

Towards a Global Consensus against Corruption

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In the book, I compare the scope and legal design of anti-corruption agreements adopted by nine international and regional organizations: the Organization of American States (OAS), the Organisation of Economic Co-operation and Development (OECD), the Council of Europe (COE), the European Union (EU), the Southern African Development Community (SADC), the Economic Community of West African States (ECOWAS), the African Union (AU), the United Nations (UN), and the League of Arab States (LAS).

Chapter 2 contains the core of the comparative analysis: a thorough mapping of 57 substantive anti-corruption provisions (or their absence) across all documents, plus an account of how many of those provisions are verbatim copies or very similar to their counterparts in other cases. The high frequency of copy-and-paste across documents suggests that international anti-corruption agreements were indeed shaped by diffusion processes, which is one of the book's key findings.

This online appendix is provided for the sake of transparency. Below, I have summarized the wording of 57 anti-corruption provisions in all documents under investigation, indicating similarity between them with color codes. This is based on a mapping of the documents (using MaxQDA to flag chunks of text as referring to specific provisions) followed by a manual, step-by-step comparison of the contents. As explained in chapter 2 of the book, my estimate of copying and pasting is relatively conservative: as soon as document X's provision on topic Z contains more than a few cosmetic changes, I treat it a separate variant/model.

Please do not hesitate to get in touch if you have any questions.

Link to this file: <https://lohaus.org/corruptionconsensus/>

PREVENTION (17 PROVISIONS)

	OAS	EU	OECD	COE	ECO	SADC	AU	UN	LAS
Public officials									
Codes of conduct	Model A1 “correct, honorable, and proper”	/	Model C “statement of core ethical standards and principles” + conflict of interest policy	Model D “national CoC based on model CoC” (with 28 articles of its own)	Model A2 “eliminate conflict of interest”	Model A1 “correct, honorable and proper”	Model A3 Create body to establish a CoC	Model B1 Incl. A1 “correct, honorable and proper performance” + other intl documents + sanctions	Model A3 “correct, honorable and safe” + “prevent conflicts of interest”, public and private
Personal finances	Model A1 Register income, assets, liabilities	/	/	/	Model A2 Disclose assets, liabilities, tax returns, incl close family	/	Model A3 Declare all assets before and after office	Model B1 Require reports about assets, other employment etc	Model A4 Require financial statements, in particular on foreign accounts
Training	Model A1 “instructions to gov’t personnel”	/	Model C Remind and “support with information and advice”	/	/	/	Model A2 “sensitize and train” about ethics	Model B1 Enable “correct, honorable and proper” performance + raise awareness	/

Public process									
Hiring	Model A1 “openness, equity and efficiency”	/	/	/	Model A2 “transparency and efficiency”	Model A1 “transparency , equity and efficiency”	Model A1 “transparency , equity and efficiency”	Model B1 “efficiency, transparency and objective criteria” + adequate pay + criteria for candidates + transparency	/
Procurement	Model A1 “openness, equity and efficiency”	/	Model D “integrity throughout the entire public procurement cycle” + details	Model B “appropriately transparent procedures ... that promote fair competition”	Model A2 “transparency and efficiency”	Model A1 “transparency , equity and efficiency”	Model A1 “transparency , equity and efficiency”	Model C1 “transparency , competition and objective criteria” + details	Model A3 “transparency , competition and objective standards”
Accounting	Model A1 Systems that “deter corruption”	/	/	/	/	Model A1 Systems that “deter corruption”	Model B “create, maintain and strengthen internal accounting, auditing and follow-up systems”	Model C 5 elements to achieve “transparency and account.”	/

Transparency									
Access to information	/	/	Model A Facilitate scrutiny by access to public information	/	/	Model B1 Right of access to info	Model B1 Right of access to info	Model C1 Access to info + simplify procedures + self-reporting + few limits	/
Political funding	/	/	/	Model A + D Mentions party funding + model rules (16 articles) from 2003	/	/	Model B Ban illegal cash, enhance transparency	Model C Enhance transparency	/
Civil society	Model A1 "mechanisms to encourage participation" of CSO, NGOs	/	/	/	Model A1 "mechanisms to encourage participation" of CSO, NGOs	Model A2 "mechanisms to encourage participation" of CSO, NGOs and media	Model B Enabling environment plus involve CSO in monitoring	Model C promote the active participation of individuals and groups	Model C promote the active participation of individuals and groups
Media	/	/	Model A "Recognition of the role of an active and independent media"	Model B Ensure "freedom to receive and impart information"	Model C "freedom of the press"		Model D Give access but ensure fair trial	/	/

