Chapter 1

Introduction

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In a globalised financial system, funds embezzled in one continent can cross borders in the blink of an eye. Indeed, the principal beneficiaries of corruption in Africa are also found outside the continent. An international response is therefore required to meet this threat.

The Commonwealth Secretariat believes that corruption is one of the main impediments to effective governance in our 53 member countries. Corruption is a global threat and Africa is not immune to the menace. Indeed, 14 of the 19 Commonwealth countries in Africa have a score of less than 50 on Transparency International's 2017 Corruption Perceptions Index (CPI). According to Transparency International, this indicates a situation of pervasive corruption. As a result, the Commonwealth Secretariat has focused on providing support to help anti-corruption agencies (ACAs) on the continent to become more effective.

1.1 Commonwealth anti-corruption effort

In 2011, the Secretariat established the Association of Anti-Corruption Agencies in Commonwealth Africa to promote collaboration and learning in the region through the sharing of experiences and good practices. Members have benefited from pro bono interagency support and have been able to devise strategies to manage and sustain their anti-corruption work.

Then in 2013, the Secretariat established the Commonwealth Africa Anti-Corruption Centre (CAACC) in Gaborone in partnership with the Government of Botswana. The CAACC has three main objectives: (i) to improve agency capacity to combat and prevent corruption, (ii) to strengthen collaboration between regional agencies and (iii) to commission research and policy papers to strengthen understanding of challenges and solutions.

The CAACC's capacity-building programmes have benefited all the 20 anti-corruption agencies in members' countries. These programmes have delivered a diverse range of skills to help strengthen organisational leadership, improve the development of strategies and integrate monitoring and evaluation into the design of anti-corruption programmes.

An independent evaluation conducted by PFM-Connect (2016) found that 'Commonwealth Africa member countries have benefited significantly from the programmes and tangible capacity improvements have been realised by the anti-corruption agencies'. Survey responses from 65 ACA representatives found that:

- at least 80 per cent agreed that CAACC courses had significantly expanded their knowledge
- at least 70 per cent reported significant improvement in their ability to perform their current roles
- at least 68 per cent reported making significant changes in their work after returning from CAACC courses.

These changes ranged from the adoption of financial investigations for all corruption-related inquiries to the development of strategic plans for ACAs and amendments to members' anti-corruption acts.

The centre continues to partner with several international organisations, for example the World Bank, Transparency International, United Nations Office on Drugs and Crime (UNODC), United Nations Development Programme, African Development Bank and the City of London Police, to deliver programmes.

As part of its ongoing efforts to combat corruption, the Commonwealth Secretariat and UNODC published a research report titled *Compendium of Best Practices Demonstrated by Commonwealth Africa Anti-Corruption Agencies* in 2015. It provided policy-makers and researchers with new insights, both into the dynamics of corruption on the continent and into the capacity of ACAs to effectively combat the misuse of public resources. A key component of the research was a benchmarking exercise undertaken in partnership with the World Bank. It assessed the ability of ACAs to maintain their independence and fulfil their core functions, including carrying out investigations, directing prosecutions, recovering assets and engaging in preventative activities. In addition, the exercise examined the adequacy of legal frameworks on anti-corruption.

The Commonwealth Secretariat and UNODC (2016) again jointly conducted and produced a diagnostic benchmarking tool and assessment report that identified gaps in the policy and procedure framework of ACAs. The findings provided each participating ACA with its gaps and also its comparative performance against its peer group, which will help Commonwealth governments and development partners to gain a stronger understanding of corruption and to formulate more effective responses.

This publication focuses on countries in Commonwealth Africa that are making progress in dealing with corruption in their countries, which can be considered 'islands of success' in terms of their ability to reduce the prevalence of corruption while other countries on the continent are struggling to fight the menace.

The five countries, while continuing to experience challenges arising from corruption, have made significant progress in combating the problem. The countries are Botswana, Lesotho, Mauritius, Rwanda and Seychelles. The countries were selected because of their relatively strong scores on Transparency International's Corruption Perceptions Indexes, or because they have registered a significant improvement in their scores over the past decade.

The research identified the institutions within each country that have taken the lead in reducing the impact of corruption, and accounts for the factors – both technical and political – that have enabled these institutions to implement successful anti-corruption strategies.

