

A Syllabus Proposal
Master in European Integration
Law School, University of Belgrade, Serbia

Course title: **Global Corruption, Good Governance and the United Nations Convention against Corruption (UNCAC)**

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Purpose and Scope

The purpose of this course is to give students a strong understanding of the inextricable linkages between global corruption threats and good governance with an emphasis on the United Nations Convention against Corruption (UNCAC) and to explore how, as the only global, comprehensive and legally binding anti-corruption instrument in the world, it can act as framework for the international fight against corruption. Other regional international conventions against corruption (OECD; the Council of Europe; the Organization of American States; and the African Union) will be also considered. Due to its global and comprehensive nature, the UNCAC provides an excellent framework for analyzing the issue of corruption from an international and holistic perspective.

The course will give students a snapshot of the emerging anti-corruption legal and governance landscape for the purpose of analyzing the forms, causes, cost, risks and prevention and law enforcement remedies associated with the global phenomenon of corruption. In doing so, it also aims to spark discussion, debate and more academic and applied research in the field of anti-corruption studies. Legal and philosophical questions as to how to define and prioritize different forms of corruption and learning a process to help students and stakeholders decide “what is the right thing to do” when confronted with corruption are also queried throughout the course.

The United Nations Convention Against Corruption has now been ratified by 170 countries and counting, reflecting that there is now an international consensus both that preventing and addressing corruption is a high global priority and in relation to the type and range of measures that must be taken by various stakeholders in order to achieve this. At its core, the Convention promotes key transparency and accountability principles that are of equal importance to both the public and private sectors and civil society.

The scope of this course includes all key fronts in the fight against corruption including; Prevention, Criminalization, International Cooperation and Asset Recovery.

Emphasis is placed at the beginning of the course on the preventive and good governance measures that both public and private sector bodies can put in place in order to reduce the risk of corruption taking place. The course then moves on to address the key corruption offences criminalized under the UNCAC, asking students to consider how national governments with different political and legal systems can implement the requirements of the Convention in this regard.

Having assessed the domestic preventive and criminalization steps that are required to effectively combat corruption, students will then consider how cooperation at both

a national and international level can play a crucial role in the detection and punishment of corrupt acts. Finally, students will consider the relatively new field of asset recovery and the role it can play in returning the proceeds of corruption back to its rightful owners.

Course methodology

Students participation and engagement are critical for meeting the course's objectives. Classes will be based on an appropriate combination of introductory presentation by the instructor and students' discussion on the topics of the class. A group of students will make a short presentation of the real case or research issue to be followed by class discussion. There will be required and recommended readings¹ for the course in its entirety (to be read before the commencement of the course) and also for each module in order for the students to be able to participate in a critical discussion among themselves and with the instructor. Where appropriate selected case studies will be made available and used for the discussion.

Assessment

The students will achieve the Certificate on the basis of class participation. The students will be expected to participate actively in class discussions, and must be able to discuss the main ideas presented in the required readings.

Required Core Course Reading:

Students will greatly benefit at the beginning of this course if they take the time to summarily review some of the core reading materials and publications noted below. They should also begin to follow and research media stories of particular interest to them.

The core publications that will be referenced in and needed for virtually all of the modules are:

UNODC. (2004). *United Nations Convention against Corruption*. Vienna, Austria: United Nations Office on Drugs & Crime. Retrieved December 11, 2012 from http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.

UNODC. *Legislative Guide for the Implementation of the UNCAC (2006)*. New York, NY: United Nations. Retrieved December 10, 2012 from http://www.unodc.org/documents/treaties/UNCAC/Publications/Legislative_Guide/06-53440_Ebook.pdf.

The Many Faces of Corruption, by J. Campos & S. Pradhan, <http://www.u4.no/recommended-reading/the-many-faces-of-corruptiontracking-vulnerabilities-at-the-sector-level/>.

UNODC. *Technical Guide to the United Nations Convention against Corruption*. (2009). Vienna: United Nations Office on Drugs and Crime. Retrieved December 10, 2012 from

http://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf.

Black Money (The BAE case -- 2009). PBS Frontline Documentary (watch the whole movie) <http://www.pbs.org/wgbh/pages/frontline/blackmoney/view/>
Doing Business 2012, an annual global report monitoring and reporting country progress on making the regulatory process more efficient, archives are available (<http://doingbusiness.org/reports/global-reports/doing-business->

¹ Readings are limited to the documentation available via Internet. Only required module readings are listed in this syllabus proposal.

2013).

