Africa and Global North collaboration in fighting corruption and illicit financial flows

Corruption in Africa

Corruption is now a chronic problem across the continent. The effects are so serious that it is now being referred as another form of terrorism and a threat to national security. On the whole it is viewed as depriving citizens' rights and impacts negatively on development, and one of the biggest threat¹ in peacebuilding in <u>post conflict countries.²</u> Such is the danger posed by the vice that the African Union has chosen to prioritize the importance of fighting against corruption by elevating it to the level of <u>Aspiration</u> <u>3</u> of its Agenda 2063.³

<u>Transparency International</u>⁴ defines corruption as "the abuse of entrusted power for private gain". The global body goes on to say that corruption can be classified as grand, petty and political, depending on the amounts of money lost and the sector where it occurs.

Corruption is however not just an African problem. It is a global one. Defeating it requires the involvement of all actors from the Global North and South. It is in this respect that Sustainable Development Goal Number 16⁵ of the United Nations 2030 Agenda for Sustainable Development, calls on all countries to promote and develop accountable and inclusive institutions at all levels, reduce illicit financial flows and strengthen the recovery and return of stolen assets, to reduce bribery and corruption. The need for global cooperation is stressed in the SDG 16 Roadmap; "[i]ncrease national efforts and international cooperation to expose corruption, punish the corrupt and support those who have suffered from corruption, and drive out the culture of corruption, wherever it exists."⁶ Further, in the realisation the strong link of corruption and financial flows, the SDG 16 Roadmap emphasised that "[c]ountries must also work together to reduce the flow of illicit finance across borders. This means disrupting regional and global criminal networks, while combating the tax evasion that sees wealth flow from poorer to richer countries. "7 in response to these, there are global campaigns and initiatives, member states from the Global North, 'host'⁸ for illicit financial inflows have revisited their policy frameworks and have increased their engagement with Banks and financial institutions. However, they could not do much as Banks and financial institutions are independent, lack transparency and are not obliged to release information about their clients even with court orders. Some governments are also reluctant to enforce their policies and regulations as governments are also indirect beneficiaries as financial institutions pay them taxes.

President Muhammadu Buhari of Nigeria, who had earlier this year appointed AU Anti-Corruption Champion for 2018, reemphasised his determination to "kill" corruption. "If we do not kill corruption,

¹ Corrupting Peace? Peacebuilding and Post-conflict Corruption *International Peacekeeping*, Vol. 15, No. 3. (June 2008), pp. 344-361, <u>doi:10.1080/13533310802058851</u> by Philippe Le Billon

² Mark Philp (2008) Peacebuilding and Corruption, International Peacekeeping, 15:3, 310-327, DOI:

^{10.1080/13533310802058786}

³ https://au.int/sites/default/files/pages/3657-file-agenda2063_popular_version_en.pdf

⁴ https://www.transparency.org/what-is-corruption#define

⁵ https://sustainabledevelopment.un.org/sdg16

⁶ <u>https://www.sdg16hub.org/system/files/2018-</u>

^{07/}The%20Roadmap%20for%20Peaceful%2C%20Just%20and%20Inclusive%20Societies-%20A%20call%20to%20action%20to%20change%20our%20world%20.pdf; page 35

⁷ ibid.

⁸ According to Financial Secrecy Index – 2018

<u>corruption will kill us</u>,"⁹ he said. His words resonated with many across Africa and indeed those in the audience. Such determination from Africa and SDG 16, Targets 4,5, and 6 will also expedite the death of corruption and the fight to reduce illicit financial flows.

One question however which was left hanging was that of which of the three typologies of corruption – as identified by Transparency International- was the Champion targeting? Of course, no amount of corruption can be said to be acceptable because by its very nature, the vice has a negative impact on society. However, it makes sense to distinguish petty corruption from other categories. Corruption is systemic. Therefore any intervention to combat corruption should be planned properly and should be tackled strategically for a better impact. I will advocate that priority should be given to the grand and political corruption that contributes to the transfer of resources overseas and the manipulation of politics for personal or group gains. Tackling this monster will reduce petty corruption as resources allocated for development will be used for their intended purposes.