This publication thus provides lessons on how some countries have made progress against corruption and expands the body of work currently available on the subject and that contends that the fight against corruption could be won if there is sufficient quality of governance, political will, implementation of legislation and policies, and preventive measures. ACAs should be equipped with sufficient resources, capacity, independence and power to prevent and combat corruption.

1.2 Background data

Table 1.1 examines the basic data for ACAs in Commonwealth Africa. These include name, date founded, mandate, investigative power, reporting authority, whether established under the Constitution or Act of Parliament and staff count. ACAs in Commonwealth Africa are relatively young institutions. Tanzania is the oldest, established in 1975; Kenya's Ethics and Anti-Corruption Commission was set up in 2011.

1.3 Corruption Perceptions Index

Though 12 of the 19 African Commonwealth countries managed to improve their CPI ranks between 2015 and 2017, the situation of 7 has worsened. The CPI scores countries on a scale of 0 to 100, with 0 indicating high levels of corruption and 100 low levels. The year-on-year changes in these scores are generally relevant to the extent that they point out whether or not a country has made meaningful progress in combating corruption. As Figure 1.1 illustrates, in the 2017 CPI index published in 2018, 14 of the 19 African Commonwealth countries scored below 50, which means that they are considered significantly corrupt. Only one country, Botswana, scored higher than 60, and four other countries have a CPI score higher than 50. Five countries scored below 30.

1.4 Global Competitiveness Index

The Global Competitiveness Report is a yearly report published by the World Economic Forum, which includes the Global Competitiveness Index, see Figure 1.2, and ranks countries based on their global competitiveness. The index assesses the ability of countries to provide high levels of prosperity to their citizens. This in turn depends on how productively a country uses available resources (control of corruption). Therefore, the Global Competitiveness Index measures the set of institutions, policies and factors that set the sustainable current and medium-term levels of economic prosperity (World Economic Forum 2017).

Figure 1.2, which shows the Global Competitiveness Index 2015–2017 for the 19 Commonwealth African countries, loosely corroborates the CPI indexes. The CPI

Table 1.1 ACAs in Commonwealth Africa: background data (2016)

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Country	Agency	Date founded	Mandate	Investigative power	Reporting authority	Constitution or Act of Parliament	Staff count
Botswana	Directorate on Corruption and Economic Crimes	1994	Investigation, prevention, education	Police powers	President	Act of Parliament	288
Mauritius	Independent Commission Against Corruption	2002	Investigation, prevention,	Police powers	Parliamentary Committee (Administrative)	Act of Parliament	160
Ghana	Commission on Human Rights and Administrative Justice	1992	Investigation, human rights, ombudsman	Subpoena powers Public hearings	Parliament	Constitution	700 but only 20% in anti- corruption
Ghana	Economic and Organised Crime Office	1993	Investigation, prevention, prosecution monitoring	Police powers Power to freeze assets for 14 days	Parliament through Act of Parliament 468 (for now) Attorney- General	Act of Parliament	468 (for now)
Cameroon	National Anti- Corruption Commission	2006	Investigation, prevention, education	Police powers	Presidency		89
Kenya	Ethics and Anti- Corruption Commission	2011	Law enforcement, prevention, education	Police powers	Parliament/ president	Constitution	300
Namibia	Anti-Corruption Commission	2006	Investigation, prevention, education		Parliament	Act of Parliament	70

(Continued)

Table 1.1 (Continued) ACAs in Commonwealth Africa: background data (2016)

Country	Agency	Date founded	Mandate	Investigative power	Reporting authority	Constitution or Act of Parliament	Staff count
Lesotho	Directorate on Corruption and Economic Offences	2003	Investigation, prevention, education	Police powers	Parliamentary through Ministry of Justice	Act of Parliament	62
Nigeria	Economic and Financial Crimes Commission	2004	Investigation, prosecution, education	Prosecutorial powers Police powers	Parliament	Act of Parliament	2,000
Nigeria	Independent Corrupt 2000 Practices and Other Related Offences Commission	2000	Investigation, education, prosecution, advisory	Prosecutorial powers Police powers	Parliament	Act of Parliament	830
Mozambique	Anti-Corruption Bureau	2004	Prevention, investigation, prosecution	Prosecution	Attorney-General	Act of Parliament	96
Rwanda	Office of the Ombudsman	2003	Investigation, prevention, ombudsman	Prosecutorial powers Police powers	Parliament/ president	Constitution	68
Sierra Leone	Anti-Corruption Commission	2000	Investigation, prevention, education, prosecution	Prosecutorial powers Police powers	Parliament	Act of Parliament 200	200
Seychelles	None established at						

