



Anti-Corruption Law in Africa: the five legal trends your business needs to anticipate.

Afriwise

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Introduction

There is an African proverb that states, "Greed loses what it has gained." Greed in the form of corruption has eaten away at African societies for years and has become unfairly synonymous with the continent, its leaders and people. Corruption has indeed been rife throughout the continent, often with the active acquiescence of Western and other foreign entities. **However, anti-corruption initiatives have taken hold in many African countries, with something akin to a wave of them in just the last few years.** There is even much to be positive about, according to some analysts. Tara O'Connor of Africa Risk Consulting (ARC), for example, is of that opinion, believing that, "Incredible precedents are being set across Africa in anti-corruption".

These are indeed encouraging signs for those wishing to invest in Africa, not to mention for African countries themselves.

The intent of this report is to outline the leading factors or trends that are shaping the surge in anti-corruption laws in many African countries. The five trends discussed here are necessarily driven by myriad root causes and impulses, each in turn determined by the specific and unique contexts of different African countries. And those unique attributes of each African nation cited in this paper must be stressed. The realities and challenges regarding corruption are as complex and diverse as the continent itself. Nevertheless, there are factors arising that show discernible trends in the way that African countries are singularly and collectively tackling corruption with laws, legal institutions and judicial precedents.

The word '**corruption**' in this report encompasses all forms of corruption, including but not limited to bribery, extortion, money laundering, illicit enrichment, favours of any kind in exchange for money, political access or any other ill-gotten gain, illegal diversion or misappropriation of public or private funds, or the defrauding of citizens, investors or shareholders. Furthermore, the focus in this paper will be solely on sub-Saharan Africa.



Overview: Corruption and Africa

Africa remains ravaged by corruption. A 2019 survey of citizens in 35 countries by the pan-African Afrobarometer research network found that corruption remains a blight for many of those surveyed, with one in four respondents having had to pay a bribe within the previous year. The survey also found that **the majority of African respondents believed that corruption had gotten worse and that their governments were not doing enough to combat it**¹. The African Union (AU) has estimated that corruption adversely affects the lives of at least 25 million African children and is one of the leading obstacles to economic and human development and human rights in Africa².

Africa continues to fare poorly in international anti-corruption rankings. In the annual Corruption Perceptions Index (CPI) for 2021 as collated by Transparency International, the

highest-ranking African country was Seychelles in 23rd place with a CPI score of 70, with Cabo Verde coming in next in 39th place with a score of 58.

Botswana, Mauritius, Rwanda, Namibia and São Tomé e Príncipe followed, with only 16 African countries making it into the Top 100 for 2021. Four of the ten lowest scoring countries in the ranking were from Africa, with South Sudan in last place, at 180th and a CPI score of just 11, equating to 'very corrupt'³. The analysis by Transparency International was rather damning: "With an average score of 33 out of 100, Sub-Saharan Africa shows no significant improvement on the 2021 Corruption Perceptions Index (CPI). The gains made by a handful of countries are overshadowed by backsliding or stagnation in others and the region's poor performance overall, as 44 out of 49 countries assessed on the index still score below 50."⁴

1 Afrobarometer: <https://afrobarometer.org/publications/global-corruption-barometer-africa-2019-citizens-views-and-experiences-corruption>

2 Deutsche Welle (DW): <https://www.dw.com/en/sierra-leones-tech-aided-war-on-corruption/a-55897439>

3 Transparency International: <https://www.transparency.org/en/cpi/2021>

4 Transparency International: <https://www.transparency.org/en/news/cpi-2021-sub-saharan-africa-amid-democratic-turbulence-deep-seated-corruption>





