instruments take a similar approach in principle; however, they diverge at operative obligations. The normative silo between the two frameworks is a result of the parallel treatment of corruption as a problem without normative integration. The second contribution is explanatory. UNCAC's structure, rooted in the UN Office on Drugs and Crime, prioritises criminalisation, prosecution and asset recovery over collective rights and entitlements. The AUCPCC follows this criminal justice model despite being drafted by African states that were actively championing the RtD. By contrast and having emerged from the decolonisation movement, the RtD framework takes a redistributive approach and emphasises solidarity. In the end, the differing institutional origins, their respective drafting committees and political contexts led

to parallel frameworks addressing the same structural issues in isolation. The third contribution is constructive. Article 5 of UNCAC, read through article 31(3)(c) of the VCLT and in light of the RtD framework as a relevant rule of international law, favours an interpretation that requires the anti-corruption policies to consider development outcomes of affected communities. Similarly, the principles set out in article 3 of AUCPCC, read alongside article 22 of the African Charter, reposition anti-corruption efforts and place African development rights at the forefront as opposed to a secondary objective.

The chapter has demonstrated that anti-corruption law and the RtD framework are not mutually exclusive in the pursuit of their respective obligations. They are parallel bodies of international law that require states, international bodies and scholarship to develop an already-existing normative foundation. The chapter acknowledges three limitations. First, the Draft Covenant is not yet in force; moreover, states continue to contest whether RtD should be a legally binding right – the October 2023 Human Rights Council's votes to send the text to the General Assembly reflected the division.[70] The chapter offers a forward-looking argument and remains dependent on the Covenant coming into force and the RtD being established as a binding rule of international law. Second, in light of the proposed interpretation of article 5 of UNCAC not yet being considered by an international tribunal or review body, it is unclear how state parties would respond to or accept the interpretation. Third, given that the chapter examined the legal and textual foundations of integration, future research is needed to examine the political and institutional realities required to operationalise the integration.

Finally, the chapter proposes three areas for further research: how domestic and regional bodies receive a rights-based anti-corruption approach; how RtD indicators operationalise existing anti-corruption monitoring mechanisms; and how to design frameworks to channel the return of assets to develop affected communities. The main contribution of this chapter is to demonstrate that anti-corruption law and RtD are intertwined, and not strictly distinct frameworks. Moreover, the chapter demonstrates that international law provides tools to connect the frameworks.

70 29 votes in favour, 13 against, and 5 abstentions.

References

Aborisade, RA & Aliyyu, NB 'Corruption and Africa' in Akanle, O & Adésìnà, JO (eds) *The development of Africa: Issues, diagnoses and prognoses* (Springer 2017)

Agbor, AA & Matlala, R 'Political instability, underdevelopment and the misgivings of democracy: Problematising the issue of political leadership in Africa' (2025) 20 *TWIST* 21

Bedjaoui, M 'The right to development' in Mayor, F & Bedjaoui, M (eds) *International law: Achievements and prospects* (BRILL 2023)

Bjarnegård, E, Clavo, D, Eldén, Å & Lundgren, S 'Sextortion: Corruption shaped by gender norms' in Kubbe, I & Merkle, O (eds) *Norms, gender and corruption: Understanding the nexus* (Edward Elgar Publishing)

Branco, MC 'New International Economic Order' in De Arriba, R (ed) *United Nations facing global economic disorder: Assessing 20 policy proposals* (Springer 2026)

Brooks, G *Healthcare corruption: Causes, costs, consequences and criminal justice* (Springer 2024)

Durojaye, E & Mirugi-Mukundi, G (eds) *Exploring the link between poverty and human rights in Africa* (PULP 2020)

Feigenblatt, H 'Breaking the silence around sextortion: The links between power, sex and corruption' (Transparency International 2019)

Fukuda-Parr, S & Cid-Martinez, I 'Capability approach and human development' in Ocampo, JA & Nissanke, M (eds) *The Palgrave handbook of development economics: Critical reflections on globalisation and development* (Palgrave Macmillan 2019)

Graycar, A 'Corruption: Classification and analysis' (2015) 34 *Policy and Society* 87

Hart, AO 'International economic order and developing nations: A study of African nations' (2025) 5 *International Journal of Development and Public Policy* 91

High Level Panel on Illicit Financial Flows from Africa (2015) Illicit Financial Flow: Report of the High Level Panel on Illicit Financial Flows from Africa https://www.unodc.org/documents/NGO/AU_ECA_Illicit_Financial_Flows_report_EN.pdf#page=1

Jayawickrama, N 'The right to self-determination' in Jayawickrama, N (ed) *The judicial application of human rights law: National, regional and international jurisprudence* (Oxford University Press 2017)

Kalu, K *Foreign aid and the future of Africa* (Palgrave Macmillan 2018)

Kerusauskaite, I *Anti-corruption in international development* (Taylor & Francis 2018)

Khadim, N, Jaffar, STA, Musarat, MA & Ilyas, U 'Effects of corruption on infrastructure projects in developing countries' (2021) 12 *International Journal on Emerging Technologies* 284

Mabeba, SJ 'The impact of corruption on service delivery: A topic matter in the South African municipalities' (2021) 12 *The Business and Management Review* 164

Mackey, TK, Vian, T & Kohler, J 'The sustainable development goals as a framework to combat health-sector corruption' (2018) 96 *Bulletin of the World Health Organization* 634

Matinda, MZ 'Realisation of the right to self-determined development and the protection of indigenous women against discrimination in Tanzania' (2018) 1 *Journal of Law Society and Development* 1

McLachlan, C 'The principle of systemic integration and article 31(3)(c) of the Vienna Convention' (2005) 54 *International and Comparative Law Quarterly* 279

Mishra, AD *Challenges of 21st century: Gandhian alternatives* (Mittal Publications 2003)

Mlambo, C 'Financial development and economic growth: Evidence from low-income nations in the SADC region' (2024) 12 *International Journal of Financial Studies* 1

Moyo, K 'An analysis of the impact of corruption on the realisation of the right to development' (2017) 33 *South African Journal on Human Rights* 193

Moyo, K 'Corruption, human rights and extraterritorial obligations' in Türkelli, GE, Gibney, M, Krajewski, M & Vandenhole, W (eds) *The Routledge handbook on extraterritorial human rights obligations* (Taylor & Francis 2021)

Mubangizi, JC 'The impact of corruption on poverty and inequality: A South African human rights perspective' (2025) 14 *Perspectives of Law and Public Administration* 480

Mutua, MW 'Africans and the ICC: Hypocrisy, impunity and perversion' in Clarke, KM, Knottnerus, AS & De Volder, E (eds) *Africans and the ICC: Perceptions of justice* (Cambridge University Press 2016)

Nkwain, AK 'The effects of corruption on the right to development and the challenges in combating it in Cameroon' (2023) 5 *International Journal of Research and Innovation in Social Sciences* 1216

Olaniyan, K *Ownership of proceeds of corruption in international law* (Oxford University Press 2024)

Peters, A 'Human rights and corruption: Problems and potential of individualising a systemic problem' (2024) 22 *International Journal of Constitutional Law* 538

Rudiyansah, MMDH and Rezki, MGF 'The impact of corruption on economic development and community welfare from local and national perspectives' (2025) 2 *Abdurrauf Social Sciences* 138

Tadeg, MA 'Reflections on the right to development: Challenges and prospects' (2010) 10 *African Human Rights Law Journal* 325

Weatherall, T *The right to self-determination in international law* (Oxford University Press 2025)