(Continued)

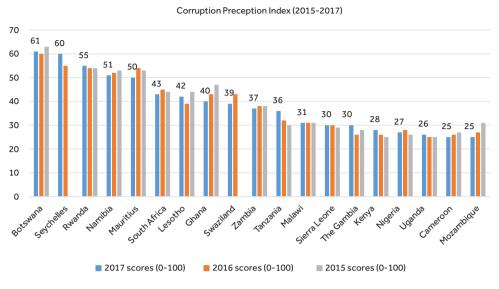
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Table 1.1 (Continued) ACAs in Commonwealth Africa: background data (2016)

Country Ag							
	Agency	Date founded	Mandate	Investigative power	Reporting authority	Constitution or Act of Parliament	Staff count
	Special Investigating Unit	2001	Investigation	Subpoena			
Swaziland An	Anti-Corruption Commission	2008	Investigation, prevention, education				
Tanzania Pre	Prevention and Combating of Corruption Bureau	1975	Prevention, education, investigation	Police powers	Parliament, president, citizens	Act of Parliament 2,200	2,200
Malawi An	Anti-Corruption Bureau	1996	Investigation, prevention				
Uganda Ins	Inspectorate of Government	1987	Investigation, prevention	Police powers	Parliament	Constitution	350
Zambia An	Anti-Corruption Commission	1982	Investigation, prevention, education	Police powers	Parliament by way of Annual Report through Executive	Act of Parliament	364

Source: Data collected by the author.

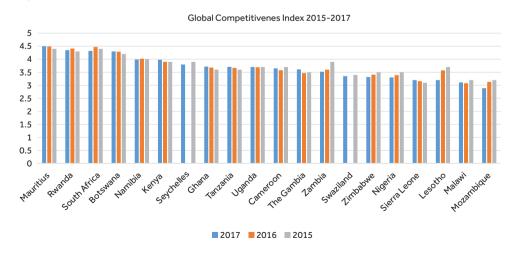
Figure 1.1 CPI 2015-2017



Source: Transparency International (2015, 2016 and 2017).

Index reflects perceptions of the extent to which public power is exercised for private gains. These include both petty and grand forms of corruption as well as 'capture' of the state by elites and private interests. Mauritius, Rwanda, South Africa, Botswana, Namibia and Seychelles are among the most competitive countries in Africa. The Global Competitiveness Index and CPI do indicate that much still needs to be done to control corruption in these 19 Commonwealth African countries.

Figure 1.2 Global Competitiveness Index



Source: World Economic Forum (2015, 2016 and 2017).

2017 Corruption Perception Index

70

60

40

30

20

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Figure 1.3 Corruption Perception Index 2017

Source: Transparency International Corruption Perception Index (2017).

1.5 Corruption and economic freedom

Figures 1.3 and 1.4 indicate a direct correlation between corruption and economic freedom of a country. Economic freedom is the fundamental right of every person to control his or her own labour and property. In an economically free society, individuals are free to work, produce, consume and invest in any way they please. In economically free societies, governments allow labour, capital and goods to move freely, and refrain from coercion or constraint of liberty beyond the extent necessary to protect and maintain liberty itself.

When comparing the 2017 CPI (Figure 1.3) to the 2017 Heritage Foundation's Index of Economic Freedom (Figure 1.4), there seems to be a correlation, indeed, with 13 of the 19 countries falling into the moderately free range. Economic freedom should be a guiding principle for policy-makers, and it seems that those countries scoring lower on the CPI may want to increase efforts to strive to protect the rule of law (property rights, freedom from corruption); limit government involvement

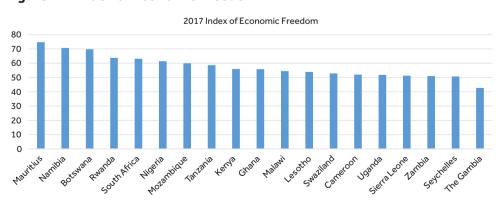


Figure 1.4 Index of Economic Freedom

Source: Heritage Foundation's Index of Economic Freedom (2017).

in the economy (fiscal freedom, government spending); ensure regulatory efficiency (business freedom, labour freedom, monetary freedom); and open markets (trade freedom, investment freedom, financial freedom).

