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Secção I

Investigação Científica*

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The Effectiveness of International Rules In The Fight Against Corruption

A eficácia das regras internacionais na luta contra a corrupção

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ABSTRACT: Corruption is no longer merely an individual or local activity aimed at personal gains at the expense of the public interest. Instead, it has become an issue of international concern, affecting the global community. Corruption networks have spread and expanded in many countries of the world, which prompted the international community to intensify His international efforts to combat this type of corruption and limit its spread. The efforts of international organizations and regional organizations have emerged through collective and local international agreements that work to combat corruption with rules derived from public international law.

KEYWORDS: financial corruption, corruption crimes, international rules, international efforts, administrative corruption.

RESUMO: A corrupção já não é apenas uma atividade individual ou local que visa ganhos pessoais em detrimento do interesse público. Em vez disso, tornou-se uma questão de preocupação internacional, afectando a comunidade global. As redes de corrupção espalharam-se e expandiram-se em muitos países do mundo, o que levou a comunidade internacional a intensificar os Seus esforços internacionais para combater este tipo de corrupção e limitar a sua propagação. Os esforços das organizações internacionais e das organizações regionais surgiram através de acordos internacionais colectivos e locais que trabalham para combater a corrupção com regras derivadas do direito internacional público.

PALAVRAS-CHAVE: corrupção financeira, crimes de corrupção, regras internacionais, esforços internacionais, corrupção administrativa.

1- Introduction

A significant portion of international transactions, particularly those related to international trade, are governed by international agreements that regulate these transactions by unifying and consolidating international customs in the field

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of international trade and making them the system that governs their existence and organization, both in conclusion and implementation. Despite the attention paid to these operations and the finding of legal solutions and treatments for the problems that may arise from them, some operators in the field of international commercial transactions work to obtain privileges and personal benefits at the expense of their completion and implementation transparently and with integrity. It has made them a stage for corruption, bidding, and the reaping of illicit profits by individuals and commercial companies that work to conclude and implement these contracts in return for material or moral benefits away from transparency and integrity.

The impact of this type of corruption extends far beyond disrupting the role of international trade as a mechanism for fair transactions in goods exchange and funds between countries. It has also had a devastating effect on the national economies of countries where this type of corruption is rampant, hindering the sustainable development process. Therefore, we find that international agreements and events have taken on the task of proposing solutions and treatments to curb the spread of this scourge that has begun to gnaw at the body of many economies, especially developing ones, where law enforcement is weak, internal wars and conflicts break out, and sectarian and ethnic parties take control. This research aims to examine the international positions and standards that form part of the solution to curb the spread of corruption in developing societies, explore the standards adopted by International Organizations to counter this type of corruption, and assess the effectiveness of these positions and standards in stemming the depletion of material and human resources resulting from the pervasiveness of corruption.

1-1- Importance of the Topic

The significance of this topic stems from multiple facets:

- A. Social Aspect:** Corruption has transcended mere bribery and privilege-seeking, evolving into a primary driver of social stratification. We witness the proliferation of wealth, companies, and individuals at the expense of widespread poverty and deteriorating services across educational, healthcare, and cultural sectors.
- B. Economic Aspect:** Corruption significantly impacts the national economy of countries. Corruption in international commercial transactions implies

the monopolization of economic roles by a select few, alongside goods restriction and commodities to those in power. It compromises the quality of traded and supplied goods, paralyzing the national economy.

C. Legal Aspect: The research effectively and in a balanced manner focuses on establishing legal frameworks that mitigate corruption and enhance legal systems supporting state authorities in addressing corruption and its forms.

1-2- Research Scope and Hypotheses

The research scope includes investigating the efforts of international organizations and analyzing the convention texts they produce to support legal solutions for combating corruption at international, global, and regional levels. It aims to ground these solutions in the research's findings and recommendations by answering the following questions:

- A. What is the scope and types of corruption?
- B. What international standards adopted in international agreements can be implemented to curb corruption?
- C. To what extent can the efforts of regional organizations contribute to reducing corruption?

1-3- Research Methodology

Given the novelty of the topic and its interdisciplinary nature spanning both public and private law, this research employs a comparative analytical approach to examine international agreements and national legislation. The objective is to identify common standards that can mitigate the prevalence of corruption in international commercial transactions.

1-4- Research Plan

To effectively examine the topic of the effectiveness of international rules in combating corruption, the research is divided into two main sections:

2- The Legal Concept of Corruption

2.1- Definition of Corruption.

2.2- Classification of Corruption.

3- Section II: International Anti-Corruption Efforts:

3.1- Anti-Corruption Efforts by International Organizations.

3.2- Anti-Corruption Efforts by Regional Organizations.

2. The Legal Concept of Corruption

The expansion of commercial transactions and the emergence of large commercial entities, such as multinational corporations, alongside the magnitude of commercial deals concluded in the international community, have led to the spread of illicit profit and gain through the conclusion and execution of these contracts and deals outside legal and professional frameworks. It has resulted in the involvement of several individuals who dominate the conclusion of these international contracts and facilitate their execution in exchange for personal gains. Consequently, these transactions are often tainted by corruption, if not entirely corrupted in all aspects. Before defining the scope of corruption in international contracts and its effects on commercial transactions and society at large, it is essential to define corruption and determine its contractual international content as follows:

2.1- Definition of Corruption

Corruption in international contracts may fall under the same general concept and definition of corruption and in consideration of the specific nature of international contracts as the most prominent form of international commercial transactions. Hence, it is necessary to dedicate a separate subsection to defining corruption in general and then to explore the definition of contractual corruption by dedicating the jurisprudential opinions that have addressed the concept of corruption, as well as the jurisprudential treatments of international contracts and their specificities as follows:

2.1.1- Definition of Corruption in the Language

The term "corruption" in linguistic dictionaries has several meanings. For instance, a thing is considered corrupt if it has become rotten and malodorous, similar to the corruption of milk.³ It is also stated that corruption is the opposite of goodness, and (corruption) in the language means invalidity,⁴ so it is said a thing is corrupt, meaning it has become invalid and decayed. It is said in the Qur'an:

³ A Group of linguists, **Al-Mu'jam Al-Wasit**, Volume 2, 2nd Edition, Dar Al-Fikr Al-Arabi, Beirut, undated, p. 688. 1998.

