UKR Journal of Economics, Business and Management (UKRJEBM)
Homepage: https://ukrpublisher.com/ukrjebm/
Email: submit.ukrpublisher@gmail.com
Volume 2, Issue 3, 2026
ISSN: 3049-429X (Online)

On the Failure of International Legal Policies Concerning the Forms of the Corruption Phenomenon: Between conceptual identification and the illusion of universality

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DOI: *https://doi.org/10.5281/zenodo.18837519*

Article History

Original Research Article

Received: 05-02-2026

Accepted: 24-02-2026

Published: 02-03-2026

Citation: Dr. Prontzas Dimitris. (2026). On the Failure of International Legal Policies Concerning the Forms of the Corruption Phenomenon: Between conceptual identification and the illusion of universality. UKR Journal of Economics, Business and Management (UKRJEBM), Volume 2(3), 24-29.

Abstract

This article examines the failure of international legal policies concerning the forms of the corruption phenomenon through a critical analysis of the conceptual premises underpinning contemporary "anti-corruption" conventions and regulatory frameworks. It argues that the core deficiency of these policies lies in a process of conceptual identification whereby the phenomenon of corruption is reduced to selected forms, which are subsequently elevated to the status of universal normative referents. Such reductionism generates what may be described as an illusion of universality: a regulatory construction that presumes the existence of homogeneous corruption forms across historically and culturally differentiated structures of coexistence. By abstracting corruption forms from its nation-state dimension, its embeddedness in specific legal traditions, political configurations, cultural patterns and social hierarchies, international legal policies attempt to impose standardized models of criminalization and compliance upon heterogeneous realities. The article contends that this approach does not merely produce implementation deficits, but reflects an epistemological misapprehension of the phenomenon itself. The plurality of corruption ideotypes and the differentiated profiles of homo corruptus across societies resist assimilation into universal legal templates. Consequently, international anti-corruption regimes risk transforming complex social phenomena into bureaucratically measurable categories, privileging formal conformity over substantive impact. The study concludes that any meaningful reorientation of international legal engagement must begin with a clear distinction between the phenomenon of corruption and its context-specific forms, thereby moving beyond the conceptual identification and normative universalism that underlie its persistent failures.

Keywords: *Corruption Phenomenon, Forms of Corruption, International Legal Policies, Homo corruptus.*

1. Introduction

In public discourse within nation-states concerning the phenomenon of corruption, frequent reference or invocation is made to international organizations and to their respective international legal texts. An international organization, in the first place, constitutes, on the basis of a treaty, a coexistence between two or more nation-states, aiming at cooperation for the promotion of matters of common interest. The operational processes of an international organization, as forms of regulation on a global or regional scale, present fundamental differentiations from the forms of nation-state governance. For the latter, its subjects concern populations; for international organizations, they concern nation-states represented by their governments or leaders. Their common point lies in the fact that they attempt to regulate relations of coexistence among autonomous and unequal units. What, therefore, occurs with these organizations in relation to the phenomenon of corruption, to which nation-states frequently resort in order to acquire so-called "expertise" regarding its forms?

The answer to this question, as well as to related issues concerning the foundations of their policies, their starting

points, strategies and objectives, may and must begin with a retrospective reference to 1999, more than twenty-five years ago, when the then Court of Justice of the European Communities delivered its judgment in the "Centros" case. [1] Through that judgment, it safeguarded the right of a company to avoid the rules of a state within which it conducts its activities by transferring its seat to another state whose rules are less restrictive. [2]

In the same year, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions entered into force (adopted on 17.12.1997 and entered into force on 15.02.1999). [3] In that same year, two further conventions were adopted: the Council of Europe Criminal Law Convention on Corruption (adopted on 27.01.1999 and entered into force on 01.07.2002), [4] and the Council of Europe Civil Law Convention on Corruption (adopted on 04.11.1999 and entered into force on 01.11.2003). [5] In 2003, the year in which the latter entered into force, the United Nations General Assembly adopted the United Nations Convention against Corruption (adopted on 31.10.2003 and entered into force on 14.12.2005). [6]

The references to these international legal texts do not concern their chronological coincidence; rather, they constitute reference points with regard to the so-called "fight against corruption" or "fighting corruption," as it is commonly phrased. When combined with the epistemological issue of identifying the phenomenon of corruption with selected forms thereof, as well as with the use of rhetorical constructions such as "corruption crimes," [7] they shape the framework of responses to the question of why, in the proclaimed "fighting corruption" under its imaginative globalized "reading," the results of such "combating" fall short, at least, of expectations within the respective nation-states. [8]

