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## Reconstructing the Elusive Fight against Corruption in Africa: The Quest to Re-characterize Political Corruption as an International Crime

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### **Abstract:**

*Corruption remains the major hindrance to prosperity of the African continent in all spheres. It is the single greatest challenge to Africa's realization of human rights, democracy, economic growth as well as peace and stability. Whereas the anti-corruption discourse dates back to the colonial periods of the various African countries and has continued for decades, no significant progress has been made. The entrenched high levels of corruption in Africa are primarily linked to weak accountability systems and poor leadership by state officials which breeds political corruption. This paper argues that national mechanisms against political corruption in African countries are incapable of being effectively deployed. This is because the perpetrators of political corruption are largely the same ones who constitute African Governments that are supposed to enforce anti-corruption laws. The paper therefore calls for a shift from national mechanisms to international mechanisms for fighting political corruption by re-characterizing political corruption as an international crime and incorporating the same to the Rome Statute.*

**Keywords:** International law, Political corruption, international crime, public sector accountability, Rome statute

### 1. Introduction

There is general consensus among scholars, governance practitioners and other stakeholders that corruption remains the major hindrance to the prosperity of the African continent in all spheres. Corruption could rightly be regarded as the single greatest challenge to Africa's realization of human rights, democracy, economic growth as well as peace and stability. Barrack Obama, the former President of the United States of America while addressing a delegation of African Union officials in 2015 noted as follows:

'Nothing will unlock Africa's economic potential more than ending the cancer of corruption. This is not unique to Africa—corruption exists all over the world, including in the United States. Here in Africa, corruption drains billions of dollars from economies—money that could be used to create jobs and to build hospitals and schools' (Africa Justice and Faith Network, 2015).

It is due to entrenched corruption that citizens in African countries continue to wallow in poverty many years after independence. Corruption has had devastating effects on the economy of African states with studies estimating that about 43 per cent of Africans live in poverty, despite the African states being endowed with immense natural resources. Over 50 Billion US dollars-worth of assets are stolen out of Africa each year. For instance, Kenya loses a third of its national budget to corruption annually, a reflection of what happens in other African countries.

This paper flows from the background of widespread and deeply entrenched corruption in Africa despite continuous implementation of numerous national and international mechanisms ostensibly designed towards curbing it. Whereas it cannot be denied that some African states have made notable strides towards securing democratic and anti-corruption reforms, high prevalence of corruption is a challenge that cuts across the entire African continent.

Various research reports and analyses show that corruption in Africa has remained prevalent for decades. For instance, the Transparency International's Annual Corruption Perception Index (CPI) Report, 2019 revealed that more than two-thirds of the 180 countries scored below 50 points, with a global average score of just 43 out of the highest attainable 100 points. Denmark and New Zealand were ranked position 1 with a score of 87, meaning they were the cleanest countries as at 2019. Turning to Africa, Seychelles earned the highest mark of 66 points in Africa, making it the cleanest country in the continent. Botswana was ranked position 34 with a score 61 followed by Rwanda at position 51 with 53 points. Africa scored an average of 32 out 100 points.

Somalia was ranked the world's most corrupt country, at position 180, with extremely high levels of political corruption. The Democratic Republic of Congo (DRC) was ranked position 168 with a score of 18 points. It is instructive to note here that political integrity among government officials in DRC is reported to be extremely low, with 79 per cent of DRC citizens believing that all or most parliamentarians are involved in corruption. The report further showed that majority of countries are making little to no improvement in tackling corruption. These few examples illuminate the general state of good governance in Africa.

In the history of global surveys on corruption, African countries have always led from the bottom. Ironically, the African continent has conspicuously maintained a top lead in the adoption of international initiatives for promotion of the

fight against corruption with majority its countries having signed and ratified the United Nations Against Corruption (UNCAC). While the anti-corruption discourse dates back to the colonial periods of the various African countries and has continued for decades, no significant progress has been made. This indicates that the strategies employed to fight or prevent corruption in African countries have not been effective, hence the need to rethink the existing strategies.