⁴ See The word (corrupted) in the Arabic language site (Wikipedia) published at the link: <https://ar.wikipedia.org/wiki/%D9%81%D8%B3%D8%A7%D8%AF>

"And they strive throughout the land [causing] corruption and Allah does not like corrupters"⁵.

The word "Corruption" in English is Latin in origin, which indicates moral decline and unethical behavior, and is close to its meaning in Arabic to indicate dissolution and decay. The Oxford English Dictionary defines corruption as: "The perversion or destruction of integrity in the performance of public duties through bribery and favoritism."⁶

2.1.2- Definition of Corruption in Terminology

The term "corruption" lacks a universally accepted definition among jurisprudence scholars, with varying interpretations emerging from different perspectives. From a social standpoint, corruption encompasses any violation of social conduct rules associated with public office. Economically, it entails any action undertaken by a dishonest official to generate personal gains by exploiting their position. Psychologically, it refers to any disruption in an individual's and society's values that leads to deviant behaviors deviating from the established ethical framework.

Administratively, corruption is defined as any deviation from a public official's legal obligations, resulting in the exploitation of power for personal gain at the expense of the public interest.⁷

Corruption extends beyond the misuse of power within the public sector, permeating the private sector and community institutions. Its far-reaching consequences negatively impact all aspects of public and private life.

⁵ Verse (64) of Surah Al-Maeda. The concept of corruption is mentioned in numerous forms throughout the Quran, with each instance conveying a specific meaning depending on its context and placement in the holy text. In some instances, the word "Corruption" signifies tyranny and oppression, as in the verse: "to those who do not desire exaltedness upon the earth or corruption. And the [best] outcome is for the righteous." (Al-Baqarah: 217). In other instances, "Corruption" is employed to denote destruction, as in the verse: "Indeed, the penalty for those who wage war against Allah and His Messenger and strive upon earth [to cause] corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land. That is for them a disgrace in this world; and for them in the Hereafter is a great punishment," (Al-Maeda: 33). Additionally, "Corruption" is used to refer to drought and famine in some verses, such as the one in Surah Ar-Rum: "Mischief has appeared on land and sea because of (the meed) that the hands of men have earned, that (Allah) may give them a taste of some of their deeds: in order that they may turn back (from Evil)." (Ar-Rum: 41).

⁶ See Wikipedia, op. cit.

⁷ Abdul Karim Al-Khathran, **The reality of security measures taken to reduce corruption crimes from the point of view of Personnel in anti-bribery agencies**, Master's thesis, Department of Police Sciences, **Naif Arab University for Security Sciences**, Riyadh, 2003, p. 32.

Transparency International aptly captures the essence of corruption by defining it as "the abuse of entrusted power for personal gain."⁸

Corruption manifests through the exploitation of power granted to individuals, whether in the public or private sector, to secure personal gain for themselves, their families, or the entities they represent. It is substantiated by the United Nations Convention against Corruption of 2003, which did not provide a specific definition of corruption but instead highlighted the circumstances under which corruption occurs through actual practices. The convention then criminalizes these practices, which include bribery in all its forms in both the public and private sectors, embezzlement in all its forms, money trading, abuse of office, money laundering, illicit enrichment, and other forms of corruption.⁹

Despite the lack of a comprehensive and universally accepted definition of corruption at the international level, there have been attempts to define it,¹⁰ such as in the United Nations Convention against Corruption (UNCAC). While the definition of corruption in this convention aims to support and identify measures to address and prevent corruption and to promote international cooperation to prevent and reduce corruption, one of the definitions adopted by international conventions is that provided by Transparency International, which states: "the abuse of entrusted power for personal gain."¹¹

This definition is characterized by its breadth and flexibility, as it encompasses a wide range of acts and deeds contrary to criminal legislation, which defines crimes exhaustively. In addition, the three elements of abuse, power, and personal gain contained in the definition may, in some cases, lead to the exclusion of certain acts and behaviors from the scope of the law, even though they are considered acts of corruption. For example, the use or non-use of power in an illegal manner can ultimately lead to corruption in one way or another, which means, from another perspective, that the broad and flexible

⁸ Transparency International is an organization that aims to rid civil societies of corruption, it is a non-governmental organization that enjoys international recognition, see the link <http://www.transparency.org/whatwedo>

⁹ International Transparency Organization. Op. cit.

¹⁰ The content of this Convention, which entered into force in 2005, is considered. Published on the following link:

http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/0850026_E.pdf.

¹¹ International Transparency Organization. Op. cit.

definition may be too narrow in some cases concerning certain behaviors and acts that are considered by law to be acts of corruption.¹²

In this context, Transparency International distinguishes between two types of corruption:

- A. Legal corruption:** This is known as facilitation payments, which are bribes paid to obtain preferential treatment in a service provided by the bribe recipient by the law.
- B. Illegal corruption:** This is the payment of a bribe to obtain a service from the bribe recipient that is prohibited by law.

The World Bank defines corruption as entrusted public office abuse for personal gain. This definition focuses on three pillars through which the concept of corruption is realized:

- a) The employee's request or acceptance of a bribe to perform a task within official duties.
- b) A public official facilitating matters for companies and individuals to overcome competitors in obtaining bids or contracts in exchange for bribes or gifts.
- c) The individual's exploitation of the powers entrusted to him by appointing or facilitating the appointment of his relatives or directly embezzling state funds.¹³

Delving into the legislative approaches to defining corruption, we find a divergence between those that adopt a definition by specifying its types and those that suffice with the general principles stipulated in criminal legislation when criminalizing conduct that undermines public office, considering it corruption in its own. French law, for instance, defines corruption by distinguishing between two types: the first, termed "positive (active) corruption," and the second, termed "negative (passive) corruption." Active corruption is defined as "The seeking to provide services to a government official entrusted with a public function in exchange for a contract." Passive corruption, on the other hand, is defined as

¹² Report of the Advisory Committee of the Human Rights Council on the Issue of the Negative Impact of Corruption on the Enjoyment of Human Rights, issued by the Human Rights Council, Twenty-Sixth Session, United Nations General Assembly, Document: A/HRC/26/42, dated 14/04/2014, p. 5.

¹³ Abdul Qader Al-Sheikhly, "The Role of Law in Combating Administrative and Financial Corruption," *Arab Administrative Development Organization*, League of Arab States, Cairo, 2003, p. 45.