Returning to the aforementioned agreements, beyond their possible ambitions, they constitute either a lamentable attempt to satisfy particular pursuits, a resounding failure in managing certain forms of the phenomenon or at best something in between. The pillars upon which this failure rests may be enumerated as follows. Foremost is the identification of the corruption phenomenon with differently selected forms thereof, which serves as the conceptual starting point of these regulatory experiments. This is followed by the attempt to "regulate" the international dimension of the phenomenon without the slightest understanding of its nation-state dimension as expressed through its forms, that dimension grounded in the respective differentiations of culture and structures of coexistence, differentiations that generate the data for the diversity of corruption ideotypes and population profiles of homo corruptus across the world. To these two pillars a third must be added: the absence of a scientific methodology and of a framework of effective criteria for assessing the starting points, techniques and objectives of these initiatives in relation to the phenomenon. Complementing the above is the lack of criteria for a substantive, rather than merely "bureaucratic" evaluation of their results. These elements together complete the fundamental pillars of the failure of international organizations to manage forms of the phenomenon.

On this basis, particular attention must be drawn to a distinctive "bipolarity". On the one side stand the pursuits of the powerful member states of these organizations· on the other, the framework of bureaucratic entrenchment surrounding regulations, decisions and disputes. This bipolarity leaves little room for focusing on the vital differentiations among nation-states, such as inequalities of resources, varieties of governance and cultural differentiations. Moreover, it raises serious questions as to the extent to which scholars working within, or funded by, these organizations are free to analyze forms of corruption utilized by nation-states that simultaneously finance the budgets of these organizations and consequently, the scholars themselves. It should therefore come as no great scientific surprise that technocrats, economists, criminologists and lawyers have combined their distinct voices in an intense production of studies concerning the term corruption, rather than the phenomenon itself. [9] Inevitably, the aforementioned agreements on corruption constitute "constructs" of these organizations, aimed at imposing a selected universality upon a phenomenon, without the slightest support either for its nation-state dimension or for the epistemological foundations of terms such as "corruption," "form of corruption," "impact," "management of forms" and "consequence."

At the level of the nation-states that compose these organizations as members, the corruption phenomenon is reflected, through its respective forms and impacts, in an interaction of entities and social, political, economic, legal and cultural structures of coexistence, variably structured and geographically dispersed, even within the territory of a single nation-state. This reflection refers to the historical trajectory of the phenomenon's forms within these spaces and to a concrete chronological temporality, a reference that clarifies, in logical terms, what actually occurs in reality. At this point, it is crucial to recall the definition of two fundamental concepts: corruption and form of corruption. Corruption "concerns that human phenomenon comprising a set of forms, differentiated from country to country as to their sources of origin, dimensions and results". The concept of a form of corruption "refers to that human act which, expressing the pursuit of a human being, homo

corruptus, produces impact within a framework of coexistence". [10]

Attempts, therefore, to apply or impose "tools", whether with temporal delay in relation to the impacts of its forms, or in response to manifestations already brought to light and whose consequences have become visible, may repeatedly illuminate the possible common elements revealed by the phenomenon across social formations worldwide. Yet, according always to the theory of the corruption phenomenon, what is critical is not the aforementioned commonalities, but rather those elements that are not shared among structures of coexistence and that shape, in each case, a resilient and coherent model of behaviors, while simultaneously satisfying fundamental social needs and pursuits.[11] These elements generate the data for the distinct corruption ideotype of each social formation, for the distinct population profile of homo corruptus and for the differentiated pursuits and impacts of the forms of the phenomenon across the world.

Within each social space, characterized by its particular corruption ideotype and differentiated population profile of homo corruptus, the forms of the phenomenon are inevitably and closely connected both to prevailing nation-state perceptions and to population-based interpretations and articulations of religion, morality, wealth, law and even language.[12] The factual expressions of concepts such as justice, religious laws, and customary imperatives vary not only across continents, but also across historical periods of social formations and their cultural imprints. While each individual may experience a dual relationship between oneself and one's surrounding world, a scholar entrusted with the task of developing a potentially binding text, of national and even more so of supranational scope, must recognize the historically determined cultural imprints of language, religion, law, values and the cultural paradigm of each respective social formation.