A recent report by the AU High-Level Panel on Illicit Financial Flows and the United Nations Economic Commission for Africa (UNECA) revealed that the continent loses more than \$50bn every year in illicit financial outflows as governments and multinational companies engage in <u>fraudulent schemes¹⁰</u> aimed at avoiding tax payments to some of the world's poorest countries.

To tackle this continental threat, the AU during its 29th Summit adopted the theme "Winning the Fight against Corruption: A Sustainable Path to Africa's Transformation" for 2018 – which was officially launched during the 30th AU Summit. At the launch, <u>President Buhari</u> stated that "corruption is indeed one of the greatest evils of our time. Corruption rewards those who do not play by the rules and creates a system of distortion and diversion thereby destroying all efforts at constructive, just and fair governance."¹¹ Mr. Buhari went further and added that he recognised the attempts and strides Africa had made including the legal and policy frameworks for combatting corruption. He cited for example the African Union Convention on Preventing and Combating Corruption (AUCPCC). He acknowledged the limitations of the laws in terms of implementation in the respective countries, but he nevertheless opined that the very existence of the such legal and policy frameworks were a good start to start fighting the menace.

AU Legal instruments, frameworks and initiatives to tackle corruption

A number of legal Instruments and policy frameworks on fighting corruption exist in Africa. Several of these instruments are very good. However, the main challenge remains a general lack of commitment from member states to utilise the instruments that they have under taken to realize as a treaty obligation. In addition, AUC lacks systematic and coordinated follow up mechanism. Despite being ratified and acceded to, most of these legal instruments and policy frameworks remain shelved in offices of line ministries of member states. In some cases, some governments choose not to domesticate the legal instruments, as doing so would challenge the legitimacy of those same governments.

For example: to combat corruption, the AU Summit, adopted in Maputo, Mozambique on 11 July 2003, the African Union Convention on Preventing and Combating Corruption (<u>AUCPCC</u>)¹². It was not until 5 August

¹⁰ https://www.theguardian.com/global-development/2015/feb/02/africa-tax-avoidance-money-laundering-illicit-financial-flows

¹¹ https://au.int/en/pressreleases/20180129/president-buhari-nigeria-launches-au-theme-year-2018-fighting-corruption

¹² https://au.int/sites/default/files/treaties/7786-treaty-0028_-

⁹ https://howafrica.com/nigeria-corruption-single-biggest-menace-to-africas-development-says-president-

buhari/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+howafrica+%28How+Africa+and+More%29

_african_union_convention_on_preventing_and_combating_corruption_e.pdf

2006, that the AUCPCC entered into force and to date 40 of the 55-member states have <u>ratified it¹³</u>. To promote democracy and governance, the AU Summit adopted on 30 January 2007 the African Charter on Democracy, Elections and Governance (<u>ACDEG</u>)¹⁴. It took five years for ACDEG to enter into force. Whereas the two legal instruments are technically in force, their implementation and domestication processes have so far been very slow. Besides, very few citizens know about them. Yet, both are excellent deterrents to corruption and have an excellent framework for democracy and governance.

It is important to note that legal instruments are not by themselves a means to tackle corruption, as President Buhari stressed during the <u>inaugural ceremony</u> at the 30th Summit¹⁵. That the_adoption of the legal and policy frameworks have not had the desired success in tackling corruption should not come as a surprise. To increase the success rate, CSOs and citizens should be brought on board as they can lobby governments, engage with the legislators who own the processes for the domestication, and subsequently use the instruments to make their governments accountable.

AU with its executive body, AUC and organs are mandated to follow the implementation of these legal frameworks, monitor progress and report to the Summit. Thus, the Department of Political Affairs is coordinating and monitoring ACDEG and the African Union Advisory Board on Corruption (AUABC) an organ of AUC with a secretariat in Arusha, Tanzania is mandated "to promote and encourage the adoption of measures and actions by State Parties to prevent, detect, punish and eradicate corruption <u>and related offences in Africa..."¹⁶</u>

Since the adoption of the theme, AU units in collaboration with member states and partners organised awareness creation campaign, capacity building trainings for government officials, CSO leaders, and other stakeholders.