Recommended

The following books and resources are for students to select from depending on interest and time. These books are all worth reading and can be purchased on-line (note that some may be downloadable for free and that some are available in various languages):

African Union. (2003). The African Union Convention on Preventing & Controlling Corruption. Retrieved December 15, 2012 from http://www.africaunion.org/official_documents/Treaties_%20Conventions_%20Protocols/Convention%20on%20Combating%20Corruption.pdf.

Council of Europe. (1999). The CoE Convention Against Corruption. Retrieved December 15, 2012 from <http://conventions.coe.int/Treaty/en/Treaties/Html/173.htm>.

Gounev, P. & Ruggiero, V. (2012). *Corruption and Organized Crime in Europe*. New York: Routledge. Available for purchase from <http://www.routledge.com/books/details/9780415693622/>.

Ledeneva, A. (2006). *How Russia Really Works: The Informal Practices that Shaped Post-Soviet Policy & Business*. New York: Cornell University Press (2006). Available for purchase from

<http://www.cornellpress.cornell.edu/book/?GCOI=80140100059380>.

OECD. (2011). Convention on Combating Bribery of Foreign Public Officials in International Transactions. Retrieved December 15, 2012 from <http://www.oecd.org/investment/briberyininternationalbusiness/antibriberyconvention/38028044.pdf>.

The OECD Recommendations of the Council for Furthering Combatting Bribery of Foreign Government Officials in International Business Transactions (<http://www.cgu.gov.br/conferenciabrocde/arquivos/English-2009-Recommendation-of-the-Council.pdf>).

Organization of American States. (1996). The Inter-American Human Rights Convention Against Corruption. Retrieved December 15, 2012 from <http://www.oas.org/juridico/english/treaties/b-58.html>.

The United Nations Convention against Transnational Organized Crime and the Protocols Thereto (<http://www.unodc.org/unodc/en/treaties/CTOC/index.html>).

ny P. (1995) Globalization and the Changing Logic of Collective Action.” *International Organization*, Vol. 49 (4), pp. 595-625.

Course Outline

Module 1 (2 hours) – Corruption as a Global Threat and International Responses

Key Issues/Topics: Forms of corruption; causes of corruption; the impact of corruption at a local, national and international level; international conventions and treaties

Some of the main issues/topics to be covered include:

- Introduction to corruption, including its evolving definition, its basic forms and its manifestations and costs (political, economic, democratic and legal)
- The causes of corruption that arise in different national contexts, with a particular emphasis on corruption in an emerging development context
- The diverse nature and forms of corruption: grand and petty corruption; criminal and civil; state capture and public and private sector corruption
- Costs of corruption globally and on a national level. Discussion of country case studies demonstrating the impact of corruption.
- The wider impact of corruption on key rule of law institutions including the judiciary and law enforcement agencies
- How corruption became a global problem, the international nature of major corruption offences

- Anti-corruption conventions and treaties such as:
 - (i) Inter-American Convention against Corruption (OAS – 1996)
 - (ii) Organization of Economic Development and Cooperation’s
 - (iii) Convention on Combatting Bribery of Foreign Public Officials in International Transactions (OECD-1999);
 - (iv) Council of Europe Convention Against Corruption (COE-1999);
 - (v) African Union Convention on Preventing and Controlling Corruption (AU – 2003) and
 - (vi) Asian Development Bank/OECD Anti-Corruption Initiative for Asia and the Pacific (ADB/OECD – 2000).

Required readings

Rose-Ackerman, S., Corruption: Greed Culture and the State, Yale Law Journal Online, Volume 120, 2010, pp. 125-140.

<http://yalelawjournal.org/the-yale-law-journal-pocket-part/internationallaw/corruption:-greed,-culture,-and-the-state/pdf>.

Rose-Ackerman, S., Corruption and Government, International Peacekeeping, Volume 15, Issue 3, 2008, pp. pp.328–343

Corruption and Human Rights, Making the Connection, International Council on Human Rights, pages 5-30.

http://www.ichrp.org/files/reports/40/131_web.pdf

EU Anti-Corruption Report, Report from the Commission to the Council and the European Parliament pp. 1 – 20, February 4 2014,

http://ec.europa.eu/dgs/home-affairs/elibrary/documents/policies/organized-crime-and-humantrafficking/corruption/docs/acr_2014_en.pdf

International Conventions: for consultation (UNCAC;OAS;CE;OECD;AU;ADB/OECD)

Module 2 (2 hours) – Prevention of Corruption: Good Governance and the Rule of Law in Public and Private Sectors