How then, is a scholar to approach human acts which, on the one hand, meet the conditions for being designated as forms of corruption and on the other hand, develop within structures of coexistence governed not by the force of law but, for example, by the force of ritualism? Social anthropologists and sociologists agree that one of the oldest—and still enduring, processes of organizing structures of coexistence is ritualism. From Africa to China, [13] the disciplining of behavior through adherence to ritual produces respect and continuity. This production, in turn, leads to prestige and dignity. Despite reservations, and even objections, raised by Western jurists, such cultures in no way ignore the meaning of law· rather, they reflect it differently. In the scientifically established plurality of elements of local culture within a structure of coexistence, elements that may constitute components of forms of corruption, the answer cannot lie in the flattening planetary culture of the Western world, through its law and the "civilizing mission" it purports to carry. [14]

A law whose object is a particular form of corruption, constitutes a legislative product placed within a competition of effectiveness, both between the internal and external environment of a nation-state and within the imaginative game of the so-called "war on corruption" or as various "corruption theorists" have established it, "fighting corruption." Beyond what has already been emphasized, one of the most significant consequences of identifying the phenomenon with selected forms thereof is that laws enacted by states or organizations concerning specific forms of the phenomenon are transformed into products engaged in constant competition within an international market of rules and simultaneously within a market of evasion from those very rules.

A fruitful legal analysis of the forms of the phenomenon within a structure of coexistence, cannot fail to take into account, on the one hand, the historical as well as the geographical relativity of law. On the other hand, it cannot disregard its central normative character under the premise that the purpose of such analysis is not merely to contribute to the understanding of the actual conditions of corruption forms, but also to contribute to the search for "what ought" to be in relation to those forms. The quality of this contribution depends upon the sources on which it relies, sources that can be identified only through the necessary cooperation of almost all fields of the social sciences. Criminal law, as the field for the development of a designed strategy and organized tactics of influencing behavior through the interplay of penalties and rewards, extending to all individuals and all structures of coexistence, cannot constitute an exception to the above.

There exist cultures across the globe, in which the elements of law and ritual do not function in opposition, but in combination· the example of African cultures is characteristic. These cultures have not reflected upon their structures of coexistence under the light of law as conceived by Western civilization· rather, they have forged them upon entirely different processes and practices. These processes may be distinguished into three categories: prohibitions, decrees, and customary norms. As regards the first prohibitions, they concern adherence to specific ritual procedures, with the dominant element being heteronomy, so that human will and/or weakness is transcended. The second category, decrees, are issued by the respective king or elder of a tribe. The third category lies between the previous two, as it concerns rules attributed to ancestors, which introduce modifications to prohibitions· over time, these modifications become binding. Thus, for the African continent, governance through law represents something

different. It was for this reason that colonial powers incorporated these three categories into what Westerners term customary law. This however, did not halt the "civilizing" process of African populations through the use of forms of corruption aimed at exploiting the natural and other resources of the African continent.

The objective assessment and the subjective consideration of a human act as a form of corruption, therefore constitute a duality. This duality, on the one hand, will decisively shape the prioritizations made by a scholar regarding the totality of corruption forms within a given social formation. On the other hand, it provides epistemological support at the subsequent stage of management, within which there also exists the possibility of transforming a form of corruption into the object and content of legislation.

The existential universality of the phenomenon, combined with the plurality of forms it acquires throughout human history, across space and time, leaves no room for the establishment of a "universally acceptable" standard for judging human acts as forms of corruption unless the invoked global dimension of international organizations in practice concerns only a limited number of nation-states. Within nation-states themselves, corresponding efforts by longstanding or newly emergent intellectuals of corruption, who demand objectivity beyond the phenomenon on the basis of their own moral or other values, are to be assessed not only in terms of their scientific validity, but also in terms of their potential danger.

2. Conclusion

The multiplicity of corruption ideotypes among the nation-states that are members of international organizations and the differentiation of the population profiles of homo corruptus that compose them, cannot and must not be placed within the framework of universal legal "transplants" with standardized policy tools grounded in bureaucratic logic, rhetorical economism and legalistic imagination. Geopolitical asymmetry within international organizations, where the production of regulatory texts reflects the pursuits of powerful member states, leaves no room for doubt as to the real objectives of these policies. In contrast to them, recourse to a theoretically substantiated framework for the study of the phenomenon, analysis and management of its forms with interdisciplinarity and clear methodological criteria, constitutes the only secure way forward.