"the acceptance of a gift or reward by a public official after the award of a contract or the provision of a service".¹⁴

In contrast, the Egyptian legislature has confined itself to the offenses stipulated in the Penal Code as constituting corruption, including the crime of bribery, addressed in Article 103 of the Egyptian Penal Code.¹⁵ This approach, however, fails to consider the developments that have taken place in the field of corruption and its diversity, whether it be administrative, social, or even moral corruption, if we may use this term.

Similarly, the Iraqi legislator did not define corruption in the Integrity and Illicit Enrichment Commission Law No. (30) of 2011, as amended. Instead, it limited its position to clarifying the corruption issue concept and focusing on identifying the offenses addressed by the Iraqi Penal Code No. (111) of 1969, as amended. In its definition, the law refers to the issue of corruption as a criminal case investigated in connection with a crime that undermines public trust and public office or the failure of a public official to perform his duties by his position, in addition to illicit enrichment.¹⁶

¹⁴ Ali Farid Awad, **International Cooperation in the Field of Corruption Prevention**, Master's Thesis, Faculty of Law and Political Science - **University of Larbi Ben M'hidi, Algeria**, 2014, p. 12.

¹⁵ Article 103, which is a duplicate of Article 103 of the Egyptian Penal Code No. 58 of 1937, as amended by Law No. 164 of 2019, stipulates: "Every public official who solicits for himself or another, accepts, or promises to perform an act within the scope of his duties, is considered a briber and shall be punished by life imprisonment and a fine of not less than one thousand pounds and not exceeding the amount received or promised."

Article 103 bis: "Shall be considered a briber and shall be punished with the same penalty prescribed in the preceding Article, any public official who solicits for himself or another, accepts, or promises to perform an act erroneously believed to be within the scope of his duties or claimed to be so, or for refraining from it."

¹⁶ The text of the first article of the Anti-Corruption and Unlawful Gain Law is considered first, which defined the corruption case in its third paragraph, which stated that it is: Thirdly: ((A-Corruption Case: It is a criminal lawsuit investigated regarding a crime among the crimes (embezzlement of public funds, bribery, embezzlement, illicit gains, exceeding the limits of employees' duties according to Articles (328, 329, 330, 331, 334, 335, 336, 338, 340, and 341) of Penal Code No. (111) for the year 1969.

B- The following are considered corruption cases: 1- Corruption crimes including breach of trust committed by non-governmental organizations granted the status of public interest and in federations, unions, and professional associations that contribute to the state's funds or whose funds have been granted the status of public funds or whose members have been granted the status of public servants. 2- Bribery crimes in the private national and foreign sector in related works.

Then the legislator added in the same article in its seventh paragraph: by defining unlawful gain, saying: Any increase exceeding (20%) annually in the taxpayer's or his spouse's or children's funds that is not commensurate with their usual resources and the taxpayer has not proven a legitimate reason for this increase is considered illicit gain of the money that a natural person proves to have obtained jointly with the taxpayer by a court decision)) And in the eighth paragraph of the same article, it was defined as a conflict of interest: (Every case in which the taxpayer or

The Iraqi legislator's stance on corruption oscillates between two realities: Firstly, The Iraqi legislator was cautious not to define corruption, confining the text to the cases covered by the definition. Consequently, numerous forms of corruption, which have proliferated in diverse forms and methods, are excluded. These forms extend beyond traditional notions like bribery, personal gains, private benefits, and illicit enrichment. The law also encompasses conflicts of interest between an employee and his second-degree relatives or spouse, deeming such situations quasi-corruption.

The Second is Limiting corruption claims to those stipulated in the amended Iraqi Penal Code No. (111) of 1969, particularly those offenses that undermine public trust and harm the public interest, such as bribery, embezzlement, forgery for personal gain, and dereliction of duty by public officials, narrow the concept of corruption. This narrow definition contrasts with the breadth and evolution of corruption mechanisms and sources in our contemporary era.

Based on the analysis of legislative and jurisprudential stances at the international and national levels, we propose the following definition of corruption: "Any act perpetrated by a public official or person entrusted with a public service that breaches the duties of the entrusted office, aiming to achieve personal gains, whether material or intangible, for themselves or others at the expense of the public interest."

Given the evolving methods and mechanisms of corruption within state institutions and the public and private sectors, corruption is no longer limited to achieving personal gains and benefits through deliberate dereliction of official duties. It has expanded to include facilitating procedures and requirements for a specific task for an individual or company in exchange for material or intangible gain for the employee, a relative, or those affiliated with them. It also encompasses direct and indirect actions employed by an individual to obtain material or intangible gains, in addition to any act that an employee refrains from performing within the scope of their assigned duties with the intent of obstructing the interests of individuals and clients unless he receives compensation, constituting a violation of professional ethics and the responsibilities of the

his spouse or children or any relative up to the second degree has a financial interest that conflicts with his position or job). Law No. 30 of 2011 was amended by Law No. 30 of 2019, and the law was named (the Anti-Corruption and Illicit Gain Authority Law).

entrusted official duties and thus represent corruption that necessitates legal confrontation.

2.2- Classification of Corruption and Its Economic Impacts

Corruption is not limited to a single type or form but varies in more than one type. Consequently, the effects differ according to the type and form of corruption. It necessitates that we first investigate types of corruption and then analyze its impacts on the economy as follows:

2.2.1- Types of Corruption:

There are multiple types and forms of corruption that intertwine and overlap. Corruption is sometimes divided according to the perspective from which it is viewed, at other times according to its scale and scope, and still other times according to the nature of the sector in which it occurs. Hence, we find a classification of corruption based on an organizational and institutional pattern of corruption. Corruption is divided into: Organized (Institutional) Corruption spreads in institutions, organizations, and establishments through pre-determined procedures, mechanisms, work patterns, and routines that allow for the identification of the amount of profit gained and the value of the funds paid as a bribe. While Unorganized (Random) Corruption occurs randomly without prior organization or arrangement. It is a type of personal corruption characterized by its small scale and lack of organization, such as favoritism and accidental embezzlement.¹⁷

There is another classification of corruption based on the functional or professional affiliation of the individuals who carry it out. Corruption in Government Agencies or Public Sector Corruption spreads in state institutions and the public sector. This type of corruption is one of the most critical obstacles to the development of government institutions and hinders the development process in society. Private Sector Corruption is the exploitation of private sector influence to affect the course of public events in a particular society using various existing methods of corruption, such as bribery and gifts, to achieve personal gain.