Nevertheless, **the continent has made collective efforts to address corruption. The African Union Convention on Preventing and Combating Corruption (AUCPCC)** was adopted by the AU on July 1st, 2003, and came into force three years later. The convention's focus is on the prevention and criminalization of corruption, as well as international cooperation and asset recovery relating to it. The convention is applicable to corruption in both the public and private sectors. To date, 49 out of 55 member states have signed the AUCPCC, with 44 having ratified it⁵. Transparency International highlighted the shortcomings of the convention in a 2021 report, stating that, "To effectively track and prosecute money laundering, African governments need to dedicate more resources to specialist skills, such as financial analysts and tax inspectors, and improve cooperation between these experts and prosecutors. Just as important is ensuring complete independence of authorities and courts to prevent well-connected money launderers from escaping prosecutions and convictions."⁶"

Regional efforts have also occurred to foster co-operation between neighbouring countries in capacity-building for the fight against corruption. An example of this was a workshop in early 2022 created and sponsored by the eight countries (Angola, Botswana, Malawi, Mozambique, Namibia, South Africa, Zambia and Zimbabwe) that comprise the Southern African division of the United Nations Office for Drugs and Crime (UNODC). It was a high-level, multi-disciplinary effort to try and fast-track implementation of legislation in the region aligned to the UN Convention against Corruption (UNCAC)⁷. Even Transparency International has shown some optimism regarding anti-corruption efforts by African nations, stating that, "Almost every country now has a dedicated government agency responsible for fighting against corruption. Furthermore, many countries have specialised agencies for specific anti-corruption areas like financial intelligence to address money laundering and illicit flows; integrity agencies to address conflict of interest and illicit enrichment, among others."⁸"

5 African Union: <https://au.int/en/treaties/african-union-convention-preventing-and-combating-corruption>

6 Transparency International: <https://www.transparency.org/en/news/are-african-countries-preventing-corruption>

7 United Nations Office on Drugs and Crime (UNODC): https://www.unodc.org/unodc/frontpage/2022/February/transforming-societies-through-anti-corruption-innovation_-strengthening-public-procurement-and-whistle-blower-protection-in-southern-africa.html

8 Transparency International: <https://www.transparency.org/en/news/african-anti-corruption-day-2021-will-governments-enable-citizens-to-join-the-fight>

Trend #1

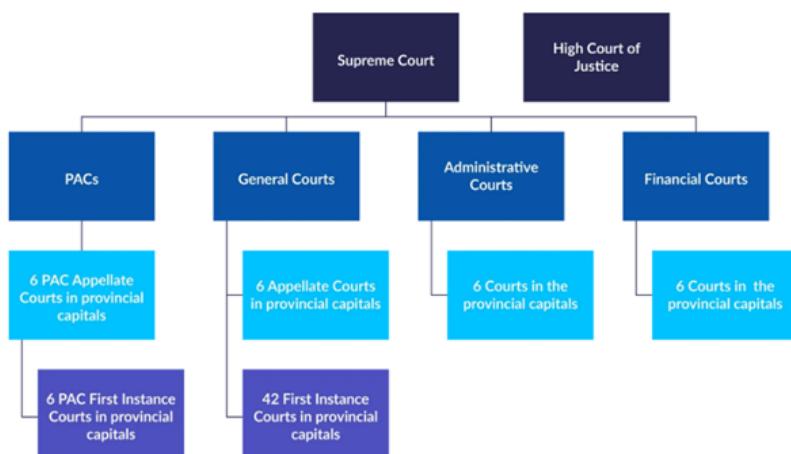
Bridging the Disconnect Between Law and Enforcement

In most African countries, there continues to be a disconnect, even gulf at times, between what is on the law books on the one hand, and meaningful enforcement thereof on the other.

This is of course not unique to Africa, but remains nevertheless prevalent on the continent. That disconnect is not unique to anti-corruption legislation, however; the same is true of many other branches of complex or 'contentious' law throughout Africa, including taxation law, environmental law and labour law. This factor is crucial to anti-corruption endeavours in Africa, which is why it has been given primacy and in-depth analysis in this report.