<u>The Tenth African Union Gender Pre-Summit,¹⁷</u> held in January 2018 delivered on the impact of corruption on gender equality and women empowerment and developed a strategy to expedite the fight against corruption which is consistent to AU Theme for 2018.

The 2018 High Level Dialogue on Democracy, Human Rights and Governance in Africa, was held in Gaborone, Botswana 28, November 2018. During the opening ceremony of the dialogue, H.E. Amb. Minata Samate Cessouma, the Commissioner of the Department of Political Affairs, stressed the need for universal ratification and domestication AUABC at all levels "the AU Convention of Preventing and Combating Corruption in Africa; ...is one of the most ratified instruments ... Nonetheless, ratification is not enough; we need a universal ratification by all our 55 member states as well as it full domestication-at all levels: from the rural areas to the big conglomerations and from the street vendor to the government in their dealing with <u>multinational corporations</u>."¹⁸ One of the expected outcome of the dialogue was to develop a clear strategy on strengthen anti-corruption institutions in member states, collaboration of state and non-state actors, foster inter and intra agency partnership, and strengthen <u>global and international collaboration</u>.¹⁹

¹³ https://au.int/sites/default/files/treaties/7786-sl-

african_union_convention_on_preventing_and_combating_corruption_4.pdf

¹⁴ https://au.int/en/treaties/african-charter-democracy-elections-and-governance

¹⁵ https://au.int/en/pressreleases/20180129/president-buhari-nigeria-launches-au-theme-year-2018-fighting-corruption

¹⁶ http://www.auanticorruption.org/auac/about/category/mandate

¹⁷ https://au.int/en/pressreleases/20180117/tenth-10th-african-union-gender-pre-summit-calls-african-women-join-fight

¹⁸ http://www.aga-platform.org/

¹⁹ ibid

Africa being the youngest continent, the involvement of youth in fighting corruption is vital. Thus, regional youth conferences under the theme of "Leveraging Youth Capacities for the Fight Against Corruption in Africa" were held and the youth were encouraged to use their talents and to develop innovative ideas to tackle corruption.

Strengthening collaboration with global advocacy INGOs was one of the main areas of focus. During the 18th International Anti-Corruption Conference, in Copenhagen, the African Union Advisory Board on Corruption (AUABC) signed a <u>Memorandum of Understanding²⁰</u> on cooperation between the Board and Transparency International.

Initiatives, frameworks from the Global North to tackle corruption and financial flow

As indicated earlier, United Nations Agenda 2030 for Sustainable Development Goal 16 calls on countries to collaborate, develop accountable and inclusive institutions for targets 4 and 5 on corruption and financial flow. As one of the support units of SDG 16, UNDP initiated an <u>SDG hub</u> to coordinate and share knowledge on progress made on SDG 16.²¹ The hub is a depository of knowledge. It is an excellent source of information on SDG 16 activities and to share case studies from countries. Besides, there are links to initiatives such as SDG Global Alliance, SDG Pathfinders, 16+ Forum, SDG 16 Data Forum and TAP Networks which provide support for governments and other stakeholders on the implementation of SDG 16. However, these initiatives are focusing on systemic governance problems such as institutions building, reforming the judicial systems, etc. These interventions will of course contribute to reducing corruption. We will only be able to measure their impact over long-term periods. Yet corruption and illicit financial flows are a real and contemporary hot topic, happening today, affecting current development programmes, and thus requiring real time intervention "now". According to <u>tax</u>, <u>Justice network</u>, "Sub-Saharan African countries lost over USD 1 trillion in capital flight between the 1970s and 2010; external debt was less than one-fifth of this."²² The longer we maintain the status quo, the more Africa will continue to lose.

Governments and intergovernmental institutions from the Global North have international taskforces, conventions, treaties to curb and monitor corruption and illicit financial flows, which includes the following:

- United Nations Convention against Corruption²³
- Action Plan on Base Erosion and Profit Shifting²⁴
- World Bank and UNODC: <u>Stolen Asset Recovery Initiative²⁵</u>
- Global Forum on Asset Recovery²⁶

These initiatives will increase collaboration between Africa and the Global North in reducing corruption, recovering stolen assets by corrupt officials and groups of individuals. However, there is still concern on the implementation of these treaties and conventions.