Notably, there is no poverty of specialized laws, systems and institutions designed to fight corruption in Africa. A raft of 'independent' institutions vested with diverse roles in the business of fighting corruption have been established in each country. Similar effort is seen in the development of numerous policies, legislative and administrative frameworks that are reviewed from time to time to match the changing trends in the practice of corruption. However, corruption continues to be institutionalized and internalized as a way of life by citizens of the various countries. Although diverse explanations have been given for this sorry state of affairs, this paper argues that the main causal factors weak accountability systems and poor leadership by state officials which breeds political corruption and a culture of impunity. It would appear that accountability systems are deliberately designed not to fight corruption, but to appear to be doing it.

The 2019 Transparency International CPI Report identifies political corruption as the most difficult form of corruption to combat and prevent. Whereas national mechanisms against corruption have registered some reasonable degree of success in combating petty and other forms of corruption, this is not the case when it comes to political corruption. At this juncture, the most important but difficult question is how then can political corruption be tackled? Are national mechanisms sufficiently capable of addressing political corruption in Africa? Are there alternative measures that can be applied in order to effectively combat and prevent political corruption in Africa and register meaningful success?

It is contended in this paper that the avalanche of national mechanisms deployed against political corruption in African countries have largely failed and are unlikely to be effective in the future unless the challenges of personal integrity of state officials and institutional integrity of governance systems are addressed. This is because the perpetrators of political corruption are, more often than not, the same ones who constitute governments that are supposed to enforce anti-corruption laws. As such, it cannot be logical to reasonably expect those governments to effectively enforce anti-corruption laws against themselves or their cronies. In the circumstances of that missing link, this paper examines the viability of a shift from national mechanisms to international mechanisms by re-characterizing political corruption as an international crime under the Rome Statute.

The quest to categorize political corruption as an international crime is premised on the understanding that political corruption has consequences of monumental danger to the lives of citizens in equal force just as crimes against humanity, whose weight has been globally acknowledged and tackled at international levels. The Rome Statute was enacted to tackle four core international crimes: genocide, crimes against humanity, war crimes, and crime of aggression (Rome Statute, 1998). It is the inability of national mechanisms to respond to these crimes which activates the jurisdiction of the International Criminal Court (ICC) under the Rome Statute. Notably, implementation of the Rome Statute has so far led to reasonable deterrence of those international crimes after arrests and prosecution of some key heads of states and politicians from African countries.

The paper is divided into six major parts. After introduction on the first part, the second part theorizes and conceptualizes corruption with a specific focus on 'political corruption.' The third part critically discusses the general strategies and approaches adopted by different African states in the quest to fight political corruption. In the fourth part, the paper provides a comparison between political corruption and international crimes under the Rome State with a view to demonstrating that political corruption has similar weight and ought to be tackled with the same zeal as the current international crimes under the Rome Statute. The fifth part makes recommendations while the sixth part provides a conclusion to the paper.

## 2. The Meaning of Corruption and the Concept of Political Corruption

### 2.1. Corruption

The term 'corruption' has been defined variously by several authors and analysts. Although the descriptions, examples, illustrations and nomenclature vary, the meaning is essentially one. Corruption generally refers to the abuse of entrusted authority for private gain. Corruption is derived from the Latin word '*corruptus*' meaning 'to break.'

The World Bank defines corruption as an abuse of power, most often for personal gain or for the benefit of a group to which one owes allegiance, motivated by greed, desire to retain or increase one's power (World Bank (1996).

Corruption has also been defined to refer to an act which deviates from the formal rules of conduct governing the actions of a person in a position of public authority because of private gain. (Khan, 1996).

Otite describes corruption as the 'perversion of integrity or state of affairs through bribery, favour or moral depravity, occurring when at least two parties have interacted to change the structure or processes of society or the behaviour of functionaries in order to produce dishonest, unfaithful or defiled situations' (Otite, 2000).

The Kenya's Anti-Corruption and Economic Crimes Act, 2003 identifies the following as components of corrupt practices: Bribery; embezzlement/misappropriation of funds; smuggling; fraud; illegal payments; money laundering; drug trafficking; falsification of documents and records; false declaration; tax evasion; underpayment; deceit; forgery; concealment; aiding and abetting of any kind to the detriment of another person, community, society or nation (Kenya Anti-Corruption and Economic Crimes Act, 2003).

Mullei (2000) describes the forms of corruption as: First, petty corruption which is also known as retail corruption. Second, systemic, otherwise referred to as routine corruption: pervasive and entrenched. Third, lootocracy, that is, looting by government officials of state treasury. Fourth, grand or wholesale corruption involving huge bribes. Fifth, political or bureaucratic corruption, for instance violation of election laws.