Public awareness	/	/	Model D “awareness-raising initiatives in the public and private sector”	Model A “Raise public awareness and promoting ethical behavior”	/	Model B1 “promoting public education and awareness”	Model B2 “promoting the education of populations”	Model C1 “public information activities” and education	Model C2 “public information activities” and education
Private sector									
Accounting	Model A1 Require “reasonable detail” to deter	/	Model B1 Ban off-the-books, fake expenses, wrong IDs, forged documents	Model C1 Ensure clear and audited annual accounts	Model A2 Require “adequate” standards	Model A1 Require “reasonable detail” to deter	/	Model B2 Ban off-the-books, fake expenses, wrong IDs, forged documents	Model B2 Ban off-the-books, fake expenses, wrong IDs, forged documents
Tax deductibility	Model A1 Laws denying favorable treatment	/	Model B Consider “disallowing” deduction	Model C Deny deductibility “under the law or in practice”	/	Model A1 Laws denying favorable treatment	/	Model D Disallow deductibility of bribes and expenses	/

Institutions									
AC agency creation	Model A "Oversight bodies"	/	/	Model B "Specialized authorities"	Model B "Specialized authorities"	Model A "Oversight bodies"	Model C "Independent national authorities"	Model D "a body or bodies that prevent corruption", plus provisions on training	Model D "a body or bodies that prevent corruption", plus provisions on training
Agency cooperation	/	/	/	Model A Ensure cooperation among national authorities	/	/	/	Model A Ensure cooperation among national authorities	Model A Ensure cooperation among national authorities
Judiciary	/	/	/	Model A Ensure appropriate independence and autonomy	/	/	/	Model B1 Promote integrity and prevent corruption in judiciary	Model B2 Promote integrity and protect judiciary
False claims	/	/	/	/	/	Model A Laws that "punish those who make false and malicious reports"	Model A Laws that "punish those who make false and malicious reports"	/	/

CRIMINALIZATION (12 PROVISIONS)

	OAS	EU	OECD	COE	ECO	SADC	AU	UN	LAS
Public bribery and related issues									
Bribing public officials	Model A1 Active and passive,	Model A2 Active and passive; requires intentionality	/	Model A2 Active and passive; requires intentionality	Model A1 ...but AU slightly broader (not just public officials)			Model B1 only active bribery; no clear definition	
Trading in / buying influence	Model A1 Unclear. Act or omission to obtain decision	/	/	Model B1 Both directions, results don't matter	Model B1 Both directions, results don't matter	Model B1 Both directions, results don't matter	Model B2 Similar to B1, but different wording	Model C1 Just lists "influence-peddling"	
Abuse of public functions									
Abuse of public office	Model A1 Act or omission for own or 3 rd party benefit; use of info	/	/	/	/	Model A2 A1 without mention of information	Model A3 A2 plus intent and 'violation of laws'	Model B1 Just lists "abuse of public office"	
Embezzlement	Model A1 Improper use or diversion of assets	/	/	/	Model A2 Diversion of assets; AU slightly broader (not just public officials)		Model A2 Diversion of assets	Model B1 Just lists "misappropriation of public property"	

Illicit enrichment	Model A1 Optional; “reasonable explanation”	/	/	/	Model A1 Optional; “reasonable explanation”	/	Model A1 Optional; “reasonable explanation”	Model A2 A1 plus mention re asset recovery	Model B1 Lists “illicit enrichment” and mirrors A2 re asset recovery
Related offenses									
Complicity	Model A1 Very broad: principal, accomplice, accessory	Model B “participating in and instigating”	/	Model C1 “aiding and abetting” + bad record keeping	Model C2 “aiding and abetting”	Model A1 Very broad: principal, accomplice, accessory		Model D Broadest: A1 plus attempts or preparation	Model E Just lists “participation or attempt”
Money Laundering	Model B2 Very briefly: use or concealment	Model A0 Money laundering as offence	Model A1 Establish corr. as predicate offense	Model A2 A1 plus call to ratify AML treaty	Model B1 A1 plus concealment, evasion, acquisition...	Model B2 Very briefly: use or concealment	Model B1 A1 plus concealment, evasion, acquisition...	Model B3 Expanded version of B1	Model C1 Lists laundering and concealment
Obstruction of justice	/	/	/	/	/	/	/	Model A1 Testimony, law enforcement	Model B1 Lists “obstruction of justice”

Private sector									
Bribery	/	Model A1 Active and passive plus intention and business related	/	Model A1 Active and passive plus intention and business related	Model A2 Active and passive	Model A3 Active and passive		Model A1 Active and passive plus intention and business related	Model B1 Just lists “bribery in the private sector”
Embezzlement	/	/	/	/	/	/	/	Model A1 Embezzlement of private funds	Model A2 Misappropriation
Transnational bribery									
National officials	Model A1 Active bribery, related to business	/	Model A2 A1 plus complicity	Model B1 Active and passive bribery	Model A3 A1 minus relation to business	Model A1 Active bribery, related to business	/	Model B2 Active and passive bribery, related to business and intentional	Model A1 Active bribery, related to business
International officials	/	/	/	Model A1 Active and passive bribery	/	/	/	Model A1 Active and passive bribery, related to business and intentional	Model A2 Active bribery, related to business