²⁰ http://www.auanticorruption.org/highlights/view/memorandum-of-understanding-mou-on-cooperation-between-the-auabcand-ti-201

²¹ https://www.sdg16hub.org/

²² https://www.taxjustice.net/category/africa/

²³ https://www.unodc.org/unodc/en/corruption/uncac.html

²⁴ https://www.oecd.org/ctp/BEPSActionPlan.pdf

²⁵ https://star.worldbank.org/

²⁶ https://www.gov.uk/government/news/pm-announces-new-plan-at-anti-corruption-summit-to-recover-stolen-assets

For example, G20 countries mandated the OECD to put together an automatic information exchange mechanism to track cross-border holdings tax payers and criminals. According to the <u>tax justice network</u>, "these schemes are full of loopholes and shortcomings: many countries are planning to pay only lip service to them, ... and many [countries] are actively seeking ways to <u>undermine progress</u>, ..."²⁷ Therefore, it is not an easy task unless these countries that continue to 'host' financial flows are committed and serious, to engage with their banks and financial institutions so that they will be transparent and accountable to disclose information about their clients, especially those involved in illicit financial flows.

Africa needs the Global North to combat corruption

Some banks in the Global North do not comply with the basic principle of Know Your Customers. They do not ask customers about the origin of the money but keep harvesting the benefits from the funds. Even Western press and politicians condemn corrupt African leaders but forget that it is their banks and their financial institutions which facilitate the inflow of illegal <u>money to the Global North.²⁸</u>

As stated, earlier corruption is a global problem. Combating corruption requires a global approach where <u>all stakeholders work together.²⁹</u> The AU may have declared a commitment to address corruption as part of the Sustainable Development Goals: SDG 16. Yet as long as resources from the continent continue to be easily and skilfully siphoned off to the Global North, nothing much will change. In 2017, real estate, accounted for 12% of the assets of African super-rich with 34% of people in this caste owning property outside their home country. Most of this money is in London, New York, <u>Geneva, Sydney and Paris where Africa's super rich have chosen to hide most of their ill-gotten wealth.³⁰</u>

Even worse, corrupt government officials and businesses are registered under fake names, and "anonymous companies" in the West where the true beneficiaries and owners hide. Such arrangements are a means used to hide assets and launder money from the citizens of Africa. In 2015, over 18 per cent of firms worldwide reported receiving at least one bribery <u>payment request.³¹</u> The <u>Panama report³²</u> has recently disclosed how offshore banks are used to hide money of corrupt officials and businesses.

In such a complex setting, any transformation Africa plans to bring cannot be successful without the participation of the Global North including, financial institutions, off shore banks, etc. which facilitate the transfer of resources and provide them protection. The systems and structures (modus operandi) of financial institutions are visible but opaque on capital inflow into their systems, be it from Global South or North. Therefore, to win this battle, the participation of these institutions is critical.

Governments and CSOs from the Global North should put pressure on financial institutions to change the way they conduct business. The fight against global corruption requires the collaboration of all of us. Each and everyone of us has an important role to play. CSOs from the Global North and South can lobby their governments, create awareness on policies, provide information, and *"undust"* global and AU treaties, policies and frameworks on anti-corruption and bring them to the attention of the public. Corruption is a global battle with financial institutions, governments financial policies, as stressed in the <u>SDG 16</u> <u>Roadmap</u>, *"*[s]trengthen global cooperation to tackle all forms of illicit financial flows, including global tax

²⁷ https://www.financialsecrecyindex.com/introduction/introducing-the-fsi

²⁸ http://www.allardprize.org/news/corruption-africa-banks-abroad-have-re-think-how-they-handle-bad-guys

²⁹ https://www.sdg16hub.org/node/96

³⁰ https://howafrica.com/revealed-how-super-rich-africans-earn-their-money-and-spend-

it/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+howafrica+%28How+Africa+and+More%29

³¹ https://sustainabledevelopment.un.org/sdg16

³² https://www.icij.org/investigations/panama-papers/

avoidance, through the Committee of Experts on International Cooperation in Tax Matters, the UN system, international financial institutions, G77 and China, G20, OECD and other platforms."³³ Therefore, the battle should be fought on different fronts. The AU should play a facilitating, convening role, and provide a platform for all stakeholders including CSOs.