1.6 Preventative and transparency measures

With regard to preventive and transparency measures, 18 countries have signed and ratified the United Nations Convention Against Corruption (UNCAC), which is a multilateral convention negotiated by members of the United Nations (UN) and is the first global legally binding international anti-corruption instrument. In its 71 Articles divided into 8 Chapters, UNCAC requires that states parties implement several anti-corruption measures, which may affect their laws, institutions and practices.

These measures aim at preventing corruption, including domestic and foreign bribery, embezzlement, trading in influence and money laundering. Furthermore, UNCAC is intended to strengthen international law enforcement and judicial co-operation, providing effective legal mechanisms for asset recovery, technical assistance and information exchange, and mechanisms for implementation of the convention, including the Conference of the States Parties to UNCAC.

As Table 1.2 illustrates, not all countries have enacted important laws in compliance with UNCAC. Access to information legislation is present in half of the African Commonwealth countries; two still need to pass conflict of interest legislation and three have no financial disclosure system in this regard. Half of the 18 countries have legislation providing immunity against prosecution for officials. In four countries, the law does not protect the ACA from political interference. While this is not a specific requirement of UNCAC *per se*, all but two countries have a national anticorruption strategy.

Anti-corruption policies range from a single national anti-corruption strategy to a set of measures to promote transparency and accountability. In addition to anti-corruption strategies, some countries have introduced targeted approaches against corruption through risk assessments and sectoral approaches. Alternatively, in some cases, countries have – instead of an anti-corruption strategy – promoted broader efforts to promote transparency and accountability. In contrast to national anti-corruption strategies, such integrity measures might be implicit because they are embedded in wider governance or judicial reform programmes.

Three countries have yet to sign and ratify the African Union (AU) Convention on Preventing and Combating Corruption. One country has signed but not ratified it.

Although 8 of the 18 countries do not have whistleblowing protection legislation *per se*, in some countries whistleblowers are to a certain extent protected by policies, or whistleblowing legislation is in preparation.

1.7 ACA investigative and prevention activities

Most ACAs in Commonwealth African countries have functions that include investigation, prosecution and preventative activities. Table 1.3, however,

Table 1.2 ACA preventive and transparency measures

	UNCAC		National anti-	Access to information	Conflict of Financial interest disclosur	Φ	Immunity from criminal	ACA protected	Whistleblower protection
	and ratified	б	corruption legislation strategy	legislation	legislation systemto prevent		prosecution for officials	prosecution from political legislation for officials interference	legislation
		combating corruption				conflict of interest		by law	
Botswana									
Seychelles									
Mauritius									
Lesotho									
Rwanda									
Namibia									
Ghana									
South Africa									
Swaziland									
Zambia									
Malawi									
Mozambique									
Sierra Leone									
Tanzania									
Cameroon									
Nigeria									
Uganda									
Kenya									

Source: Keulder (2015).

Table 1.3 ACA investigative and preventive activities

	No. of complaints received by ACA 2014	No. of investigations 2014	% of investigations % of completed completed by ACA investigations 2014 prosecuted 201	% of completed investigations prosecuted 2014	% of convictions from prosecuted cases	No. of learning and outreach events in 2014 by ACA
Botswana	1,246	395	45.3	6.7	16.7	1
Seychelles	1	1	I	1	ı	1
Mauritius	14,642	6,184	93.6	6.5	35.7	104
Lesotho	1,237	278	21.6	38.3	78.2	28
Rwanda	120	120	86.7	12.5	ı	26
Namibia	1	1	87.0	8.0	9.99	many
Zambia	724	439	48.3	14.5	74.0	13
Malawi	1,152	1,000	43.5	12.8	10.7	340
Mozambique	ı	291	34.4	1	23.6	4
Sierra Leone	521	254	25.6	66.1	34.9	51
Tanzania	5,069	209	1	53.9	31.8	4,382
Cameroon	1,665	1	1	1	ı	20
Nigeria	6,084	4,453	64.7	16.8	24.1	343
Uganda	1,579	7,539	18.8	100	0.1	44
Kenya	I	1	5.8	34.5	I	50

demonstrates that the percentage of completed investigations of ACAs is rather low, and the percentage of convictions resulting from these cases varies also. Educational work by ACAs seems to, with the exception of Tanzania, not be prioritised.

1.8 Case studies reviews

Botswana has been ranked as Africa's least corrupt country since Transparency International's Corruption Perception Index (CPI) was introduced in the mid-1990s. The Directorate on Corruption and Economic Crime (DCEC) enjoyed support by the national leadership, good governance and multiple legal instruments that are often reinforcing.