Key Issues/Topics: Rule of law; good governance; civil service reform; codes of conduct; conflicts of interest; transparency and accountability; The Role of Civil Society; Public Monitoring & Reporting; Bribery of Foreign Government Officials; Criminal Liability for False Financial Disclosure;

Some of the main issues/topics to be covered include:

- Accessing government information/data (A13)
 - Transparency in the government decision-making process and in public administration, particularly public budgets and expenditures (A8)
 - Legislating prevention-oriented measures, including access to information laws and policies protecting and promoting corruption reporting and freedom of expression rights (A10)
 - Promoting public awareness and public education through anticorruption bodies and through the development of school and university curricula (A 6 & 13)
 - Seeking, receiving, publishing and disseminating information related to corruption (A13)
 - Issuing public independent audits and adopting global accounting standards
- Adopting global private sector internal accounting and auditing standards and financial disclosure statements (A12)

- Adopting codes of conduct and addressing conflict of interest in the private sector (A12)
 - Requiring transparent corporate legal identities (A12)
 - Preventing conflicts of interest by regulating the professional activities of former public officials.
 - Adopting criminal sanctions for bribery, embezzlement, concealment, within the private sector - such as in the private procurement process (A21, 22, 24)
- Enforcing criminal liability for bribery of foreign government officials and false financial disclosures in international business transactions (A21)
- Establishing corporate legal liability for UNCAC criminal, civil or administrative offenses (A26)

Required readings:

- Carothers, T. (2006). The Rule-of-Law Revival. In Carothers, T., *Promoting the Rule of Law Abroad: In Search of Knowledge*. Washington, DC: Carnegie Endowment for International Peace. Retrieved December, 10, 2012, from <http://www.carnegieendowment.org/files/CarothersChapter11.pdf>
- Chan, T. (2000). *Corruption Prevention - The Hong Kong Experience*. Hong Kong, China: Independent Commission against Corruption. Retrieved December, 10, 2012, from http://www.unafei.or.jp/english/pdf/PDF_rms/no56/56-26.pdf
- Chene, M. (2009). *Good Practice in Whistleblowing Protection Legislation (WPL)* (U4 Expert Answers). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved December, 10, 2012, from <http://www.u4.no/publications/good-practice-in-whistleblowing-protectionlegislation-wpl/>
- Hardoon, D. (2012). Barriers to preventing corruption: what do businesspeople say? Accountability, Politics and government, Private sector. Retrieved December, 10, 2012, from <http://blog.transparency.org/2012/09/18/barriers-to-preventing-corruption-what-do-businesspeople-say/>
- Johnston, M. (2007). *Understanding the Private Side of Corruption: New Kinds of Transparency, New Roles for Donors* (U4 Brief 2007:6). Paris, France: U4 Anti-Corruption Resource Center. Retrieved December, 10, 2012, from <http://www.u4.no/publications/understanding-the-private-side-of-corruption-newkinds-of-transparency-new-roles-for-donors/>
- Transparency International, (2012). *Shining a Light on the World's Biggest Companies*. Transparency International. Retrieved December, 10, 2012, from <http://transparency.org/news/feature/shining-a-light-on-the-worlds-biggest-companies>
- Global Corruption, Good Governance and the UNCAC 21*

Case Studies:

- House of Commons. (2012). *News International and Phone-hacking* (Eleventh Report of Session 2010-12). London: The Stationery Office. Retrieved December 16, 2012, from <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmcomeds/903/903i.pdf>
- Examines the scope and impact of bribery among the media and the law enforcement community (police).
- WGBH Educational Foundation. (2012). Murdoch's Scandal. *Frontline*. Retrieved December 16, 2012, from <http://www.pbs.org/wgbh/pages/frontline/murdochs-scandal/>

Module 3 (2 hours) – Key Criminalized Offences and Enforcement

Key Issues/Topics: public sector bribery; private sector bribery; embezzlement; illicit enrichment; justice sector integrity, organized crime and enforcement; protection for victims, witnesses, reporting persons, whistleblowers, defense lawyers, justice system officials, journalists and

bloggers, corruption and organized crime and the fair and effective enforcement of human rights; bank secrecy; national law enforcement and public/private sector cooperation

Some of the main issues/topics to be covered:

- Preventing and addressing public and private sector bribery within national and international context (A15, 16, 20)
- Explaining the selection and definitions of key criminalized corruption offenses mandated under the UNCAC
- Preventing and addressing Embezzlement and Illicit Enrichment (A17, 20, 22)
- Linking-up the crimes of Bribery, Embezzlement and Illicit Enrichment with Asset Seizure and Confiscation laws/UNCAC mandates(A31)
- Preventing and addressing corruption in the justice sector is key to UNCAC implementation and enforcement success (A11)
- Exploring the role of specialized anti-corruption authorities in the enforcement of anti-corruption legislation.
- Linking UNCAC provisions related to the independence of justice and anti-corruption authorities with the effective enforcement of corruption offences. (A5, 6, 11 & 36)
- Linking fair and effective enforcement of human rights and the fair and effective implementation of anti-crime/anti-corruption conventions, laws, regulations and policies (A11, 30, 34 & 35)
- Promoting formal and informal coordination and cooperation between national authorities, law enforcement authorities and public officials and /private sector cooperation -- particularly in the financial system (A39, 48 & 11, 12, 13 & 14)
- Scaling bank secrecy walls through enhanced law enforcement cooperation, mutual legal assistance, whistleblowing and information networking (A39, 40, 46, & 11 -13)

Required readings:

UNODC. *Legislative Guide for the Implementation of the UNCAC (2006)*. Chapter III New York, NY: United Nations. Retrieved December 10, 2012 from

http://www.unodc.org/documents/treaties/UNCAC/Publications/LegislativeGuide/06-53440_Ebook.pdf.

Jennett, V. (2007). *Summaries of Literature on the Costs of Corruption* (U4 Expert Answer). Bergen, Norway: U4 Anti-Corruption Resource Centre. Retrieved December 14, 2012 from

<http://www.u4.no/publications/summaries-of-literature-on-costs-ofcorruption/>.

Nawaz, F. (2009). *Tracking the Progress of Grand Corruption Cases: Best Practices and Indicators* (u4 Expert Answer). Bergen, Norway: u4 Anti-Corruption Resource Centre. Retrieved December 14, 2012 from

<http://www.u4.no/publications/tracking-the-progress-of-grandcorruption-cases-best-practices-and-indicators/>.

OECD Council. (2010). *Good Practice Guidance on Internal Controls, Ethics and Compliance*. Paris, France: Organisation for Economic Co-operation and Development. Retrieved December 13, 2012 from

<http://www.oecd.org/investment/briberyininternationalbusiness/antibriberyconvention/44884389.pdf>.

The World Bank. (n.d.). *Six Questions on the Cost of Corruption with World Bank Governance Director Daniel Kaufman*. Retrieved December 12, 2012 from <http://go.worldbank.org/KQH743GKF1>.

Global Witness. (2009). *Undue Diligence: How Banks Do Business with Corrupt Regimes*. London: Global Witness. Retrieved December 12,2012 from <http://www.unduediligence>.

Case Studies:

Siemens/Germany/Global

Schubert, S. (2009, February 13). At Siemens, Bribery Was Just a Line Item. *FrontlineWorld*. Retrieved December 17, 2012 from <http://www.pbs.org/frontlineworld/stories/bribe/2009/02/at-siemensbribery-was-just-a-line-item.html>.

Mobil/Kazakhstan

RFE/IRL. (2010). After Seven Years, ‘Kazakhgate’ Scandal Ends with Minor Indictment. *Radio Free Europe Radio Liberty*. Retrieved December 27, 2012 from

http://www.rferl.org/content/After_Seven_Years_Kazakhgate_Scandal_Ends_With_Minor_Indictment_/2123800.html.

Time for Transparency: Coming Clean on Oil, Mining and Gas Revenues. (2004, March). London/Washington, DC: Global Witness. Retrieved December 17, 2012 from <http://reliefweb.int/report/angola/time-transparencycoming-clean-oil-mining-and-gas-revenues>.

Module 4 (1 hour) – International Cooperation in Fighting Corruption

Key Issues/Topics: international law enforcement cooperation; extradition; legal basis for mutual legal assistance; dual criminality; private sector cooperation; access to information from law enforcement and international organizations; reporting corruption to the law enforcement community and law enforcement community integrity

Some of the main issues/topics to be covered include:

- Requiring international law enforcement cooperation, in relation to mutual legal assistance and extradition. (A14, 43-50 & 54 & 11&13)
- Rendering extradition and mutual legal assistance under the UNCAC where no country-to-country treaty exists (A46)
- Taking a flexible approach to the requirement of dual criminality as required under the UNCAC (A46)
- Requiring formal and informal coordination and good governance mechanisms to promote international cooperation and public/private sector cooperation (A43-50 & 11-13)
- Promoting justice, prosecutorial and anti-corruption authorities integrity within international law enforcement cooperation context (A11 and UDHR A10))

Required readings:

UNODC. *Legislative Guide for the Implementation of the UNCAC (2006)*. New York, NY: United Nations. Pages 175 - 228.