Corruption can also be classified based on the geographic scope in which it occurs, as International Corruption transcends national borders and extends

¹⁷ Attallah Khalil, **Proposed Approach to Combat Corruption in the Arab World**, Arab Organization for Administrative Development, League of Arab States, Cairo 2009, p. 344.

across multiple continents, often facilitated by multinational corporations and international organizations. In a 2005 report, Transparency International revealed that numerous high commissioners in over 136 countries received regular payments (bribes) in exchange for providing services to companies,¹⁸ individuals, or other organizations. In addition, Domestic Corruption occurs within a country's borders and does not extend beyond its territory. It can manifest in various forms, including corruption within government institutions and the public sector or involving individuals and professionals in the private sector.

Finally, corruption can be categorized based on the specific field in which it occurs. This type of classification encompasses the other forms of corruption and highlights its pervasiveness and diverse manifestations. The following are the main categories of corruption based on the field of activity:

- a. **Moral Corruption:** This type of corruption affects an individual's behavior, diminishing their values and choices and leading them to make irrational decisions that descend to the lowest levels of vice, immorality, and violation of public decency.
- b. **Cultural Corruption:** This type of corruption involves deviating from established norms and values of a particular society, leading to the disintegration of the community's identity and harming its cultural and civilizational heritage. This type of corruption is particularly challenging to address and control through legislation or law, as it often hides behind the exercise of the right to freedom of expression, opinion, openness, and cultural innovation.
- c. **Political Corruption:** This type of corruption involves deviating from the established principles of a particular party or organization to achieve personal gains or prioritize the decision-maker's interests over those of others, stemming from a sense of immortality and greatness. This type is one of the broadest forms of corruption and the nucleus and source for other types. It is because those who hold political power control the fate of society and its individuals financially, culturally, artistically, and educationally. Political corruption manifests in the form of autocratic rule, the absence of

¹⁸ Ali Farid Awad, op. cit., pp. 15-16.

democracy, and the lack of participation of other segments and stakeholders in society.¹⁹

- d. **Economic Corruption:** This type of corruption is characterized by deviant practices associated with monopolizing goods and exploiting them economically in various work sectors to achieve financial gains and profits at the expense of the public interest. It encompasses any action that contradicts ethics, values, and laws in the field of economic exploitation of the market, such as commercial fraud, price manipulation, smuggling of money and goods, and customs and tax evasion, resulting from weak legislative texts governing economic activities and the state's weak economic oversight to curb this type of corruption.²⁰
- e. **Financial Corruption:** This type of corruption encompasses all deviations related to financial matters and violations of financial regulations and rules that govern the financial operations of state institutions. It also includes violations of financial control instructions and the rules for spending the state's general budget.²¹
- f. **Administrative Corruption:** Administrative corruption refers to any deviation related to the management and organization of public office and includes any violations committed by public officials in their duties. It also involves abuse of public sector employees' job responsibilities and delegated powers to achieve illicit gains and benefits.²²

These classifications of corruption consider the impact of corruption on the sector or institution in which it arises, causing waste, lack of transparency, and mismanagement of human and material resources. It does not imply that the impact of corruption on one sector or institution exempts other sectors from being affected by this corruption. Regardless of the type or nature of corruption, it poses a significant threat to the economic, social, and political systems, impacting all aspects and sectors of life.

2.2.2- The Economic Impacts of Corruption

¹⁹ Souad Abdel Fattah, **Administrative and Financial Corruption, Integrity Bulletin**, Issue 3, 2007, p. 4.

²⁰ Ahmed Saqr Ashour, **Measurement and Study of Corruption in Arab Countries**, Corruption Index in Arab States: Measurement and Methodological Challenges, Arab Organization for Combating Corruption, Beirut 2009, p. 37.

²¹ Ali Farid Awad, *op. cit.*, p. 17.

²² Souad Abdel Fattah, *op. cit.*, p. 4.

The detrimental effects of corruption extend far beyond the economic realm, encompassing social, cultural, financial, and political spheres. Given the inextricable link between these domains and the trajectory of national and international economic development, this research delves into the economic impacts of corruption. These impacts manifest in the following ways:

- A. **Impact on the Global Economy, Fiscal, and Economic Policy:** Corruption undermines the global economy by disrupting international trade and financial exchange. This disruption occurs through espionage and theft of economically valuable knowledge and innovations. The perpetrators of these acts exploit this stolen information for personal gain, selling it to institutions and companies in exchange for illicit benefits. Additionally, they engage in fraudulent projects to expand their sources of illegal income.²³ These actions compromise the integrity of global financial markets by jeopardizing the banking system and exploiting it through corrupt financial transactions, including cross-border money laundering. It erodes trust in financial institutions and raises concerns about their stability. The proliferation of suspicious and illicit financial activities leads to a loss of governmental and international control over domestic and global fiscal and economic policies. It, in turn, impedes economic growth, as corruption acts as a primary obstacle to progress by diverting economic surpluses to specific entities. This diversion negatively impacts the development of economic sectors and projects, consequently increasing the prevalence of secrecy bribes within the economic sphere.²⁴
- B. **Economic Loss of Tax and Customs Revenue:** Corruption significantly diminishes the amounts and fees collected by the state through tax and customs services. These funds are diverted to the pockets of corrupt individuals and their accounts, enriching them at the expense of law-abiding taxpayers.
- C. **Undermining trust in Legitimate Economic and Financial Institutions:** Corruption manifests in fictitious economic entities and companies. These entities aim to conceal illicit profits by intermingling them with legitimate

²³ Shibly Mukhtar, **The Global Device for Combating Organized Crime**, Dar Huma, Algeria 2013, p. 90.

