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How Do Local Subjectivities Interfere with the Domestic Enforcement of International Laws on Corruption in Selected Regions of Tanzania?

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Abstract

Although Tanzania has ratified several international laws on corruption, the domestic enforcement of such laws remains problematic. Some social structures that sustain corruption in the country continue to exist. The article is informed by the theory of constructivism of international law. Some insights from cultural relativity theory, clashing moral values theory of corruption, Critical Theorist paradigm, and anti-colonial discursive framework have also been useful in informing the article. Using ethnographic longitudinal case study methodology, this article explores local subjectivities that interfere with the domestic enforcement of International laws on corruption in selected regions of Tanzania. The study has also attempted to answer the following question: can international law on corruption influence the local context and actors in an attempt to eliminate corruption in Tanzania? The key finding is that the presence of systemic corruption and local subjectivity hinders the fight against corruption. In turn, the situation hinders the domestic enforcement of international law. The study also highlights that the fifth phase government adopted an anti-corrupt cultural approach to address corruption in Tanzania. The cultural approach enabled Tanzania to attain significant achievements in the fight against corruption. In this regard, the study recommends a cultural approach to the elimination of corruption. The focus should be on creating an anti-corruption culture through good governance and democratization. The paper adds to the scholarship on cultural studies, development studies, human rights, African studies, governance, international law, and international relations.

Keywords

international law – corruption – domestic enforcement – local subjectivity – Tanzania

1 Introduction

The UN is aware that corruption has corrosive effect on democracy, development, the rule of law, and economic activity. On 22nd January 2001 the UN General Assembly passed the resolution 55/61 requiring the establishment of an effective international legal instrument to address international corruption across the world. Resolution 58/4 of the same organ led to the adoption of the United Nations Convention Against Corruption (UNCAC) on 31st October 2003. Similar efforts were taken in Africa. The African Union (AU) Convention on Preventing and Combating Corruption of 2003 entered into force on 5th August 2006. The Southern African Development Community (SADC) Protocol against Corruption was operationalized in 2001. The creation of the mentioned tools against international corruption adheres to the principle of *Ubi societas, ibi jus*. That is, the presence of the international society necessitates the creation and the refinement of international laws. Oppenheim (2005) highlights that powerful common interests of individual countries within the international society make them adhere to the principle: *where there is society, there is law*. The creation of law oftentimes goes hand in hand with the emergence of societies with common interests. Bierzanek and Symonides (2003) states that international society is the entirety of sovereign and non-sovereign states who – including all actors of international relations – maintain mutual relations under international law and capable of acting on the international plane and whose rights and obligations are defined by international law.

Although the literature on international law on corruption is readily available, the one that uses primary data to explore the influence of local subjectivities on corruption is scanty. A large body of studies on corruption relies on perceptions of corruption (see Gutmann and Lucas, 2018). Likewise, the literature that links international law, local politics and culture is inadequate. Sandholtz and Whytock (2017) highlight that law structures politics and politics permeate law. The two are so interconnected and the boundary between them cannot easily be located. According to Temin (1997: 268) culture refers to the, “... distinctive attitudes and actions that differentiate groups of people” that are “... the result of and expressed through religion, language, institutions, and history.” Although the attributes that make up culture, as shared by Temin,

change slowly, they can and do change over time. African and Tanzanian culture has been changing for better and for worse. Gutmann and Lucas (2018: 58) assert that culture might be responsible for different corruption levels in Sub-Saharan Africa due to the absence of effective formal institutions and competitive markets. Larmour (2008) argues that colonialism and globalisation have not managed to wipe out local culture.

Of particular importance to this article is a local subjectivity. According to Mercer (2002) local subjectivity, termed in her article as normative subjectivity, refers to the re-appropriation of local, national, and global international discourses to produce anti-development local contradictory cultural and social practices. The thesis suggests that, local subjectivity maintains the status quo of corruption in a country. In this regard, Tanzanians interact with international laws on corruption to create a local cultural system that affects the domestic enforcement of the international law in the country.