According to Transparency International, corruption is the abuse of power for private advantage. The Transparency International categorizes corruption into three: (Transparency International, 2016).

- Grand corruption: acts committed at high level of government
- Petty corruption: everyday abuse of entrusted power by low-middle level public officials, and;
- Political corruption: manipulation of policies, institutions, and rules of procedure in the allocation of resources and financing by political decision makers.

From the above definitions of corruption generally, it is clear that corruption is a complex and systemic vice by an individual, society or a nation evidenced by various acts of social decadence including nepotism, tribalism, sectionalism, undue enrichment, amassing of wealth, abuse of office, power, position and derivation of undue gains and benefits. Significantly, political corruption stands out as one of the most complex forms of corruption, given the high profile nature of the actors involved, their centrality in the management of public resources and the huge amounts of resources involved in their corrupt conduct.

## 2.2. Political Corruption

According to Aktan, the concept of 'political corruption' has a much narrower meaning than 'corruption.' Aktan defines political corruption as 'the behavior and action of violating the contemporary laws, ethics, religious and cultural norms of the society by political actors (voters, politicians, bureaucrats, interest and pressure groups) which impacts on decision making' (Atkan, 2015).

Arvind K. Jain (2000) adopts a two pronged typology in conceptualizing corruption; that corruption can be perceived as to exist in two extreme positions. The first is illustrated through the example of a doorman asking for a small tip to allow a person into an office. On the other extreme end is the example of a leader who uses and treats public property and assets as personal (Jain, 2011). Jain therefore describes political corruption as follows:

'Political' or 'grand' corruption arises from a rogue dictator's control over a country's resource allocation and expenditure decisions. This leader will maximize his personal wealth rather than the welfare of the population. Of necessity, he will have to have acquired an almost complete control of political powers within the country. A portion of the wealth amassed through corruption is used to purchase the loyalty of those who will help the dictator remain in power and to undermine the civic society and public institutions that may rise in opposition. This form of corruption leads to a misallocation of resources and an extreme degree of concentration of wealth into the hands of a few.'

Thus, from Jain's description of political corruption as to be synonymous to 'grand,' corruption, it goes without saying that political corruption is indeed the worst form of corruption, and the biggest threat to governance.

Hodes describes political corruption as the abuse of entrusted power by political leaders for private gain, with the objective of increasing power or wealth (Hodes, 2004). He renders himself as follows:

'Political corruption involves a wide range of crimes and illicit acts committed by political leaders before, during or after leaving office. It is distinct from petty or bureaucratic corruption in so far as it is perpetrated by political leaders or elected officials who have been vested with public authority and who bear the responsibility of representing public interest. There is also a supply side to political corruption – bribes paid to politicians and other senior holders of public offices.'

Political corruption mainly involves politicians and takes place when state institutions are infiltrated by corrupt elements and turned into instruments of self-enrichment or exercising power. It is characterized by violation of laws with impunity, clientelism and patronage all of which create 'state capture' whereby the political elite use and manipulate state institutions and processes for their self-benefit and benefit of those who owe allegiance to them. Political corruption goes beyond money changing hands to include other forms such as trading in influence or granting favours that undermine good governance (Lumumba, 2014).

Due to the involvement of actors who wield political power in society, political corruption has serious ramifications on all aspects of governance and socio-economic spheres of life. In this regard, the ensuing political, economic and social effects thus the inevitable need to continually review strategies deployed towards its elimination from governance structures.

There is no shortage of examples of political corruption incidences in African countries. In Zaire, upon the departure of Mobutu Sese Seko, the economy of the country stagnated as the country went into political and economic turmoil. This is after the Mobutu engaged in corrupt practices and presided over a corrupt government from 1965 to 1997. At one instance, the late Mobutu was accused of hiring a concord jet for shopping trip and built a palace fitted with a nuclear garget (Hodes, 2004).

According to Jain, political corruption is characterized by the subsequent sharing of some of the acquired wealth with the population, hence some dictators may appear to have a 'benevolent' side to them (Jain, 2015). For instance, Saddam Hussein is reported to have ensured that Iraqi citizens received free education and health care. On the other end, he is reported to have amassed an estimated USD 10 to 40 billion in personal wealth (Jain, 2011).