²⁴ Bouhaj Habiba, **Confronting Corruption in International Contracts**, Master's Thesis, Faculty of Law and Political Science - Abdelrahman Mira University, Algeria 2014, p. 11.

earnings, often through money laundering schemes. This practice destabilizes financial institutions, leading to their eventual collapse. Once they collapse due to illicit transactions, the financial system of state institutions that have dealt with corrupt individuals in money laundering collapses due to undermining trust in these institutions. It, in turn, affects the overall trust in the state.²⁵

- D. Corruption impedes investment attraction and leads to capital flight, resulting in a shortage of employment opportunities, rising unemployment, widespread poverty, and the misappropriation of state funds that could otherwise be invested in projects benefiting citizens. The prevalence of corruption undermines a free and competitive environment conducive to both domestic and foreign investment.²⁶

3. International Anti-Corruption Efforts

Efforts to curb corruption and establish effective mechanisms to combat it have not been confined to individual countries alone. These efforts have extended to international organizations, resulting in a series of global or regional covenants and agreements. Accordingly, we will examine these efforts undertaken by international organizations in the first section, followed by an exploration of the efforts of regional organizations in combating corruption in the second section, as follows:

3.1- Anti-Corruption Efforts by International Organizations

International measures are embodied in the mechanisms and steps outlined by international organizations and their conventions in anti-corruption and its reduction. The research will be limited to the United Nations Convention against Corruption and the OECD Convention on Combating Bribery, as follows:

3.1.1- UN Convention against Corruption Efforts

The United Nations Convention against Corruption (UNCAC)²⁷ adopted measures and recommendations to reduce corruption in international contracts. These measures and recommendations include the following:

²⁵ Ali watout, **Description of the Phenomenon of Corruption**, in Al-Naba' Electronic Magazine, Issue (79) for the year 2005, published on the following electronic link: www.anabaa.org/nbahome/nba_79/019.mtn.

²⁶ Souad Abdel Fattah, *op. cit.*, p. 6.

²⁷ The United Nations Convention was concluded under the auspices of General Assembly Resolution (55/61) on 4/12/2000, ratified in 2003, and came into force on 14/12/2005.

- A. Establish deterrent measures to prevent the spread of corruption in contracting practices through strengthening international cooperation in recovering illicitly acquired assets and adhering to the procedural principles followed in legal procedures to combat crime criminally and civilly.
- B. Promoting Anti-Corruption Principles and Measures: Promoting principles and measures to prevent and combat corruption in international contracts and working to strengthen integrity and administrative accountability in the joints of administrative and functional life.
- C. Enhancing International Cooperation: Strengthening international cooperation in resolving international economic and social issues, all matters related to human aspects, respect for human rights and fundamental freedoms. It has formed the comprehensive framework for combating and curbing corruption through the first specialized international convention.²⁸

It is worth noting that the above Convention relied on measures curbing corruption and developing mechanisms for its treatment. In line with the recommendations, guidelines, and ideas put forth by the Convention, which aim to distance national and international public officials from allegations of corruption and create a climate of transparency and integrity that contributes to the success of investments and economic growth, the Convention has expanded the scope of criminalization and punishment by criminalizing the bribery of national and foreign public officials, as well as the international official's bribery in international institutions and organizations, embezzlement of public funds, abuse of power and trading in influence, illicit enrichment, money laundering, concealment of criminal proceeds, and obstruction of justice⁽²⁹⁾.

To achieve the desired objectives of the Convention, three methods were employed to express the binding force of its provisions:

- The method of accomplished obligation: Under this method, the obligations incumbent upon the State become directly enforceable upon ratification of the Convention.

²⁸ Abdulaziz Al-Ashawi, **Research in International Criminal Law, Graduate Studies Lectures, International Organizations**, Part Two, Dar Huma, Algeria 2006, p. 16.

²⁹ Madhi Othman, **International Efforts to Combat Corruption: The United Nations Convention against Corruption as a Model**, Economic Dimensions Magazine, Vol. 9, No. 1 (June 30, 2019), Bouguerra Boumerdes University, Faculty of Commercial and Management Economics, Algeria, pp. 11-12.

- The method of extended obligation: Under this method, the State is not required to implement the obligations incumbent upon it immediately upon ratification of the Convention.
- The method of optional obligation: These are obligations that depend in their application on the mere will of the State party to the Convention and are considered guidelines aimed at improving the national and international climate and creating an environment resistant to corruption.³⁰

To ensure the implementation of the Convention by its member states, the Convention established a mechanism represented by an integrated legal system that works to urge the parties to the Convention to fulfill the obligations arising from the Convention. This legal system is represented by the Conference of the Parties and the Secretariat. The Convention did not neglect to include in its provisions the settlement of disputes arising from its application through peaceful diplomatic means (negotiation, mediation, good offices, etc.) or legal means (international arbitration and judicial settlement).³¹

It also focused on international cooperation in conducting investigations in international civil and commercial transactions, as well as the extradition of criminals, while focusing on strengthening the role of the individual within society in combating corruption related to international transactions. It thus defined the minimum measures that can be adopted by States to curb corruption, considering it a global phenomenon.³²

³⁰ Ibid., p. 12.

³¹ Ibid., same page.

³² Article (9) of the convention stipulates that:

1. Each contracting state shall, by the fundamental principles of its legal system, take the necessary steps to establish appropriate procurement systems based on transparency, competition, and objective criteria in decision-making, characterized, among other things, by their effectiveness in preventing corruption. These systems, which may take into account appropriate threshold values in their application, shall address matters including:
 - a. Dissemination of information related to procurement procedures and contracts, including information regarding invitations to tender and relevant or related contract award documents, in a manner that enables potential bidders sufficient time to prepare and submit their bids.
 - b. Prior adoption and publication of participation conditions, including selection criteria, contract award, and tender rules.
 - c. Use of pre-established objective criteria for making decisions related to public procurement, facilitating subsequent verification of the correct application of rules or procedures.
 - d. Establishment of an effective internal review system, including an effective appeals system, ensuring the existence of legal remedies for complaints and redress in case of non-compliance with the rules or procedures established under this paragraph.
 - e. Taking measures, when necessary, to regulate matters related to procurement personnel, such as disclosing any interest in specific public procurement, screening procedures, and training requirements.

Despite the various measures and recommendations outlined in the agreement, it fell short in several aspects, including:

- a. Inadequate addressing of corruption-related activities in e-commerce and its associated crimes. Electronic transactions and fulfillment have become increasingly prevalent online, necessitating explicit provisions to address these emerging electronic corruption-related offenses.
- b. Insufficient safeguards for protecting trade secrets and commitments, similar to those required by global corporations for confidentiality. It includes technology transfer, infrastructure, fundamental assets, and oil and gas exploitation contracts.
- c. Weak enforcement mechanisms for the agreement and inadequate means to assess and evaluate compliance by participating members.
- d. Limitation of the agreement, as an international treaty, by the principle of non-interference in the internal affairs of signatory states.
- e. Weak international will to take serious measures to curb corruption due to conflicting interests of the member states of the agreement, highlighting the agreement's inability to apply its rules on international and domestic corruption issues.