Madagascar offers an example of this disconnect between anti-corruption legal initiatives and enforcement hindrances. In the case of Madagascar, it is an institutional anomaly that is a leading concern. The country has a court that was specifically set up for corruption cases, the Pôle Anti-Corruption (PAC), which works somewhat in tandem with the country's investigative body, the Bureau Indépendant Anti-Corruption, or BIANCO. However, in 2018 the government established the Haute Cour de Justice (High Court of Justice), or HCJ. Only the HCJ can hear any cases brought against the country's president, members of government, leaders of parliament and members of the Constitutional Court in relation to their duties. Critics have argued that this seriously undermines the effectiveness and even mandate of the PAC⁹.

The tree chart below of Madagascar's anti-corruption judicial process does highlight the odd way in which the HCJ appears entirely detached from the rest of the judiciary, including the country's Supreme Court:



Source: U4 Anti-Corruption Resource Centre (Norway)

However, there are some countries that are slowly winning that battle and bridging the gap regarding anti-corruption law. High-profile landmark cases spearheaded by world-class investigations are leading this trend, with South Africa being a good case in point.

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U4 Anti-Corruption Resource Centre: <https://www.u4.no/publications/madagascars-specialised-anti-corruption-court-the-quest-to-end-impunity#how-and-why-the-anti-corruption-court-was-created>

CASE STUDY

South Africa: The Ex-President and the French

Jacob Zuma has been embroiled in ongoing corruption trials, counter-suits and political scandal since his resignation as President of South Africa in February 2018. His nine years in power were riddled with accusations of rampant corruption and graft by the opposition and most of the media, and which culminated in his being jailed for fifteen months in July 2021 by the country's Constitutional Court, albeit on contempt of court charges. He was released on parole after two months on health grounds. Even that leniency was met with huge controversy and resulted in a high court overturning the parole decision in December 2021 on the basis that it had undermined respect for the judiciary, the rule of law and the 1996 Constitution¹⁰.

Zuma's attempts in early 2022 to further delay his corruption trials also proved unsuccessful. In late March

2022, the Supreme Court of Appeal rejected all four of his appeals and ruled that Zuma's claims regarding the 'unconstitutionality' and 'political bias' of his pending corruption trial had "no reasonable prospect of success on appeal and that there are no other compelling reasons for an appeal to be heard"¹¹. That meant that the trial scheduled to commence on April 11th 2022 would go ahead. Zuma faces 16 counts of fraud, corruption and racketeering based on allegations that he accepted bribes from the French defence group Thales for a major arms deal back in the late 1990s. However, Zuma now has another appeal pending and his trial has been postponed to August 2022.

The progress and eventual outcome of the **Zuma trial will no doubt be keenly watched by other African countries** and anti-corruption analysts.

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The New York Times: <https://www.nytimes.com/2021/12/15/world/africa/jacob-zuma-prison-south-africa.html>
Africa News: <https://www.africanews.com/2022/03/31/zuma-court-rejects-plea-to-delay-corruption-trial/>

Kenya is another case in point. Although one of Africa's economic powerhouses, Kenya continues to grapple with endemic and widespread corruption¹². The ongoing case against the flamboyant and controversial governor of Nairobi, Mike Sonko, offers some hope. Sonko was formally removed from his office in December 2020 by impeachment-type proceedings conducted by the Senate of the Republic of Kenya on 11 charges that included "gross violation of the constitution, abuse of office, gross misconduct and crimes under national law"¹³. That was a year after Sonko had been arrested on suspicion of his direct involvement in a multi-million dollar corruption scandal, including forging documents, misappropriation of Nairobi County funds and awarding tenders to close aides.