Of course, there are some global, AU and country-level initiatives which we should build upon rather than attempting to reinvent the wheel. In most African countries, governments due to different global and AU requirements have anti-corruption and governance commissions. However, most of these institutions are symbolic rather than functional. They must be reinvigorated. Some leaders have started to break their silence, promote transparency and governments have instructed officials/public servants, tycoons, etc. to disclose the value of their assets. In Kenya for example, government officials were asked to disclose the value of their assets³⁴. The same is happening in the global North where some financial institutions and governments have started to cooperate. A case in point is the Swiss government which recently agreed to return US\$ 321 million from the \$4.3bn kept offshore during the late Sani Abacha's five years in power in Nigeria and \$85 million from the Malabu Restrained Funds from United Kingdom. Furthermore, the Swiss and Kenyan governments have signed an agreement 'the Framework for the Return of Assets from Corruption and Crime in Kenya'³⁵ which provides a mechanism for Kenya to recover money swindled from state coffers by corrupt individuals and hidden in Switzerland. These positive responses from governments in the Global North are aligned with the SDG 16 Roadmap: "[i]ncrease efforts to combat money laundering and recover stolen assets through relevant international treaties, ..."³⁶ I hope we will see more of such collaborations in the near future.

As the Global North continues to collaborate with Africa, the culprits are now exploring alternatives. Among these: Asia, and namely China. China has increased its <u>investment in Africa.³⁷</u> During the 2018 Forum on China-Africa Cooperation (FOCAC), China's president disclosed that his government will provide <u>\$60 billion in financial support to African nations.³⁸</u> China's policy of "non-interference in the sovereign affairs of nations states" will attract corrupt Africans. This way, they could easily divert <u>funds to their own accounts and/or promote their political agenda,³⁹</u> thus increasing corruption and illicit financial flows, all of which would bring about even more disastrous consequences, among which: the sustaining of authoritarian regimes. With this new trend we have to engage with China and other Asian countries to develop policies that will restrict <u>illegal financial inflow from corrupt officials</u> in Africa.⁴⁰

Conclusion

The AU should be saluted for adopting "Winning the Fight against Corruption: A Sustainable Path to Africa's Transformation" as its theme for 2018, and for appointing an anti-corruption champion. The idea of appointing a Champion is a novel one. It is a practice which if used properly could help with the theme's implementation and follow up. Nigeria as a Champion has demonstrated its commitment to carry out the agenda, mobilise resources and hosted meetings, workshops, etc. in Nigeria. As we come to the end of the

³³ https://www.sdg16hub.org/system/files/2018-

^{07/}The%20Roadmap%20for%20Peaceful%2C%20Just%20and%20Inclusive%20Societies-

^{%20}A%20call%20to%20action%20to%20change%20our%20world%20.pdf

³⁴ https://allafrica.com/stories/201806170001.html

 ³⁵ https://www.voanews.com/a/kenya-signs-deal-to-return-stolen-wealth-from-switzerland/4476607.html
³⁶ ibid

³⁷ http://www.ide.go.jp/English/Data/Africa_file/Manualreport/cia_11.html

³⁸ https://www.brookings.edu/blog/africa-in-focus/2018/09/06/figures-of-the-week-chinese-investment-in-africa/

³⁹ https://nationalinterest.org/feature/10-essential-facts-about-chinese-aid-africa-14456?page=0%2C1

⁴⁰https://www.thebigq.org/2018/10/03/do-chinese-aid-projects-in-africa-make-corruption-worse/

year, it is worth taking stock of the progress in the realisation of the theme, and who are the winners and the losers in this fight.