It is worth noting that Iraq has established an independent anti-corruption agency, the Federal Integrity Commission (FIC).³³ To enhance its effectiveness,

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2. Each contracting state shall, by the fundamental principles of its legal system, take appropriate measures to enhance transparency and accountability in the management of public finances. These measures include:
 - a. Procedures for adopting the national budget.
 - b. Reporting revenues and expenditures promptly.
 - c. A system incorporating standards for accounting, auditing, and associated controls.
 - d. Effective and efficient risk management and internal monitoring systems.
 - e. Taking corrective measures, when necessary, in case of non-compliance with the requirements outlined in this paragraph.

³³ The Integrity Commission is an independent body, subject to the oversight of the House of Representatives, with legal personality and financial and administrative independence. It is represented by its president or by those authorized by him. The Commission works to prevent and combat corruption and to promote transparency in governance at all levels through:

1. Investigating corruption cases by the provisions of this law, by investigators under the supervision of the competent investigating judge and by the provisions of the Code of Criminal Procedure.
2. Monitoring corruption cases that are not investigated by the Commission's investigators, through a legal representative of the Commission appointed by its president.
3. Promoting a culture of integrity and respect for ethics in public service, transparency, and accountability through public awareness and education programs.
4. Drafting laws aimed at preventing, combating, and addressing corruption and submitting them to the competent legislative authority by the President of the Republic, the Council of Ministers, or through the parliamentary committee responsible for the proposed legislation.

the FIC has founded the Iraqi Anti-Corruption Academy, a scientific institution dedicated to developing administrative and leadership skills through training courses and lectures. The academy awards a diploma in anti-corruption studies to curb the rampant corruption in Iraq. Despite the FIC's efforts and initiatives, including the recovery of significant funds and the issuance of numerous anti-corruption rulings, its operations face several obstacles, the most prominent of which is interference by various entities and political parties. This interference hinders the effectiveness of the measures taken by the FIC's various formations and departments.³⁴

3.1.2- OECD Convention Efforts in Combating Corruption

Among the effective measures to combat corruption and bribery in international commercial transactions is the conclusion of an international convention by the Organization for Economic Cooperation and Development (OECD) in 1997. The convention aims to prevent the bribery of foreign public officials in international commercial transactions. The OECD has also developed rules to help countries address the economic and social problems associated with the international economic landscape. Its approach ensures equal treatment between American companies and OECD member states by subjecting all companies to the same criminal standards for corruption offenses and non-compliance with OECD rules.³⁵

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5. Building the confidence of the Iraqi people in the government by requiring officials to disclose their financial interests, external activities, investments, assets, gifts, or significant benefits that may lead to conflicts of interest, through regulatory directives that have the force of law, without conflicting with it, and other programs.
 6. Issuing conduct regulations that include rules and ethical standards to ensure proper, honorable, and sound performance of public duties.
 7. Undertaking any action that contributes to combating corruption or preventing it, provided that two conditions are met:
 - a) That the action is necessary and contributes to combating or preventing corruption.
 - b) That it is effective and suitable for achieving the objectives of the Commission. Further details can be found on the Commission's website at the following link: [<http://www.nazaha.iq>]

³⁴ The organization was able to undertake numerous preventive measures in 2019, which prevented the squandering of approximately (one trillion, one hundred and ninety-five billion, five hundred million Iraqi dinars) and (ninety-eight million US dollars), out of which (four hundred and fifty-seven million dollars) were recovered, and judicial judgments were issued to recover (six billion, nine hundred and sixty million dinars), while the funds seized during investigation and enforcement operations amounted to nearly (eighteen billion, three hundred million dinars). For further details, refer to the 2019 Integrity Commission Report published at the following link: [http://www.nazaha.iq/news_FA.asp?page_namper=bauan_sj]

³⁵ Philippe FONTANA, la Convention OCDE, in R. F. F. P NO, 69, Mars 2000, p. 122.

This convention is the first of its kind at the international level in combating corruption and bribery of foreign officials. Member states have expressed their commitment and genuine will to curb corruption in international commercial transactions, which undermines fair international competition and affects the balance of the global economy.³⁶

The convention has worked through measures to combat commercial corruption in international contracts and transactions while providing equal opportunities for all countries to compete. Among the most important of these measures are:

- a. Establishing effective and swift mechanisms and measures to reduce corruption and deter foreign public officials and employees from engaging in corruption in international commercial transactions.
- b. Establishing international standards that make the bribery of foreign public officials and employees in international commercial transactions a criminal offense, committing member states to take active measures to address it. ⁽³⁷⁾
- c. Organizing the responsibility of legal entities and the necessary penalties for them in relation to combating the bribery of foreign public officials in international commercial transactions and contracts concluded within its scope.³⁸

The Organization for Economic Cooperation and Development (OECD) has made significant efforts to eliminate harmful tax practices that undermine the economy by correcting or abolishing several inappropriate systems in several member states. In addition to its fight against economic and financial crime, ⁽³⁹⁾ the OECD has also combated tax evasion and fraud, discussed the possibility of concentrating tax evasion, and protected investments in member states. It has also unified the efforts of countries in resisting the pressure exerted by entrepreneurs and giant corporations to stand against the efforts of the Convention, obliging countries to dedicate their human and financial resources to ensure the effective and transparent implementation of the Convention, as well

³⁶ Moury Soufiane, **The Role of the OECD Convention in Combating Corruption in International Commercial Transactions**, Academic Journal of Legal Research, Abdelhamid Mira University of Béjaïa, Faculty of Law and Political Sciences, Vol. 15/No. 1, 2017, Algeria, pp. 444-445.

³⁷ HAMON, **Transparence en matière de la lutte – corruption** - étude nove tic, 2006, p.151.

³⁸ For more information, please see the organization's website at: www.ocde.org

³⁹ Bouhaj Habiba, op. cit., p. 25.

as holding countries accountable for corrupt acts committed by their natural or legal persons belonging to or associated with them.⁴⁰

Despite the success of the steps, procedures, and measures introduced by the OECD Convention in combating corruption in international commercial transactions, there remain pressures on efforts to curb the spread of corruption and its impact on the global economy. It was highlighted in the organization's 2014 report, which noted a 61% increase in development assistance over the actual value recorded in 2003, marking the highest rate of assistance achieved.⁴¹

Although the obstacles and issues hindering the application of the standards and rules established by this Convention, it has not limited its conclusion and urged member states to comply with its resolutions. The organization has taken it upon itself to follow up on the directives and resolutions issued by it soberly and transparently through international conferences dedicated to combating corruption. It also tracks the steps taken by countries to reduce corruption by implementing plans and mechanisms to address corruption within their societies.