UNODC. *Technical Guide to the United Nations Convention against Corruption*. (2009). Vienna: United Nations Office on Drugs and Crime. Retrieved December 10, 2012 from

http://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf.

Chrissikos, D. (n.d.). The United Nations Convention Against Corruption: An Overview with Special Focus on the Provisions Relevant to Criminal Justice Authorities. Retrieved December 17, 2012 from

http://www.unafei.or.jp/english/pdf/RS_No83/No83_19VE_Demostenes1.pdf.

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GRECO. (2012). The Fight Against Corruption in Public Administration – Emerging Themes from GRECO Round II Evaluations. In *Lessons Learnt from the Three Evaluation Rounds (2000-2010)* (Thematic Articles). Retrieved December 20, 2012 from

http://www.coe.int/t/dghl/monitoring/greco/general/Compendium_Thematic_Articles_EN.pdf.

Shepard, K. (2012). The Gatekeeper Initiative and the Risk-Based Approach to client Due Diligence. *The Review of Banking Financial Services*, 28(4).

Retrieved December 12, 2012 from <http://www.antimoneylaundering.org/Document/Default.aspx?DocumentUid=AA68758B-C151-4E1B-909B-539BA0B35062>

Case Studies:

Peru/Fujimori/Montesinos

Ugaz, J. (2011). The Fujimori and Montesinos Regime: A Case of State Capture. *Transparency School International*. Retrieved December 17, 2012 from http://transparencyschool.org/wpcontent/uploads/2011/02/9_July_Ugaz_The_Fujimori_and_Montesinos_Regime_a_Case_of_State_Capture.pdf

Module 5 (1 hour) – International Asset Recovery

Key Issues/Topics: International and national cooperation/asset recovery; civil forfeiture; money laundering and financial intelligence units (FIU's); corruption reporting to other State parties; return and disposal of stolen State assets

Some of the main issues/topics to be considered:

- Requiring national and international cooperation among law enforcement, judicial and regulatory institutions on asset recover and money laundering (A52 & 14)
- Requiring related laws and procedures that allow for civil forfeiture (A53)
- Requiring cooperation to assist in the recovery of stolen assets of another UNCAC State (A55)
- Requiring laws and procedures that allow for the return of State assets (A57)
- Promoting the establishment of financial intelligence units (FIUs –A 14 & 58)
- Promoting Integrity in the justice, prosecutorial and anti-corruption authorities as a precondition for effective international cooperation on asset recovery (A6, 10 & UDHR A10)

Required Readings:

UNODC. *Legislative Guide for the Implementation of the UNCAC (2006)*. New York, NY: United Nations. Pages 229 - 266

UNODC. *Technical Guide to the United Nations Convention against Corruption*. (2009). Vienna: United Nations Office on Drugs and Crime. Retrieved December 10, 2012 from

http://www.unodc.org/documents/corruption/Technical_Guide_UNCA_C.pdf. Pages 191 - 208

Stolen Asset Recovery Initiative. (2011). *Asset Recovery Handbook, A Guide for Practitioners*. Washington, D.C.: World Bank. Pages 5 – 18

Langseth, P. (Ed.). (2004). *United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators*. Vienna: United Nations Office on Drugs and Crime. Retrieved December 19, 2012 from <http://www.unodc.org/pdf/crime/corruption/Handbook.pdf>. Ch. 15, pp. 132-136.

Guillermo, J., Smith, J., and Pieth, M. (2007). *The Recovery of Stolen Assets. Bergen, Norway, u4Anti-Corruption Resources Centre*, Retrieved March 21, 2013 from: <http://www.u4.no/publication/the-recovery-of-stolen-assets-a-fundamental-principles-of-the-un-convention-against-corruption/>.

Case Studies:

Nigeria/Abacha -- the recovery of \$700 million stolen by former President Abacha and his family (President from 1993-1995).

Modul 6 (1 hour): Review and Key Emerging Issues in an International Approach to Good Governance and Anti-Corruption

Key Issues/Topics:

general review of the advantages and weaknesses of an international anti-corruption approach and legislation; furthering prevention and control of corruption in international public and private sectors - key emerging issues ; Is it all the same ? Developed world/Developing world/Emerging economies/BRICS

Class Discussion: facilitated by a focal student discussion group (2 -3 students)

Module 7 (1 hour): Course Assessment and Suggestions for the Future