Overall, encouraging signs and achievements are emanating from the AUC, member states and governments of the Global North. For example, anti-corruption Commissions of African governments have shown some progress on tackling corruption. To the extent that they have brought some of their officials to courts, such as, for example, in Ethiopia,⁴¹ Kenya,⁴² South Africa,⁴³ and Nigeria.⁴⁴ AUC should look for 'role model' countries and encourage other member states to take similar steps. On the continental level, African Union Advisory Board on Corruption (AUBC), one of organ of AUC, in collaboration with Departments of Political Affairs of AUC, Gender Directorate of AUC and other partners, conducted capacity building trainings, awareness creation workshops, dialogues and created a platform for sharing experience and to discuss best practices among Anti-Corruption Commissions of member states.⁴⁵ A sub regional workshops for African <u>youth⁴⁶</u> to <u>leverage their capacity for fighting corruption</u>,⁴⁷ to garner support from Human Right groups hosted the 2nd AUC-NANHRI Policy Forum on the role of African National Human <u>Rights Institutions</u> in Preventing and Comparing corruption,⁴⁸ how technology can foster transparency in African Countries,⁴⁹ and the 10th AU Gender pre-summit under the theme of 'winning the fight against corruption: a sustainable path to gender equality and women's empowerment where participants discussed the impact of corruption on women's empowerment.⁵⁰ These workshops have contributed in creating awareness about corruption and illicit financial flows, developing an intervention strategy and gathering together a critical mass of stakeholders to fight corruption jointly.

Countries from the Global North and China have also started to work hand in hand on this issue and have facilitated the freezing of assets and returned money held by corrupt officials from Africa. There is a renewed commitment from the <u>UN Secretary General</u>; "UN would continue to support Member States every step of the way, from helping to engage and empower citizens in this fight [corruption], to helping build and enhance institutions that could deliver on their promise."⁵¹

The fight against corruption and illicit financial flows is an ongoing phenomenon. As things stand today, the war cannot be won as corrupt officials are constantly on the lookout for alternative strategies. Therefore, the fight against corruption and illicit financial flows must continue beyond December 2018. AUC, member states, inter-governmental institutions, governments from the Global North, banks and financial institutions, women, youth, and CSOs at large must remain alert. Intergovernmental institutions (AU, UN, EU) have to use their political leverage to liaise with member states, governments and financial institutions to monitor and enforce the implementation of treaties, policies and frameworks. However, the AU, which represents citizens who are victim of corruption and illicit financial outflows, should continue its convening

⁴⁴ https://www.nigerianews.net/two-government-officials-arrested-as-part-of-vietnam-corruption/

- ⁴⁶ www.auanticorruption.org/highlights/view/regional-youth-consultation-for-west-and-central-africa-in-dakar-senegal
- ⁴⁷ http://www.auanticorruption.org/highlights/view/leveraging-youth-capacities-for-the-fight-against-corruption-in-africa

⁴¹ https://www.thereporterethiopia.com/article/attorney-generals-list-detainees-relation-human-rights-abuses

⁴² https://www.usnews.com/news/world/articles/2018-08-11/kenya-arrests-two-top-officials-for-suspected-corruption-over-new-3-billion-railway

⁴³ https://southafricatoday.net/south-africa-news/nine-government-officials-arrested-for-corruption/

⁴⁵ www.auanticorruption.org/highlights/view/concept-note-on-the-2018-african-anti-corruption-dialogue

⁴⁸ http://www.auanticorruption.org/highlights/view/2nd-auc-nanhri-policy-forum-on-the-state-of-african-national-human-rights

⁴⁹ http://www.auanticorruption.org/resources/view/how-technology-can-foster-transparency-in-african-countries

⁵⁰ https://au.int/en/speeches/20180117/speech-chairperson-african-union-commission-he-mr-moussa-faki-mahamat-opening

⁵¹ https://www.premiumtimesng.com/news/more-news/269569-un-chief-commends-nigerias-anti-corruption-efforts.html

role in this ongoing war. If all stakeholders are committed to tackle the common enemy - i.e. corruption and illicit financial flows – I am confident that we can eventually achieve the SDG 16 peace targets and that citizens in Africa will finally begin to reap the benefits from development policies.

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