An important aspect of the strength of Botswana's anti-corruption management occurs in the socio-economic and political milieu in which the DCEC finds itself. The country's elites practice consensus building, regularly build support institutions to support anti-corruption, have established a public administrative system that is relatively autonomous of political influence and have eschewed corruption.

The DCEC has publicly investigated corruption cases involving senior officials in government. Public education and corruption prevention are among the major strategies of the DCEC, and the respect of tenure of its directors general and its support by Parliament (through funding) are key strengths.

The institutional framework for co-ordinating interagency strategies are built into anti-corruption measures. This involves co-ordinating anti-corruption activities of the Ombudsman, the police, the private sector and the Public Procurement and Asset Disposal Board. An important aspect of the institutional landscape is Botswana's judiciary, which has historically been recognised as independent. To augment its capacity for anti-corruption measures, Botswana has built a specialist corruption court as part of the high court.

Lesotho enacted effective laws to address the problem of corruption. The successful trials of several senior public officials for alleged corruption (bribery and public funds embezzlement) have proved to be an important milestone in the country's fight against corruption.

The restoration of civilian rule and the democratisation process guaranteed the protection of rights and civil liberties of citizens, including freedom of speech, promoted freedom of the media and reinstated oversight bodies. Taken together with advances in media technology, these factors changed the environment for reporting corruption in the country.

Strong and effective legal framework and instruments underpin Lesotho's relative progress in the fight against corruption. Lesotho enacted laws to address the problem of corruption over the past two decades. These include the Prevention of Corruption and Economic Offences Act No. 5 of 1999, which established the Directorate on Corruption and Economic Offences (DCEO), and its amendment of 2006, which requires public officials to declare their assets; the Income Tax (as amended) Act No. 10 of 1993 to counter tax evasion and fraud; the Money

Laundering and Proceeds of Crime Act No. 4 of 2008, which established the Financial Intelligence Unit (FIU) with the core mandate to fight money laundering and terrorist financing offences; and the Public Service Act of 2005 and its corresponding public service reform programme, which were all aimed at professionalising public administration, improving the capacity of the civil service and curbing nepotism and cronyism. To stop corruption in procurement processes, the government passed the Public Procurement Act and its accompanying regulations in 2006. These instruments established thresholds for use of procurement methods, bid evaluation procedures and contract management.

Mauritius is celebrated as sub-Saharan Africa's brilliant example of democracy, good governance and economic success. Mauritius has chalked up remarkable achievements in terms of sustained economic performance; sustained good CPI ranking; better transparency and accountability in public bodies; stronger strategic orientation towards corruption prevention and increased awareness; successful tax reform with inherent corruption prevention and good governance features; and regulatory and institutional rules for doing business that have been established to remove obstacles in trade and business sectors. For several years, Mauritius has been ranked first regionally in the World Bank Doing Business Index and streamlined and digitalised procedures for important areas such as procurement and issue of permits and licences.

A key factor has been the continuous political will and support from the government to fight corruption and promote transparency and accountability, despite changes of regime. The commitment has been visible, forceful and convincing, with the introduction of legislation and institutions that give effect to the relevant international conventions and treaties to which Mauritius is a signatory.

Other important factors are the political, economic and democratic stability of the country, the high literacy rate among the population and the separation of powers existing among the three branches of the government. Moreover, corruption is not fought in isolation, as there is a strong focus on public–private partnership and close collaboration with civil society to glean relevant information for better strategies.

A key condition for the successful anti-corruption drive in Mauritius has been its linkages with parallel reforms, especially in the areas of public financial management (PFM) (budgeting, procurement and taxation), business facilitation, good governance, equal opportunities, information and communications technology (ICT), the civil service and the police.

Mauritius also has independent judicial and prosecution structures. Systems in place have been able to bring to trial elites, politicians and even Members of Parliament (MPs) involved in graft cases. The judiciary has also pronounced judgments against important personalities concerning graft cases.

The country's civil society, the private sector and the media are highly dynamic. They have been acting as agents of change in the field of anti-corruption by spurring community support and providing continuous public pressure on the government.

The media possesses a competitive advantage in the fight against corruption due to its proximity to the public and its perceived positive role and independence by an overwhelming part of Mauritians.