However, the country's director of public prosecutions (DPP) has complained that the investigation against Sonko has been thwarted due to repeated attempts by Sonko and his supporters to obstruct the case¹⁴. Sonko and his family would later be denied entry into the United States in March 2022 on the basis of the corruption charges against him¹⁵. Encouragingly, it was reported that there had been **scores of successful corruption convictions by December 2021 against Kenyan government officials and businesspeople**. This included a businessman who was sentenced in September 2021 to either 27 years imprisonment or a fine of €5.76 million by the anti-corruption court for having defrauded the country's Youth Development Fund to the value of €1.44 million in 2014¹⁶. The country's DPP also scored a major victory when the High Court set a precedent that barred officials from accessing their offices whilst their cases for corruptions were pending.¹⁷

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Heinrich Böll Foundation (Cape Town): <https://za.boell.org/en/2019/08/23/state-capture-kenyas-inability-fight-corruption>

13

The Saturday Standard (Kenya): <https://www.standardmedia.co.ke/politics/article/2001397657/its-over-for-sonko>

14

BBC: <https://www.bbc.com/news/world-africa-50685297>

15

The East African: <https://www.theeastfrican.co.ke/tea/news/east-africa/us-bans-entry-of-former-nairobi-governor-mike-sonko-family-3741356>

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All Africa: <https://allafrica.com/stories/202110010139.html>

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All Africa: <https://allafrica.com/stories/202110140214.html>





Trend #2

Anti-Money Laundering Laws Lead the Way

Money laundering is the high-level scourge of Africa and is often at the forefront of massive corruption on the continent. Tightening laws and regulations on money laundering and the often allied scourge of embezzlement will undoubtedly be one of the most effective ways that African countries will be able to stem the flow of corruption, whereby illegal outflows (as well as re-inflows) of capital are mitigated where possible.

Few African countries in the post-colonial era had their economies as stripped bare by money laundering as did **Angola**, a hallmark of the corruption-riddled period under President José Eduardo dos Santos, who ruled the country for nearly forty years (i.e. from 1979 to 2017). However, that too is changing - and dramatically so:

CASE STUDY:

Angola: The 'Princess of Luanda' and the Laundered Millions

Isabel dos Santos, the daughter of the disgraced former President of Angola, was once the richest woman in Africa and dubbed the 'Princess of Luanda,' courtesy of her lavish lifestyle. Things had started coming to a head for the dos Santos family in 2015 with the arrest in China of Sam Pa, a high-level Chinese deal-maker who had for years been a central figure and bridge between China and Angola, as well as a host

of other countries¹⁸. That arrest revealed the true extent of Pa's corrupt dealings in Angola, much of it directly with members of the dos Santos family. The scandals that ensued would form the catalyst for the new presidency of João Lourenço, who swept to power in 2017 with a strident pledge that appealed greatly to Angolans: confront and rid the country of rampant corruption¹⁹.

There have been misgivings about the new

¹⁸

Financial Times: <https://www.ft.com/content/308a133a-1db8-11e4-b927-00144feabdc0>

¹⁹

African Arguments: <https://africanarguments.org/2018/10/lourenco-corruption-drive-changes-rules-angola/>



president and his anti-corruption drive in certain quarters of the West²⁰; however, the massive anti-corruption drive by President Lourenço has been objectively relentless since 2017²¹. The recent business separation and subsequent liberalization of the country's oil giant and its largest company, Sonangol, is a compelling example. Sonangol was basically a slush fund during the dos Santos era, and its recent restructuring did much to expose the millions of dollars misappropriated by Isabel dos Santos, spearheaded by the so-called 'Luanda Leaks' exposé²². Things came to a head for her in August 2021 when a commercial court in the Netherlands ordered that she surrender her \$500 million stake in Portuguese energy company Galp, which she had brokered for herself at the behest of Sonangol, the oil giant she helped 'manage' at the time²³. The Dutch court declared that the deal amounted to little more than money laundering.

Isabel's brother, José Filomeno dos Santos, was himself sentenced to five years imprisonment by a Luanda court in August 2020, for his part in embezzling money from the country's sovereign wealth to a Credit Suisse account in London at the time that he headed the fund. Also found guilty in the same case were Valter Filipe, former governor of Banco

Nacional de Angola, who was sentenced to eight years imprisonment, as well as Jorge Gaudens Sebastião, a businessman and long-time friend of dos Santos and António Samalia Bule, the former director of Banco Nacional de Angola, who received jail terms of six and five years respectively²⁴.