JURISDICTION (7 PROVISIONS)

	OAS	EU	OECD	COE	ECO	SADC	AU	UN	LAS
Extraterritorial									
Own citizens	Model A1 “when the offense is committed by one of its nationals” or resident	Model B1 “offender is one of its nationals”	Model C “prosecute its nationals for offences committed abroad”	Model B2 “offender is one of its nationals” or public officials	Model A2 “when the offense is committed by one of its nationals” or resident	Model A1 “when the offense is committed by one of its nationals” or resident	Model A3 “one of its nationals outside its territory or by a person who resides in its territory”	Model A4 Committed by a national or habitual resident	Model A4 Committed by a national or habitual resident
Effect on state	/	/	/	/	/	/	Model A When it affects vital interests or has harmful consequences	Model B When the “offence is committed against the State Party”	Model B When the “offence is committed against the State Party”
Effect on citizen	/	/	/	/	/	/	/	Model A When “committed against a national of that State Party”	Model A When “committed against a national of that State Party”

Involve official	/	Model A Offence against public officials who are citizens	/	Model B Offense “involves one of its public officials”	/	/	/	/	/
Related off. abroad	/	/	/	/	/	/	/	Model A When actions abroad contribute to money laundering	Model A When actions abroad contribute to money laundering
Limits									
Double jeopardy	/	Model A “shall apply ... the ne bis in idem rule”, but exceptions	/	/	/	Model B “principle that a person shall not be tried twice for the same offence”	Model B “principle that a person shall not be tried twice for the same offence”	/	/
Consult if overlap	/	Model A Co-op to centralize prosecution in a single state where possible	Model B1 Consult at the request of one party and decide most appropriate	/	Model B2 Consult and decide most appropriate	/	/	Model C1 “consult one another with a view to coordinating their actions”	Model C2 “consult together and coordinate”

DOMESTIC ENFORCEMENT (13 PROVISIONS)

	OAS	EU	OECD	COE	ECO	SADC	AU	UN	LAS
Sanctions									
Criminal sanctions	/	Model A “effective, proportionate, dissuasive” incl. prison	Model A “effective, proportionate, dissuasive” incl. prison	Model A “effective, proportionate, dissuasive” incl. prison	Model A “effective, proportionate, dissuasive” incl. prison	/	/	Model B “take into account the gravity of that offence”	Model C “take into account the gravity of that offence” + more punishment
Administrative sanctions	/	Model B Business leaders may be banned	Model A “consider the imposition of additional civil or administrative sanctions”	/	/	/	/	Model C Ban or suspend suspects from office	Model D “Any secondary or additional punishment”
Legal persons	/	Model A Effective, dissuasive penalties incl exclusion from commerce	Model B1 If no criminal liability, use effective civil sanctions incl monetary	Model B2 Effective civil sanctions incl monetary	Model A + B	/	/	Model C Model B plus optional broader sanctions	/

Confiscation of proceeds	/	Model A “enable the seizure and confiscation of instruments and proceeds”	Model B1 “seizure and confiscation or monetary sanctions of comparable effect”	Model B2 “confiscate or otherwise deprive instrument. and proceeds” or same value in property	Model B2 “confiscate or otherwise deprive instrument. and proceeds” or same value in property	Model B2 “confiscate or otherwise deprive instrument. and proceeds” or same value in property	Model B2 “confiscate or otherwise deprive instrument. and proceeds” or same value in property	Model C Model B2 plus further details	Model C Model B2 plus further details
Protection									
Whistle-blowers	Model A1 “Systems to protect”	/	Model D Appropriate measures to protect (2009)	Model A2 Measures as necessary	Model A2 Measures as necessary	Model A1 “Systems to protect”	Model A4 “legislative and other measures” + false accusations	Model B “Appropriate” protection + anon reporting	Model C Encourage reports by public officials + public info + necessary protection
Witnesses	/	/	/	Model A1 Measures as necessary	Model B Specific measures for witness protection	/	Model A2 “legislative and other measures”	Model B Specific measures for witness protection	Model B Specific measures for witness protection
Victims	/	/	/	/	Model A Specific ideas to protect and hear victims	/	?	Model A2 Specific ideas to hear victims (slightly weaker)	Model A Specific ideas to protect and hear victims