In Kenya, key political figures have been accused of illegally acquiring wealth from public coffers and using part of it to make extremely generous donations in form of church harambees. It has been argued, and rightly so, that in Kenya, the political elites and the ruling class have captured the country's economy hostage from independence in 1963 (Mutunga, 2017). Corruption in Kenya has been further described as deeply institutionalized in the public sector and well internalized by Kenyan citizens as a way of life despite continued implementation of an avalanche of measures to curb it (Ngumbi, 2019). Political corruption in Kenya reached unprecedented levels in the period of 2004 when the former head of the Kenya Anti-corruption Commission was prevented by the Attorney General from uncovering evidence of

corruption were an unknown company called 'Anglo Leasing' was awarded several huge value contracts that were never executed by the government (Momoh, 2015).

In Malawi, it has been reported that some Members of Parliament looted the state treasury to the tune of US\$3 million in which the Head of the Agricultural Development Marketing Corp used his share of the loot to build a luxury hotel in the country (Momoh, 2015).

In Nigeria, the late military junta General Sani Abacha was accused of looting billions of dollars. Later, attempts to recover the same were made by the regimes of former Head of State General Abdulsalami Abubakar and former President Olusegun Obasanjo. General Abdulsalami is reported to have recovered about US \$ 750 million while former President Obasanjo is said to have convinced Swiss banking authorities to freeze more than US\$600 million in late General Sani Abacha's deposit and return nearly US\$ 140 million to the Nigerian government (Momoh, 2015).

### 2.2.1. Characteristics of Political Corruption

The characteristics of political corruption as summarized as follows:

Political corruption manifests itself in many forms. The most notable ones include the following:

- Embezzlement of public resources through conversion to private use.
- Impunity as demonstrated by blatant disregard of the law and deliberate manipulation of laid out procedures in order to confer a private benefit to oneself or others.
- Extortion through misuse of political power and authority to demand illegal or illegitimate benefits in order to discharge public services.
- Impartiality in decision making with a view to giving unfair advantage to oneself or serve other private interests through nepotism, favoritism, tribalism, cronyism. In African states, political favoritism is mainly geared towards rewarding one's political support base at the expense of those who belong to a different political opinion or class. This reward could be in the form of allocation more resources or public appointments or other favours.
- Patronage involving appointment or nomination to public office of persons who subscribe to the ideology of the ruling government regime and often involves replacement of serving officers with new ones whenever a new government regime comes to power.
- Manipulation of electoral processes through vote buying or compromise of electoral systems in order and confer elective positions to desired candidates against the will of the people. Votes are also bought during major decisions in legislatures to influence sectarian interests.

It is clear from the above that political corruption is a very broad concept with diverse dimensions beyond money exchanging hands. These diverse aspects ought to be taken into account when designing anti-corruption strategies.

## **3. Strategies and Challenges in the Fight against Political Corruption in Africa**

Many African countries have established legal and administrative structures and institutions which are intended to facilitate or take charge of the fight against political corruption. However, these structures and institutions have not been effective for a number of reasons which shall be seen in the ensuing sections.

### *3.1. Existing Strategies and Mechanisms for the Fight against Political Corruption in African States*

African states have established laws and institutions to govern the fight against corruption. The United Nations Convention Against Corruption 2004, UN Declaration and Action Plan Against Money Laundering and the African Union Convention on Preventing and Combating Corruption are some of the international laws that govern the fight against corruption. Remarkably, there exists no central or harmonized structures and frameworks that apply in their implementation. Every African state retains their individual sovereign power and discretion in choosing whether to ratify international treaties. And even after ratifying them, there exists no mechanism to ensure these international laws are implemented or executed in the member states in the manner envisaged under the Conventions. The mere reporting on compliance status and peer review mechanisms do not in any way compel enforcement. As such, most African countries which have ratified the United Nations Convention Against Corruption and the African Union Convention on Preventing and Combating Corruption still have challenges in implementation of these laws.