References

1. C.J.E.C., 9/3/1999, Centros, C-212/97, I-01459, La Pergola proposal.
2. At that time, the intense discussion concerning shadow banking, the magical offshore cycle, and the shadow economy had not yet begun. D. PRONTZAS (2017), *Corruption: From Theory to Geography*, Athens, Papazisis.
3. It constitutes a deliberate scientific parody, regarded as a "milestone" by those who benefit from the instrumentalization and scientific distortion of the corruption phenomenon. Only some indicative features of the convention suffice to demonstrate this: first, it provides a definition of corruption that lacks scientific substantiation. Second, bribery is not approached as a form of corruption, but is instead identified with the phenomenon itself. Third, it invokes the use of criminal law exclusively for the suppression of active bribery of foreign public officials worldwide, and solely in connection with international business transactions. Fourth, it entirely omits the respective national dimension of bribery as a form of corruption· and fifth, it makes no reference whatsoever to passive bribery, even when committed by foreign public officials. The convention in question therefore does not constitute an international legal instrument concerning certain forms of the corruption phenomenon, much less the phenomenon in its entirety. Rather, it simply reflects the interest of an international organization in protecting the interests of its member states against the pressures and practices of international business competition. Such an initiative, evidently, cannot offer any scientific contribution to the proper conceptualization and interdisciplinary analysis required by the corruption phenomenon. Not only does it fail to contribute, it produces precisely the opposite effect: it diverts scholarly inquiry away from the scientific field of the phenomenon and confines it within the dimensions of the interests served by the organization in question. The practical results of its implementation, namely in the actual field of managing forms of corruption within the nation-states that adopted the convention, remain to be demonstrated. In this respect, a reminder may be instructive: with the onset of the 2007 financial crisis, the OECD, at the urging of the G20 leaders, compiled a blacklist of tax havens. In order for a country to avoid inclusion on that list, it was required to sign twelve information-exchange agreements with other states, applying a contested OECD model (referred to by the organization as an "international standard") for the provision of information upon request. Even so, the list remained effectively empty, thereby ensuring the continued dominance of banking institutions operating across the globe. D. PRONTZAS (2024), "Corruption

Phenomenon's Misleading Definitions: Scientific Error or Deliberateness?", *International Journal of Research in Engineering, Science and Management Volume 7, Issue 9, September.*

4. In the preamble of the convention, it is stated that corruption "constitutes a threat to the rule of law and democracy, undermines good administration, fair treatment and social justice, and distorts competition…". In the provisions that follow, the signatory states are called upon to criminalize "conduct" involving active and passive bribery in the public sector, including members of national parliamentary assemblies and judges, while also referring to the criminalization of trading in influence and the laundering of proceeds derived from the aforementioned "conduct." It would be of scientific interest, even after so many years, to address the question whether journalistic-type assertions contained in a preamble are capable of serving as foundations for the criminalization, at the level of nation-states of indeterminate "conduct."

5. Article 2 of the convention provides as follows: "For the purposes of this Convention, 'corruption' shall mean the request, offer, giving or acceptance, directly or indirectly, of a gift or any other undue advantage or of the promise of such an advantage, which affects the proper performance of any duty or the required conduct of the recipient of the gift, the undue advantage, or the promise of such an advantage." By means of this "definition," the reduction of an entire phenomenon to the dimensions of a "gift" or some indeterminate "advantage" does not merely fall outside the scientific scope of the phenomenon· it exceeds even the limits of seriousness.

6. This is an international convention grounded in an anti-scientific definition of the corruption phenomenon: "the abuse of public office for private gain." Abuse, indeed constitutes one of the forms of the corruption phenomenon. Yet how and on the basis of what criteria, is a "definition" attributed to a phenomenon that conceptually reduces it to this specific form? By what criteria is this particular form selected over other forms of the phenomenon? Why is the definition confined to the dimension of the holder of public office? These are only some of the critical epistemological questions that remain unanswered. Even if one were to accept the anti-scientific practice of criminally repressing certain forms of the phenomenon, presumed "a priori" and without preconditions to be identical across all countries of the world, the Convention generally limits the mandatory extension of criminalization in the foreign public sector to active bribery in connection with international business transactions. In this way, the underlying concern of the organization is effectively revealed: the imposition of "rules" upon the global economic system (shadow and non-shadow alike), rather than even the minimal objective of protecting the public service of foreign states as a legally protected interest. For further analysis, D. PRONTZAS (2023), *The Phenomenon of Corruption*, Athens, Papazisis.