Experts acknowledge that these anti-money laundering efforts by Angola have been spearheaded by a slew of new legislation since 2018 that overhauled obsolete anti-money laundering laws and that now comply with international standards. These include the Lei do Repatriamento de Recursos Financeiros (Law on Repatriation of Financial Resources) of 2018, the Lei sobre o Repatriamento Coercivo e Perda Alargada de Bens (Law on Repatriation and Extended Loss of Assets) of 2018 and the Lei de Prevenção e Combate ao Branqueamento de Capitais, do Financiamento do Terrorismo e da Proliferação de Armas de Destruição (Law on Anti-Money Laundering, Countering Financing of Terrorism and Fight against Proliferation of Mass Destruction Weapons) of 2020²⁵.

²⁰ VOA: https://www.voanews.com/a/africa_angolas-anti-corruption-drive-real-or-cosmetic/6182418.html

²¹ International Consortium of Investigative Journalists (ICIJ): <https://www.icij.org/investigations/luanda-leaks/isabel-dos-santos-ordered-to-return-to-angola-500-million-in-shares-tainted-by-illegality/>

²² The Brookings Institute: <https://www.brookings.edu/blog/up-front/2020/07/23/a-master-class-in-corruption-the-luanda-leaks-across-the-natural-resource-value-chain/>

²³ ICIJ, *supra* note 21

²⁴ Reuters: <https://www.reuters.com/article/us-angola-dossantos-idUSKCN25A1T6>

²⁵ Ropes & Gray: <https://www.ropesgray.com/en/newsroom/alerts/2021/October/A-Promising-Future-Angolas-Recent-Efforts-to-Combat-Corruption>



Trend #3

Protecting the Whistleblower

As in too many parts of the world, **definitive and meaningful protection of whistleblowers remains weak in most of Africa.** It can be downright dangerous, as seen in 2020 with the brutal murder of a whistleblower in Mauritius regarding corruption in construction and the sentencing to death in absentia of two banking whistleblowers in the Democratic Republic of Congo (DRC)²⁶. Importantly, whistleblowers will need to be better protected legally if the continent is to advance in a meaningful way in its anti-corruption initiatives. Although a trend which is already happening in some countries on the continent, it is admittedly for now the most tentative and tenuous of the five trends highlighted in this paper.

Ghana has an interesting initiative regarding whistleblowers within its 2006 Whistleblower Act, being the first country in Africa to introduce whistleblower rewards. The country introduced new financial incentives in 2020 for people to become whistleblowers with the Whistleblower

Reward Fund. A whistleblower can receive 10 percent of money recovered or an amount set by the Attorney-General and Police Inspector-General should what they reported result in a successful conviction. This initiative resulted in an increase in the number of declarations by whistleblowers²⁷.

However, it is acknowledged that the Act, which is administered by the Commission on Human Rights and Administrative Justice (CHRAJ), a body which also serves as Ghana's Anti-Corruption Agency and Ombudsman, suffers from significant weaknesses. For example, an alarming weakness in the Act is that there are no penalties against any person or organisation that may retaliate against a whistleblower. There has also been a noted unwillingness by the Ghanaian government to address the Act's weaknesses. Unsurprisingly, the whistleblower program has been marred by sometimes brutal retaliations against whistleblowers²⁸.

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Deutsche Welle (DW): <https://www.dw.com/en/africa-whistleblowers-pay-high-price-for-truth/a-61146475>

27

National Whistleblower Center: <https://www.whistleblowers.org/whistleblower-laws-around-the-world/>

28

Platform to Protect Whistleblowers in Africa (PPLAAF): <https://www.pplAAF.org/country/ghana.html>



Rwanda is an interesting case regarding whistleblower protections. The country's Office of the Ombudsman of Rwanda has full investigation and prosecution powers to fight corruption. Of note is the wide definition of 'corruption' under Rwanda's revised anti-corruption law (n° 54/2018 of 2018), which defines 'corruption' as including bribery, sexual corruption, embezzlement, making decisions based on favouritism, friendship or hatred, influence peddling, illicit enrichment, use of public property for unintended purposes, abuse of power and even the demanding or receiving of undue or excessive money²⁹.