Studies have shown that although progress has been made in aligning domestic legislation to the requirements of UNCAC in most countries, there are still major gaps to overcome in the pursuit of successful implementation. For instance, South Africa has made tremendous efforts to align its laws to UNCAC, but it still faces challenges on implementation of the laws. Kenya, which was the first African country to ratify the UNCAC in 2003 has enacted numerous statutes and established several institutions meant to take charge and assist in the fight against corruption. Despite these apparently progressive measures, Kenya still faces the challenge of weak legislation and poor implementation (Ghai, 2019). Kenya's anti-corruption laws still have gaps which the Legislature is apparently unwilling to address since they could be the main beneficiaries of those flaws. Kenya's constitution provides that all international treaties signed and ratified by Kenya form part of Kenya's law. The Constitution has also established Independent Commissions and offices mandated to secure observance of democratic governance and the rule of law. However, these initiatives have not yielded any significant progress due to numerous challenges affecting effective implementation of the Constitution (Sihanya, 2019).

Just like Kenya, Nigeria also has an impressive array of anti-corruption structures and institutions in place. Despite having all these institutions, Nigeria still ranks low in the Corruption Perception Index as it still struggles with political corruption. This trend obtains in many other African states.

It is remarkable that nearly all African states have in place some laws and institutions on the fight against corruption. However, as at this writing, Somalia was the only state which was still in the process of establishing an anti-corruption commission (Garowe, 2019). The strategies applied in the fight against corruption in many African states is comparable to the one used in Kenya and Nigeria.

Countries such as Botswana that is well ranked in the 2019 CPI by Transparency International has in place an anti-corruption agency, namely the Directorate on Corruption and Economic Crime (DCEC) which has received relatively good political backing since its establishment (Larsson, 2018). However, Botswana's DCEC which was modelled on Hong Kong's Independent Commission on Anti-Corruption (ICAC) still faces challenges of independence (Larsson, 2018). DCEC operates under the President's office, and Botswana's relative success in the fight against corruption is mainly credited to the prevailing political will which may change if new retrogressive leaders are elected.

The reports by Transparency International's CPI on Africa for the past decade provide testament of the failure by Many Africa States to fight corruption. The latest 2019 CPI paints a bleak future if the same mechanisms are to continue being applied. Non-enforcement of the law against the political class is the norm rather than the exception.

### *3.2. Challenges in the Fight against Political Corruption in African States*

There are several political, economic, socio-cultural, technological and environmental factors which have impeded the fight against political corruption in many African states (Momoh, 2015).

The nature of many African political set ups is such that the people who occupy high political offices are perceived to be the most successful. Those who occupy these top political offices have nearly unchecked control of the country's economic resources and because of the lucrative positions, they do not easily leave office. Many African political leaders focus on primitive accumulation of wealth and personal enrichment once they get elected.

Political corruption in Africa is a result of poor institutional patterns and structures. African politicians and top bureaucrats do not often face prosecution or sanctions for corrupt activities. This is because they are in control of all the institutions which ought to take action against them.

Institutions that are tasked under the law to investigate and prosecute corruption suspects are not independent. This is limited autonomy given to the anti-corruption agencies in many African states including Nigeria, Kenya, Malawi, South Africa, Zimbabwe, Liberia, Guinea, Botswana. The institutions cannot effectively fight corruption without rubbing shoulders with top executive officials including the Presidents. This makes it difficult and at times, impossible to fight political corruption.

Anti-corruption agencies are often expected to do what the President and his cronies desire. They can only prosecute those whom the President and his cronies consider corrupt or they are perceived by the President not to be politically and ideologically aligned to them. This is typical of what President Olusegun Obasanjo of Nigeria was accused of practicing during his tenure.

No operational independence is granted to anti-corruption agencies in Africa. The agencies are controlled by the Executive and the Legislature which ensure that the agencies only appear to be fighting corruption. Weak laws are enacted to ensure the agencies are not fully independent. For instance, in Kenya, the Executive has been cited for bulldozing and intimidating the Judiciary through budget cuts, hence undermining its independence and performance (Maraga, 2019). The Judiciary also faces internal challenges related to bribery claims and incompetence among judicial officers.

There are also challenges to the fight against corruption in Africa which are external in nature. This includes corrupt practices that are perpetrated by foreigners and their allied institutions that operate in Africa. Money laundering is one such area that presents an intricate web which African states on their own find it difficult to fully address. Despite the existence of various international instruments meant to address corruption including money laundering, the levels of ratification are still low even as major loopholes still persist in the legal frameworks. For instance, there are still major challenges on questions surrounding money derived from serious crimes like financing terrorism, tax evasion among others.