3.2- Anti-Corruption Efforts by Regional Organizations

The fight against corruption extends beyond the conventions adopted by global international organizations. Many regional international organizations have also made significant efforts to curb and combat corruption. In this section, we will discuss the European Union's Anti-Corruption Convention, the Arab Convention Against Corruption, and the African Union Convention on Preventing and Combating Corruption, as follows:

3.2.1- The Role of the European Union's Anti-Corruption Convention

The European Union is among the most active regional international organizations operating within the scope of the EU member states. It has strived to enact legislation and conventions to curb and combat corruption. These include the Criminal Convention, which criminalizes corruption in the public and private sectors, criminalizes bribery, and enhances international cooperation to combat it. The second convention is the Civil Convention, which has established effective

⁴⁰ Ali Farid Awad, *op. cit.*, p. 30.

⁴¹ Bouhaj Habiba, *op. cit.*, p. 25.

legislation to empower individuals affected by corruption. The two conventions include a set of provisions,⁴² the most important of which are as follows:

- a. The Criminal Convention includes provisions for those who commit bribery, including public officials in an EU member state. It also establishes criminal liability for any company whose employees commit acts of corruption. The Convention reinforces provisions to prevent corruption in the private sector and protect the market from unfair competition. It contributes to protecting the assets of companies and individuals alike. The provisions of the Civil Convention extend to those acts that entail civil liability and compensation for victims of any harm resulting from corruption in commercial transactions in EU member states.
- b. The two conventions oblige the contracting states to include in their legislation appropriate measures that enable individuals to file compensation claims and facilitate access to compensation for damages resulting from corruption. They also provide for the invalidity of any contract whose subject matter is an act of corruption through which personal gains are achieved at the expense of the public interest or the impairment of the will of one of the parties to the contract as a result of the act of corruption committed by the other party. They also provide for all necessary measures to make the accounts of companies public and transparent, avoiding misrepresentation and accurately disclosing their financial position.⁴³

Despite all that the two conventions have achieved in combating corruption, in addition to the transparency of the European Union in dealing with it, the two conventions, like the European Union, have failed to reduce corruption in many of the issues that have plagued the European Union countries. For example, what happened between Iraq, Bosnia, and Serbia in 2008 regarding a weapons purchase deal for Iraq worth \$833 million where it was made without announcing the deal or holding a tender for it, and Iraq agreed to proceed with it.⁴⁴ Similarly, what happened in the deal to purchase sonar equipment from a British company, where investigations later revealed that the equipment was just

⁴² The criminal convention came into force in 2002, convened in Strasbourg, while the civil convention was convened in 2003.

⁴³ Ramzi Mahmoud, **The Global Crisis and Global Corruption**, Dar Al-Fikr Al-Jamia, Egypt 2009, p. 146.

⁴⁴ Bouhaj Habiba, *op. cit.*, p. 32.

a toy and did not support detecting chemicals, ammunition, and weapons?⁴⁵ Despite the admission of the head of the exporting company, no serious action was taken regarding this issue. Furthermore, the German giant Siemens was embroiled in corruption, with its president admitting that the company was involved in bribery amounting to one billion euros between 2000 and 2006, which prompted numerous investigations and measures to address and curb the issue.⁴⁶

From the above examples, it is evident that despite the efforts made by international and regional organizations to reduce and spread corruption, these measures have not put an end to the development of corruption methods and its spread. The reason for this is that the countries that have signed the conventions rely on their legislation to combat corruption and stand against any measure that may conflict or intersect with the interests of their companies or the companies of individuals belonging to them, in addition to the dominance and control of giant companies over critical areas in the development, exploration, and exploitation of energy; which enables them to impose their unfair terms and procedures on countries or other parties; which leads them to corruption, whether they know it or not.

3.2.2- Efforts of the Arab Convention Against Corruption

The Arab Convention Against Corruption emerged from the joint meeting of Arab Ministers of Interior and Justice at the headquarters of the Arab League in Cairo. The Convention was signed on December 21, 2010, ratified by all Arab countries, including Iraq, and entered into force on June 29, 2013.⁴⁷

The Convention has established a set of measures, mechanisms, and means that rely on strengthening cooperation between the States Parties to combat,

⁴⁵ The deal of explosive detection devices purchased by the Iraqi government in 2007 and 2008 from an obscure British company named ATSC. More than 1500 devices of the type ADE-651 were purchased at a total cost of \$85 million. Iraq received fraudulent devices resembling children's toys, with each device's production cost not exceeding \$100. This was confirmed by Jim McCormick, the company's president, who sold these fake devices to Iraq, in an interview conducted by the British BBC channel. For further details, refer to: Nizar Ahmed, ADE-651 Explosive Detection Devices: Knowing its Scandalous Secrets Better than Its Makers, an article published on the Al-Hewar Al-Mutamaddin website, at the following link: <http://www.ahewar.org/debat/show.art.asp?aid=201706&r=0>

⁴⁶ Ramzi Mahmoud, *op. cit.*, p. 148.