The new law includes a provision that actively encourages reporting corruption as part of its whistleblower protection, and which is worth quoting here:

"A person who gives or receives an illegal benefit with the aim of helping justice organs to get evidences for the offence of corruption is not considered as having committed an offence, if he or she informs the judicial organs before the occurrence of the act. There is no criminal liability for a person who gives or receives an illegal benefit and informs the justice organs before the commencement of criminal investigations by providing information and evidence". Furthermore, any and all corruption offences in Rwanda are not subject to any statute of limitations. Also, vicarious (or third-party) liability can be attached against any company, cooperative, institution or any other organisation with legal person status for any corruption charge³⁰.

Further encouraging signs are the efforts by UNODC in southern Africa, with the UN agency assisting Botswana in 2022 with the review of the country's existing whistle-blower protection legislation. UNODC is also assisting Zimbabwe with its new legislation regarding whistleblower protection³¹.

29 The FCPA Blog: <https://fcpablog.com/2019/03/13/an-african-success-story-anti-corruption-efforts-in-rwanda-pr/>

30 ibid.

31 UNODC, supra note 7



Trend #4

Foreign Laws Helping Combat Corruption in Africa

Bribery and extortion, including of the so-called ‘petty’ type, is pervasive throughout Africa. Studies have shown that stringent anti-corruption laws from other countries, such as those in the United States of America and European Union (EU), have actively helped to combat or at least minimize high-level bribery and extortion in certain parts of Africa. It is a trend that is certain to continue in the coming years.

The United States has formidable legislation in the form of the Foreign Corrupt Practices Act (FCPA), which prohibits firms and individuals from paying bribes or other corrupt practices to foreign officials in order to obtain business deals. The FCPA is enforced by both the federal Department of Justice (DoJ) and Securities and Exchange Commission (SEC), both of which have considerable financial and logistical heft to prosecute these cases. The Act applies to two broad categories of legal persons, namely those with formal ties to the US or those who are in violation of the Act whilst in the US³². The FCPA potentially covers any illegal act of corruption committed anywhere in the world.

Foreign courts can also be used by African complainants against Western companies that have facilitated corruption in its many guises. The government of Nigeria decided to do so against Wall Street investment banking giant JP Morgan in a court case before London’s High Court that commenced in February 2022 and first filed in April 2018. Nigeria accused JP Morgan of being “grossly negligent” in paying \$875 million for a 2011 oil deal to a company, Malabu Oil & Gas, controlled by a former Nigerian minister for oil, Dan Etete. The Nigerian government contends that the investment bank knew fully well that there were many “red flags” with the deal³³. For example, Nigeria accused the bank of knowing that Etete would be involved in the transaction and had already been convicted of money laundering in France in 2007, a fact that JP Morgan would admit in court documents³⁴. Nigeria is seeking \$1.3 billion in restitution for the Etete deal, including interest.

32 Jones Day: <https://www.jonesday.com/en/insights/2010/01/the-foreign-corrupt-practices-act-an-overview>

33 Financial Times: <https://www.ft.com/content/dc633303-da14-4f94-bbfe-46fce66dce4>

34 Reuters: <https://www.reuters.com/article/uk-nigeria-oil-jpmorgan-idUKKCN1HD1WG>



CASE STUDY

United States: Hedge Fund ‘Flipping’ in the DRC

There was a time that corruption was viewed as a mostly ‘victimless’ crime in law. That is certainly no longer the case according to recent American court decisions. One such decision was handed down by the US Court for the Eastern District of New York in November 2020, in a judgement against OZ Africa, a subsidiary of New York City-based multi-billion-dollar hedge fund Och-Ziff. The applicant in the civil case was the DRC-based Canadian mining company Africo Resources Ltd, which contended that it had been shut out of bidding for mining concessions in the DRC due to the corrupt actions of OZ Africa³⁵.