Many African states also stifle the fight against corruption by silencing media and civil society organizations in their bid to hold governments accountable. For instance in Kenya, following the 2017 general elections, civil society organizations such as Africa Centre for Open Governance (AfriCOG) and the Kenya Human Rights Commission (KHRC) had their offices ransacked before they were deregistered and accused of colluding with opposition parties in exposing malpractices in the electoral process (Africog, 2017).

Public apathy and failure of citizens in their civic responsibility is another challenge. While citizens are the ultimate victims of political corruption, they have not discharged their responsibility towards ensuring accountability of state officials. (Sihanya, 2014). It is the citizens who elect corrupt leaders into office with full knowledge of their integrity deficits. It is the citizens who glorify corruption and rally behind corrupt leaders from their ethnic communities effectively frustrating anti-corruption initiatives.

## **4. Political Corruption as Serious International Crime**

Political corruption has many similarities with international crimes addressed under the Rome Statute. Under Article 5 of the Rome Statute, the International Criminal Court (ICC) has jurisdiction with respect to four crimes: the crime of genocide; crimes against humanity; war crimes; and the crime of aggression.

'Genocide' is defined in Article 6 to mean any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, such as: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical

destruction in whole or in part; imposing measures intended to prevent births within the group; and forcibly transferring children of the group to another group.

Under Article 7, 'crime against humanity' are defined to mean any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: murder; extermination; enslavement; deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender..., or other grounds that are universally recognized as impermissible under international law; enforced disappearance of persons; the crime of apartheid; other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Just like the crimes defined and criminalized in the Rome Statute, political corruption is the epitome of moral decay and an impairment of integrity. As conceptualized earlier, political corruption involves theft or embezzlement of public funds by political leaders, actions which directly affect the lives of the citizens who are stolen from.

It has been aptly stated that 'corruption leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish.' (Annan, 2004).

Misuse of public funds by top political leaders directly endangers the lives of citizens who bear the brunt of a bad economy. It hampers the effective delivery of public goods and services. Further, corruption limits economic growth because it reduces the amount of public resources, discourages private investment and saving and impedes the efficient use of government revenue and development assistance funds (ARSO, 2019).

Corruption is partly responsible for other life threatening occurrences such as terrorism due to compromise of security apparatus, supply of poor quality or substandard goods and services, political violence all of which cause death of masses.

When a country's economy dwindles due to political corruption, both the concerned state and the international community are affected. In many instances, the international community is called to intervene through, *inter alia*, donations, grants, loans, as well as enhanced bilateral trade arrangements in order to secure mutual interests.

It is instructive that the UNCAC in its preamble lays a firm link between corruption and international crime in the following words:

*The States Parties to this Convention:*

*Concerned about the seriousness of the problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,*

*Concerned also about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money laundering,*

*Concerned further about cases of corruption that involve vast quantities of assets, which may constitute a substantial proportion of the resources of States, and that threaten the political stability and sustainable development of those States,*

*Convinced that corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential,*

*Convinced also that a comprehensive and multidisciplinary approach is required to prevent and combat corruption effectively...'*

Further, UNCAC requires countries to establish criminal and other offences to cover a wide range of acts of corruption, if these are not already crimes under a country's domestic law. UNCAC properly categorizes corruption as a crime.

As such, there is a conceptual and practical similarity between political corruption and the crimes defined in the Rome Statute if the magnitude of the dangers posed by political corruption are anything to go by. This underscores the need to elevate political corruption to the level of other crimes of similar impact in the international criminal framework.

Form the challenges discussed earlier, it is clear that political corruption cannot be effectively combated using national mechanisms. National anti-corruption systems in Africa have proved ineffective in as far as combating and preventing political corruption is concerned. UNCAC, by inviting state parties to ratify it but giving states the discretion of choosing whether to implement it or not fails to make corruption a serious international crime as suggested in its preamble.

Political corruption qualifies to be termed a crime against humanity given its impact on the lives and welfare of citizens hence the need for it to be recognized as such and treated like other offences under the Rome Statute. No sitting Head of State in Africa has ever been charged for corruption due to the immunity provided in law. Similarly, the instances where senior Government officers are charged for corruption in Africa are very rare, and if they occur, they involve charging and arraignment before court of officers such as Cabinet Ministers who are perceived to have lost ranks with the sitting Presidents. Nevertheless, few such cases lead to convictions. But unlike Africa, in developed countries where systems work, senior government officers have been charged in court for corruption. Some notable examples are the Head of Hong Kong Government and recently the Israel Prime Minister (BBC, 2019).