Suspects									
Statute of limitations	/	/	Model A SoL must allow time to investigate	Model B Period betw. 3 and 10 years (civil law)	/	/	/	Model C "long period"; longer if suspect gone	Model D Must have some kind of SoL
Fair trial	/	/	/	/	/	/	Model A "Minimum guarantees"	/	/
Limits to immunity	/	/	/	Model A "degree necessary in a democratic society"	/	/	Model B Immunity shall not be obstacle	<u>Model C</u> "appropriate balance"	<u>Model C</u> "appropriate balance"
Civil law									
Contracts void?	/	/	/	Model A Void if <i>about</i> corruption	/	/	/	/	/
Contracts voidable?	/	/	/	Model A1 Courts can void contracts in case of corr.	/	/	/	<u>Model A2</u> C. as reason to void, withdraw...	<u>Model A2</u> C. as reason to void, withdraw...
Private right to action, civil sanctions	/	/	/	Model A Right to claim compensation ; gov't liability	/	/	/	Model B Right to claim compensation	Model B Right to claim compensation

INTERNATIONAL COOPERATION (8 PROVISIONS)

	OAS	EU	OECD	COE	ECO	SADC	AU	UN	LAS
Legal assistance									
Legal assistance	Model A1 “mutual assistance”: evidence requests “and other necessary measures”	Model B States shall cooperate if case concerns both; centralize prosecution	Model A2 “prompt and effective” assistance on request	Model C More detail on coop.; “prompt” reaction to requests unless against fundamental interests	Model D Mutual assistance + encouraging the use of bilateral treaties	Model A1 “mutual assistance”: evidence requests “and other necessary measures”	Model A2 Mutual assistance, immediate reaction to requests	Model E Very detailed regulation of mutual assistance; grounds for rejection	Model E Very detailed regulation of mutual assistance; grounds for rejection
Bank secrecy	Model A “shall not invoke bank secrecy”, but only use info as promised	/	Model B “Shall not decline ... on the grounds of bank secrecy”	Model C Shall not invoke B.S., but can ask for judicial authority	Model D1 Shall not invoke B.S.	Model D1 Shall not invoke B.S.	Model A “shall not invoke bank secrecy”, but only use info as promised	Model D2 Shall not invoke B.S.	Model D3 Shall not invoke B.S.
Extradition	Model A1 Extraditable; can be basis instead of separate treaty; states must prosecute if they don’t extradite	Model B States must prosecute if they don’t extradite	Model A1 Extraditable; can be basis instead of separate treaty; states must prosecute if they don’t extradite	Model A1 Extraditable; can be basis instead of separate treaty; states must prosecute if they don’t extradite	Model A1 Extraditable; can be basis instead of separate treaty; states must prosecute if they don’t extradite	Model A2 A1 + encourage bilateral treaties	Model A1 Extraditable; can be basis instead of separate treaty; states must prosecute if they don’t extradite	Model C Model A + additional procedures and details, extradition of sentenced persons	Model C Model A + additional procedures and details, extradition of sentenced persons

Law enforcement									
Technical assistance	Model A1 “widest measure of mutual technical cooperation”	/	/	/	/	Model A1 “widest measure of mutual technical cooperation”	Model B1 Exchange of expertise and joint programs and training	Model C Assistance + voluntary support in particular for developing countries	Model D Exchange of info, experts, research
Special techniques	/	/	/	Model A “special investigative techniques” mentioned	Model B1 “special investigative techniques” mentioned; joint investigations, case by case or via an additional agreement	/	/	Model B2 Controlled delivery et al; joint investigations; case by case or via additional agreement	Model B2 Controlled delivery et al; joint investigations; case by case or via additional agreement
Central authority	Model A1 May designate authority that deals with requests	/	Model A2 Must designate authority that deals with requests	Model A3 Must designate authority for requests; can communicate directly	Model A3 Must designate authority for requests; can communicate directly	Model A3 Must designate authority for requests; can communicate directly	Model A4 A3 + ensure autonomy, training	Model A2 Must designate authority that deals with requests	Model A2 Must designate authority that deals with requests

Assets									
Freezing and seizure	Model A Briefly: assist in “identification , tracing, freezing, seizure and forfeiture”	/	/	Model B Adopt measures to “identify, trace, freeze and seize”	Model C1 Adopt steps to “identify, locate and seize”; also other assets of equal value	Model C1 Adopt steps to “identify, locate and seize”; also other assets of equal value	Model C1 Adopt steps to “identify, locate and seize”; also other assets of equal value	Model C2 Steps to allow confiscation as in C1 + more detail	Model C3 Steps to allow confiscation as in C1 + more detail (almost equal to C2)
Return	Model A Domestic laws prevail; “may transfer all or part of property or proceeds”	/	/	/	Model A Domestic laws prevail; “may transfer all or part of property or proceeds”	Model A Domestic laws prevail; “may transfer all or part of property or proceeds”	Model B States shall enable repatriation esp. in connection to extradition	Model C Return = fundamental principle; direct and indirect recovery; parties are obliged to return assets to owners	Model C Return = fundamental principle; direct and indirect recovery; parties are obliged to return assets to owners