Seychelles' political leadership, upholding best practices contained in the United Nations Convention against Corruption, establishing and nurturing the institutions of democracy, following the sound advice of carefully chosen advisors and development partners, and active participation of the people of Seychelles in the reform process have all contributed synergistically to reversing the perceptions of corruption.

Rwanda has made remarkable progress in controlling corruption since the 1994 genocide. The country went through a painful process of reconstruction, including rebuilding all governance systems, structures and institutions. Anti-corruption efforts have focused on strengthening the legal and institutional framework, improving government effectiveness, building a strong and competent public service, reforming public finance management systems and prosecuting corrupt officials at all levels of the public sector.

The government has put measures and institutions in place such as the Rwanda Public Procurement Authority, Office of the Ombudsman, Rwanda National Police, National Prosecutor General Authority, Auditor General and Rwanda Revenue Authority. These measures seem to have yielded positive results, with the country performing better than many other African countries in terms of control of corruption on most governance indicators.

Rwanda has adopted a radical rather than incremental approach, focusing on simultaneously strengthening systems on several fronts rather than progressively introducing reforms in selected areas and sectors.

Importantly, a strong political leader's clear and public emphasis on zero tolerance for corruption has contributed the most to the successful fight against corruption in Rwanda. Sustaining the progress that has been made will depend on the continued political will, public awareness and strengthening of public institutions to lead the fight against corruption.

1.9 Conclusion and policy recommendations

All five case studies see the importance of strengthening legal and institutional frameworks; improving government effectiveness and building a competent public service; protecting whistleblowers and mobilising every section of the society to engage with the anti-corruption drive; reforming public finance management; and investigating and prosecuting public officials at all levels.

UNCAC is a key driver in developing anti-corruption strategies in African Commonwealth countries. The discussion about anti-corruption strategies and activities in the 19 African Commonwealth countries, and the varying impact ACAs have, points to similar issues that can be summarised as follows and are not unlike those in countries elsewhere:

Improve the quality of governance: The success or failure of an anti-corruption strategy is very much contingent on the quality of governance in a given country.

Make available sufficient resources: In almost all the countries reviewed here, anticorruption agencies are at centre stage in the development and implementation of anti-corruption actions. A common challenge noted is that ACAs are not receiving sufficient resources.

Demonstrate political will: The role of ACAs in the implementation of anticorruption strategies often rests with numerous agencies within and outside the state and relies on long-term government support and commitment. Without this highlevel support, the ACAs will not be able to develop and implement their strategies. Therefore, the political will to fight corruption is a precondition for the successful operation of ACAs. This entails that the ACAs be equipped with sufficient resources, capacity, independence and power to prevent and combat corruption.

Focus on implementation: The ultimate value of anti-corruption legislation and policy development is in its implementation. A good range of anti-corruption legislation exists, but it is not implemented uniformly.

Focus attention on preventive measures: These seem to take a backseat to punitive measures. The relatively low level of anti-corruption educational and outreach activities by ACAs is unfortunate. Co-operation between ACAs and nongovernmental and civil society organisations in educational work is generally fruitful. In addition to raising awareness about the extent of corruption, national surveys can be used more systematically to inform the development and monitoring of anti-corruption strategies.

Ensure media and economic freedoms: Freedom of the media and economic freedoms are minimum requirements in building a strong anti-corruption culture. This requires the passing of access to information legislation, which only half of the countries have.

Establish monitoring and evaluation mechanism: Constant monitoring, evaluation and measurement of anti-corruption initiatives is generally lacking among ACAs and is mostly performed by non-state actors. A key challenge is to identify measurable indicators with established baselines and tracking mechanisms to determine whether or not progress is being made and to adjust policies and strategies accordingly. Only a few countries have set up adequate implementation, monitoring and evaluation mechanisms.

Finally, corruption is an international threat. The global fight against corruption has been approached in the wrong way for too long. The philosophical orientation underpinning the fight is that developing Global South economies are more corrupt than the advanced Western economies. Such thinking does not appreciate the concept of partners in crime or that it 'takes two to tango'; for every one corrupt person in a developing country, there are more partners or accomplices in the developed countries.

Similarly, for every corrupt public officer, there are a minimum of three to five private sector conspirators, such as lawyers, bankers, accountants and business executives

who facilitate the concealment of the stolen assets. In a globalised financial system, funds embezzled in one continent can cross borders in the blink of an eye. Indeed, the principal beneficiaries of corruption in Africa are also found outside the continent. An international response is therefore required to meet this threat.

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