The American hedge fund’s subsidiary was accused of ‘flipping’ multiple concessions in the region in favour of its own clients. In question, according to Africo, was the loss of their interest in a prospective concession for the Kalukundi copper and cobalt mine in southern Congo. The New York court held that Africo’s shareholders could be recognized as “victims of crime” due to the corrupt actions in Africa by the hedge fund and were duly awarded \$135 million in restitution for investment losses. The Court further acknowledged that Och-Ziff had already paid a penalty of \$213 million to the DoJ due to it pleading guilty to conspiracy to violate the FCPA and a further \$199 million for any civil claims to the SEC as a result of the breach³⁶. Worth noting, however, is that the case did not consider nor provide any restitution to the poor Congolese communities surrounding the mine who were also impacted by the illegal bids³⁷.

35 Mining Dot Com: <https://www.mining.com/us-court-awards-135m-to-shareholders-of-drc-mine/>

36 ibid.

37 RAID: <https://www.raid-uk.org/blog/us-court-orders-135-million-shareholders-stolen-dr-congo-mine-local-communities-left-out>



Trend #5

Democracy Leads the Law

It is a well-known adage that the law is often slow to react to momentous shifts in civil society and the body politic of a country. **Political pressure and social change can hasten erstwhile lethargic legislation and the enforcement thereof, which has certainly been the case with anti-corruption initiatives across Africa in recent years.** The aforementioned sweeping anti-corruption laws that have come into force in Angola since President João Lourenço came into power in late 2017 are an excellent example of how new political winds can affect legislative changes. The much-admired Zondo Commission in South Africa which has led the relentless investigation into corruption by former president Jacob Zuma and other 'state capture' in the country is another clear example of this African trend of democratic impetus driving anti-corruption endeavours. Although a quasi-judicial body, the Zondo Commission was fundamentally driven by political considerations within (and upon) the governing African National Congress (ANC), ironically being appointed by Zuma himself when he was still president³⁸.

Zambia is another very recent example of democratic politics galvanizing anti-corruption law and enforcement. Hakainde Hichilema (or 'HH' as he is known in Zambia) became President of Zambia in August 2021 on a strong anti-corruption ticket, having gained extensive popular support after being arrested and jailed during 2017 for his opposition to the country's former president, Edgar Lungu. The corruption of the former Lungu government has been widely acknowledged for saddling Zambia with a multi-billion dollar crisis and forced the country to seek aid from the International Monetary Fund (IMF), corruption which Hichilema vowed to combat within days of taking office³⁹. The new president

referred to the corruption as "Zambia's stolen assets" and stated in his maiden speech to parliament that, "We will introduce specialized mechanisms to fast-track the recovery of stolen assets, as well as courts focused on corruption and economic crimes," with a "zero-tolerance policy" on corruption⁴⁰.

It may be too early yet to fully determine whether Hichilema's pledge to fight corruption will indeed succeed or is even well-intentioned, but high-profile arrests have already been made in Zambia under his presidency. In March 2022, former Minister of Justice, Given Lubinda, was arrested on charges of embezzling €500,000 in state funds. Also arrested was the former Foreign minister Joseph Malanji, who is accused of embezzling more than €1 million and whose seized assets included two helicopters and a hotel he owned, allegedly funded with public money. A further investigation was also launched against the former head of the postal service, allegedly for €18 million which had been earmarked for poverty alleviation projects⁴¹.