7. A human act may in one country of the world, be included as a form of corruption within the Code of Forms of the phenomenon. It may subsequently be characterized and incorporated into a legal text under the designation of a "crime," to be addressed exclusively as such. Should that same human act, however, in another country, possessing a different corruption ideotype and a different population profile of homo corruptus, necessarily bear the same meaning and be subject to identical forms of management? Where, indeed, is the minimum scientific legitimacy for such an equation or for its imposition? Why then, is the term "crimes" employed alongside the term corruption? Why does its very invocation carry such force within a population that it induces a suspension of thought and action? What consequently, is the population compelled to do? To await the technocrat, the aspiring political leader, the economic manager, the accountant, the criminal lawyer, acting as modern "deus ex machine", to "protect" it from those forms of corruption which they themselves have decided exclusively to recognize· forms that generate revenue for their offices, that enable them to achieve momentary political, partisan or academic impression, and that allow, through selective focus, the uninterrupted operation of all other forms of the phenomenon. In this respect, D. PRONTZAS (2025), "The Phenomenon of Corruption is not a 'Crime'," *World Journal of Advanced Research and Reviews*, Article DOI: https://doi.org/10.30574/wjarr.2025.26.2.1612.

8. The results of indices assessing the impacts of the forms of the phenomenon, such as the Corruption Footprint Index (CFI), are indicative in this respect. What however, may one observe beyond all other considerations, in all these conventions? That they focus on specific and indeed the same forms of the phenomenon, thereby committing the scientific fallacy of identifying the phenomenon with those

forms and moreover restricting their analysis solely to the economic dimension of their impact. At the same time, highly significant forms of corruption within member nation-states, as well as within the internal functioning of these organizations themselves, such as lobbying, political corruption, corruption in international interstate relations, bureaucratic corruption and others, are not mentioned at all. Thus, to the questions of why none of these conventions refers to other forms of the phenomenon existing both within nation-states and within the operations of the organizations themselves and why an entire phenomenon is equated with one or two forms selected by these organizations on the basis of unknown and non-existent scientific criteria, the answer is entirely specific: because public perception and the research agenda of aspiring scholars of the corruption phenomenon must be directed toward particular, selected forms thereof. D. PRONTZAS (2015), "The Corruption Footprint Index (CFI), A New Index about Measuring Corruption," *International Journal of Humanities and Social Sciences*, Vol. 5, No. 12, December and for the results of the index, https://www.corruption-map.org.

9. For the recording and systematic analysis of this body of scholarly production over a period exceeding eighty years, D. PRONTZAS (2017), *Corruption: From Theory to Geography*, Athens, Papazisis.

10. D. PRONTZAS (2024), "The Corruption Phenomenon: a Short Introduction to the World", *International Journal For Multidisciplinary Research* (IJFMR), R.P., 14208, Feb· - (2024), " The interpretation of the Form of Corruption and the concept of the Code of Corruption Forms", *World Journal of Advanced Research and Reviews,* December 2024, 24(03), 2547-2554.

11. M. GINSBERG (1934), *Sociology,* London, Thomton Butterworth· H. P. FAIRCHILD (ed.) (1955), *Dictionary of Sociology*, Littlefiled, Adams & Co.

12. This network of interconnections cannot render scientifically useful the articulation of positions and views by scholars concerning geographically and temporally determined moral dimensions of homo corruptus. The denunciation for example, of an individual homo corruptus may serve as an excellent outlet, both for the scholarly self-validation of the researcher and for the social formation from which and/or to which that homo corruptus belongs. Likewise, a virtual bank or an offshore company may function as convenient Pools of Siloam before the mirror of a corruption ideotype· even the acknowledgment that certain politicians were, as individuals, generous toward their electorate operates as a safe and effective social alibi for sidelining structural realities such as clientelism or party patronage, two of the foundational pillars of forms of corruption such as political corruption. D. PRONTZAS (2025), "Who is Homo Corruptus?", *UKR Journal of Economics, Business and Management* (UKRJEBM), Volume 1(9), DOI: https://doi.org/10.5281/zenodo, 17535488.

13. With regard to China, the "guanxi" networks are of particular scientific interest. These constitute a distinctive form of long-term social bond between individuals who share a unique and non-transferable relationship, operating as a mechanism of exchange and favoritism within the Chinese legal system and especially within Chinese courts. Within these relational structures, the emergence of lawyers as professional "judicial brokers", acting as intermediaries between judges and litigants, has opened scholarly inquiry into the transition of a ritualized social practice into forms of corruption. LING LI (2017), "Guanxi-Networks, Lawyers and Marketization of Parochial Corruption in China's Courts," Working Paper, *SSRN Electronic Journal*, University of Vienna, Department of East Asian Studies, https://ssrn.com/abstract=2987809.

14. D. PRONTZAS (2024), "The interpretation of the Form of Corruption and the concept of the Code of Corruption Forms", *World Journal of Advanced Research and Reviews,* December 2024, 24(03), 2547-2554.