⁴⁷ Eight countries ratified the convention before it entered into force, as required by Article 35/3 of the convention. These countries are Jordan, the United Arab Emirates, Iraq, Sudan, Palestine, Qatar, Kuwait, and Morocco. Iraq ratified the convention on May 30, 2013.

deter, and detect corruption. It facilitates the exchange of information and criminal assets and outlines the criminal descriptions of acts constituting corruption offenses by the internal system of each State Party to the Convention. The main points of the Convention can be summarized as follows:

- A. Definition of Corruption: The convention did not provide a definition of corruption but rather outlined actions that constitute corruption and identified the perpetrators, whether government officials, organizations, or public or private sector companies. It also defines criminal proceeds and criminal assets and outlines the mechanisms that States Parties can adopt in cases of corruption.⁴⁸
- B. The convention set its objectives to enhance prevention and implement measures aimed at reducing and combating corruption and uncovering it in all its forms, as well as related crimes and pursuing their perpetrators. It is to be achieved by strengthening joint security cooperation among member states to the extent that it contributes to reducing and combating corruption and recovering assets and properties involved in corruption. Additionally, the convention aims to promote integrity, transparency, accountability, and the rule of law in member states and to give individuals, public and private institutions, and civil society organizations an active role in reducing, combating, and uncovering corruption.⁴⁹
- C. Regarding the scope and Substance of the Convention, it identifies certain acts that constitute corruption, drawing upon the descriptions of such acts in the Parties' domestic legal systems, their national anti-corruption laws, and the general principles of crime prevention. These acts include those related to public office, trust, and integrity, whether committed by individuals, public sector companies, private companies, associations, or community organizations. Examples of such corrupt practices include the abuse of public office and influence for personal gain, money laundering, concealing proceeds from corrupt activities, obstructing justice, impeding the application and enforcement of laws that combat and reveal corruption, etc.⁵⁰

⁴⁸ See Article (1) of the Convention.

⁴⁹ See Article (2) of the Convention.

⁵⁰ See Article (4) of the Convention.

These acts constitute the material element of the crime of corruption. They are provided as examples only, as the legal systems of the Parties differ from one another. The provisions of the Convention serve as guiding principles that enable the Parties to base their anti-corruption legislation on them.

3.2.3- Efforts of the African Union Convention on Preventing and Combating Corruption (AUCP):

Established in 2003, the AUCP garnered 40 signatories and 35 ratifications, entering into force in 2006. The convention encompasses a comprehensive set of principles and objectives to curb corruption. It recognizes that corruption undermines accountability and transparency in the management of public affairs and hinders the development of social and economic sectors.

The principles and objectives of the AUCP include:

- a. Strengthening and encouraging cooperation among member states by facilitating the implementation of anti-corruption mechanisms between member states to ensure the effectiveness of measures and procedures for preventing, combating, and punishing corruption-related acts and offenses in both the public and private sectors.
- b. Coordinating anti-corruption legislative policies across member states, particularly in international contracts, and fostering an environment that promotes transparency and accountability in public administration. ⁽⁵¹⁾
- c. Implementing measures to prevent and combat corruption and addressing corrupt practices committed by public and private sector officials. Empowering the private sector to combat corruption and unfair competition and uphold respect for commercial transactions and intellectual and tangible property rights. Curbing bribery in public procurement and contracting.
- d. Fostering partnerships between governments and media outlets (print and broadcast) to combat corruption through the organization of international conferences, such as the 2001 OAU conference held in Zambia.
- e. The Convention encourages cooperation among multinational corporations to combat criminal practices or corrupt practices in international commercial transactions and to work with global and regional organizations to curb corruption in developmental assistance granted to countries.⁵²

⁵¹ Refer to the African Union Convention at the following link: (<http://www.auanticorruption.org>).

⁵² Bouhaj Habiba, op. cit., p. 32.

Despite the goals and principles that the Convention has been keen to implement and adhere to reduce and combat corruption, and despite the efforts made to achieve this goal, some obstacles and failures have hindered the Convention. The proliferation of organizations stemming from the Convention has burdened the already poor African countries with expenses, putting pressure on the organization's budget, delaying the implementation of the Convention, and limiting the effectiveness of anti-corruption efforts.

Moreover, the proliferation of economic blocs and the social and political influences that African countries are undergoing, as well as the ongoing conflicts and civil wars in Africa, have obstructed the implementation of the organization's objectives, especially those related to transparency and accountability in the management of the state's human and development resources.⁵³

The Convention has achieved some of its objectives, particularly in peacekeeping and countering the attempts of economic blocs by emphasizing the activation of the mechanisms of joint African action as stipulated by the Convention.

Studies concerned with the work of the African Union Organization and its role in combating corruption have shown that the member states are striving to meet their commitments under the Convention, including developing their legislation and activating the role of legislative measures in reducing and combating corruption by enacting laws that criminalize it and its types and any act suspected of contributing to the emergence of corruption. The Convention has also made progress among member states by activating the role of the media in reducing corruption through programs and media materials that raise awareness and educate against corruption and report on it, strengthening anti-corruption commissions and developing accountability systems, and reviewing parliamentary and executive accounts.⁵⁴

⁵³ Sharaf Al-Said. "Has the African Union Achieved its Political and Economic Objectives?" Article published in Al-Taawun newspaper, 2012, available at: www.digital.ahram.org.eg/articles.aspx?serial=1102818.

⁵⁴ Mohamed Ali Hussein, "What is the African Union Convention on Preventing and Combating Corruption, Signed 16 Years Ago?" An article published in Al-Watan newspaper. Available online at: (<http://www.elwatannews.com/news/details/4201394?t=push>).

4- Conclusion

After examining the international efforts to combat and limit corruption, we can summarize the results and recommendations derived from our research into the mechanisms and methods that reduce corruption. These are as follows:

4.1- Results

- A. Corruption is no longer a concept confined to crimes addressed by national criminal legislation; it has extended to international agreements and conventions. International organizations are increasingly concluding agreements that propose solutions and mechanisms to combat and reduce corruption.
- B. The technological and technical development of life has contributed to the emergence of new patterns of corruption, particularly remote deals with companies and individuals who are financially and technically unknown, as well as electronic transactions and bribes that may be difficult to monitor.
- C. Despite the efforts of international organizations, the lack of transparency and the failure to implement international mechanisms to curb corruption remain significant obstacles to the effectiveness of international anti-corruption regulations.
- D. Economic blocs, political problems, and wars that plague some countries, especially African countries, are among the most significant impediments to international efforts.
- E. The lack of transparency of great powers in applying international rules to their national companies and individuals is motivated by the principle of non-interference in internal affairs to evade their obligations to combat corruption.

4.2- Recommendations

- A. We recommend that developing and Arab countries, in particular, join international and regional global agreements.
- B. Expand the scope of national judiciary systems to objectively and personally govern corruption issues for individuals and businesses that caused a violation of corruption laws.
- C. Urge legislators in Arab countries to enact laws criminalizing corruption and defining the mechanisms and means necessary to combat it effectively.

- D. Work with national and international media to promote cooperation in combating corruption through awareness programs and promotional advertisements that work to curb corruption.
- E. Train administrative and judicial cadres on how to deal with suspicious activities and data and work on finding ways to combat resulting corruption.

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