³⁸ Pinsent Masons: <https://www.pinsentmasons.com/out-law-guides/introduction-the-zondo-commission-south-africa>

³⁹ Reuters: <https://www.reuters.com/world/africa/zambia-arrests-three-graft-case-anti-corruption-drive-picks-up-pace-2021-12-09/>

⁴⁰ Anadolu Agency (AA) (Turkey): <https://www.aa.com.tr/en/africa/anti-corruption-drive-reforms-dominate-new-presidents-vision-for-zambia/2361517>

⁴¹ Africa News: <https://www.africanews.com/2022/03/27/zambia-corruption-crackdown-nets-ex-ministers/>

Conclusion

Africa has often been acknowledged in recent years as the fastest-growing continent in terms of economic growth, with sustained growth forecast for years to come⁴².

It could be argued that, as African countries become more economically diversified and sophisticated, so there will be a greater impetus to ensure that corruption is addressed in order to ensure that continued growth is protected. The proposition is a simple one: corruption is bad for business, and thus surely African business and political leaders will more fully embrace and demand anti-corruption measures as their economies grow? A cautious (or even cynical) counter-argument could be that more income could simply mean more avenues for corruption in African countries. It is certainly a compelling debate, albeit one that may not be fully appreciated by many Africans in their pursuit of anti-corruption initiatives.

However, as discussed in this report, **there is no denying that exciting anti-corruption developments are occurring throughout the continent based on a variety of**

different factors and nation-specific impulses. The developments are compelling, complex and replete with multiple possibilities.

Ultimately, political will as demanded and shaped by civil society will determine the extent to which anti-corruption laws are drafted, enacted and, very importantly, enforced in African countries. The signs are clear that many Africans have had enough of the ravages that corruption has wrought on their economies and societies for far too long. The words of Mamphela Ramphele, the academic, activist and partner of slain anti-apartheid icon, Steve Biko, are apropos: "South Africa does not have a poverty problem. Poverty is a result of denialism of the way corruption taxes poor people, the inefficiencies that undermine poor people's opportunities and our refusal to admit that we are part of the problem." Her words are pertinent to all of Africa. **Anti-corruption laws and their enforcement are on the rise and there is every hope that the trend will continue.** The beast of corruption must be slain and law must play its part – the diverse peoples of Africa deserve no less.

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FDI Intelligence: <https://www.fdiintelligence.com/article/75841>



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Are there any **proactive compliance requirements** corporate entities must meet to prevent corruption, both in general and for particular industries?

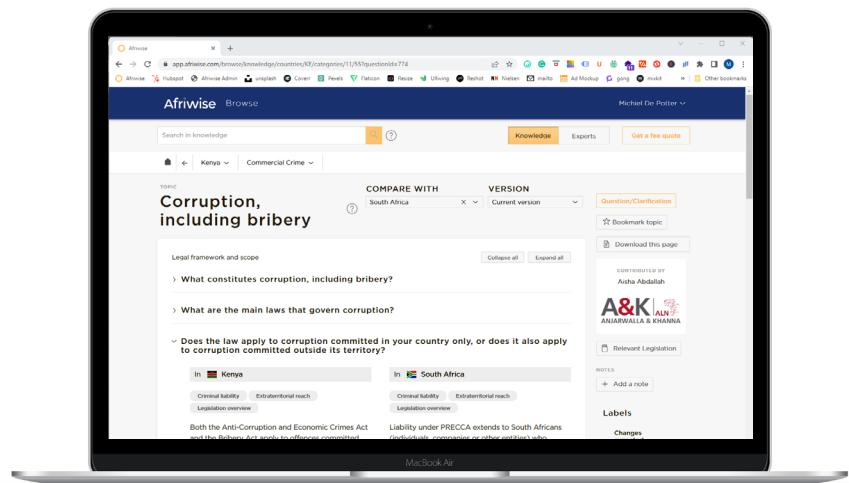
What **civil and criminal sanctions** apply when a corporate entity or individual is found guilty of money laundering or breach of financial sanctions?

Are the payment and receipt of **facilitation payments** criminal offences? If so, are there any exceptions?

What constitutes **corruption**, including bribery?

Is there any statutory protection for **whistle-blowers**?

Can a corporate entity's shareholders, directors, legal representatives and senior executives be held **criminally liable** for its acts or omissions?



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