This therefore calls for a new approach to combat and prevent political corruption, a strategy that can ensure top political leaders are held accountable to an authority beyond their national jurisdictions. The Rome Statute has to a large degree worked in respect to the offences defined therein, against a backdrop of failure by national mechanisms to address them. For instance, the ICC has since charged Kenya's President Uhuru Kenyatta and his Deputy William Ruto for crimes

arising out of the 2007/2008 post-election violence in Kenya. Despite challenges by ICC in handling such high profile suspects, the act of arraigning them in court and charging them is a crucial deterrent that should also be applied in the quest to combat political corruption in Africa.

## 5. Recommendations

This paper recommends reconstruction of the approaches to the fight against political corruption in Africa. These recommendations are in the form of alternative proposals and ideas which can be molded and refined further. In the context of political corruption, these measures should include establishment of anticorruption bodies and enhancement of transparency in the financing of elections, campaigns and political parties.

First, there is need to re-characterize political corruption as an international crime which is as serious as the four international crimes defined in the Rome Statute. This can be achieved through amendment of the Rome Statute by including political corruption and defining it appropriately in addition to further amending the Statute to align political corruption to the requisite threshold for classification as such.

Second, there is need for the establishment of an African institution in the form of a court or tribunal tasked with prosecuting high level corruption cases that involve Heads of State, the Deputies, Assistants and top Cabinet and Executive officers. This can take the form of a specialized organ of the African Union. Alternatively, it can be achieved through the enactment of an appropriate international statute on the fight against political corruption. Corruption is as serious as crimes against humanity which are now tackled at an international level. A judicial organ that works beyond the realm of the powers of the heads of state in Africa can experience a reasonable degree of independence from manipulation, ethnicization, blackmail or interference by top state officers charged with corruption.

Third, there is need for international financial institutions and donor agencies including the World Bank, International Monetary Fund (IMF), International Development Agency (IDA), International Finance Corporation (IFC), United Nations Development Programme (UNDP), United States Agency for International Development (USAID), Department For International Development (DFID) among others to put in place stringent measures to ensure that countries where cases of corruption are more prevalent do not get donations or loans. This will help in compelling African states in need of donor funding and loans to enhance the fight against political corruption in their respective jurisdictions.

Fourth, it is recommended that African states do give more space to the civil society organizations (CSOs), media and Non-Governmental Organizations which are engaged in the fight against corruption. On the other end, CSOs and NGOs involved in governance activities also need to enhance the checks and ensure transparency within their own organizations to avoid unnecessary attacks against them by the sitting Governments. NGOs and CSO should maintain objectivity in seeking to entrench transparency and accountability in governance. (Naibe, 2015). Professional Associations in Africa should also actively engage in the fight against corruption by developing and enforcing stringent mechanism for regulation of ethics and integrity of their members. This is because no corruption transaction can be completed without involvement of a professional. Media houses are also called to keep the state on check through unbiased, responsible but bold reporting of corruption incidences and admonishment of corrupt leaders.

Fifth, African states should empower their institutions to effectively fight corruption. All cases of political corruption may not be effectively handled at an international level especially in cases where some countries have bloated executives. Some high profile cases will still be required to be handled at the national levels.

This paper concedes that states have the sovereign power as defined in their respective Constitutions and relevant international instruments. Sovereign power belongs to the people of a particular nation and it is inalienable (Nwabueze, 2015). However, the quest for constitutional democracy, rule of law and good governance is possible through collaborative initiatives that include the willingness to surrender some sovereign powers to higher regional or international organs for the good of the very people. This is because sovereign power can be realistically enjoyed in a climate of deep entrenched political corruption, such as in majority of African countries.

## 6. Conclusion

Corruption is an endemic disease and its devastating effects have been felt globally but in Africa, the effects are more pronounced with the vice occurring in an industrial scale. Corruption in Africa has dominated academic, political, legal and general public debates and discourse for decades, and time has come for concrete solutions to be thought out, instituted and implemented. It is time to move from paper to practice.

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