Further, although the vast majority of research on corruption emanates from studies of multiple and varied sources, it remains cross-country. Such studies largely rely on secondary sources on perceived corruption rather than actual corruption (see Kong and Volkema, 2016; Jetter and Parmeter, 2018; Scholl and Schermuly, 2020). Gutmann and Lucas (2018: 747) believe that public-sector corruption lead to, “lower overall investment levels, less foreign direct investment, lower income and higher economic inequality, less government spending on education, higher military expenditure, lower environmental quality, and less trust in the political system.” Kong and Volkema (2016) suggest that future research on corruption should gather primary data of actual corruption, as opposed to perceived corruption, in various societies and re-examine corruption issues using such data. This study has attempted to fill the gap at least within the Tanzanian context.

A similar study on actual corruption by Madaha (2018) presents two cultural phenomena that serve as evidence of local subjectivities within the Tanzanian context. The terms are “tribal corruption” and “corruption driven preferential treatment.” However, the mentioned study has not focused on the influence of local subjectivity on the enforcement of international laws on corruption. The study also focused on petty corruption as opposed to grand corruption. This study has attempted to fill the gap.

The co-existence of over 120 tribes in Tanzania with some common interests has adhered to the principle of *Ubi societas, ibi jus*. The tribes have created a cultural and legal framework that facilitates interactions among them in favour of their mutual interests. One cannot understand corruption within the Tanzanian context without bringing on board the two tribal variables (see Madaha, 2018). The view is consistent with past research highlighting

that the meaning of corruption differs across cultures. Some practices may be deemed corrupt in one culture but not in another (Collier, 2002; Kong and Volkema, 2016; Madaha, 2012). Kong and Volkema (2016: 144) point out that, "... in wealthier societies, corruption means attaining private gains and self-interests at the expense of public welfare (i.e., self-serving), whereas in poorer societies, corruption means attaining relational/in-group benefits (i.e., not self-serving but in-group-serving)" at the expense of the public welfare.

Kaufmann et al. (2010) points out that corruption involves petty and grand forms. Petty corruption involves small amounts of cash. Grand corruption involves large amount of cash. Larmour (2008: 235) acknowledges that petty or popular corruption consists of small routine payments made to poorly paid junior officials, simply to do their job. Grand or elite corruption consists of larger more secretive payments paid work to ministers and senior officials to secure contracts. Keliher and Wu (2016: 7) highlight that corruption, in any country, includes, "the encouragement and acceptance of money for services (bribery), the granting of privilege to an ascriptive relation (nepotism), or the appropriation of public resources for private use (misappropriation)." The definition is also consistent with that of Macrae (1982: 678) arguing that corruption involves, "an exchange between two parties which has an influence on the allocation of resources either immediately or in the future; and involves the use or abuse of public or collective responsibility for private ends." Larmour (2008: 235) further highlights that sociologists and anthropologists engage in qualitative research on corruption to explore, "popular and informal understandings of corruption, and differences between law and popular opinion about what counts as corruption and how much it matters." This study falls along that path.

Using ethnographic longitudinal study methodology and Tanzania as a case study, this article highlights some of the complexities in the implementation of international law on corruption within a Tanzanian context. Specifically, the paper responds to the following question: how can international law influence the local context and actors in an attempt to eliminate grand corruption in Tanzania? The article has explored the ways in which the implementation of international laws on corruption is blocked by local subjectivities. The article adds to the literature on cultural studies, development studies, African studies, governance, human rights and international relations. Next is a discussion on the theoretical framework that served as a lens for analysing the findings.

1.1 *Theoretical Framework*

The most familiar theoretical perspectives, as share by Sandholtz and Whytock (2017), which captures important dimensions of international law and politics,

are realism, liberalism and constructivism. Although the literature capturing the three dimensions has been covered by a number of international law scholars (see Teson, 1998; Widlak, 2012; Sandholtz and Whytock, 2017), its application within the Tanzanian context is limited.

From the perspective of realism, internal organization of states is not a requirement for a lasting system of international law because the power of individual states is the central force in such systems. In the absence of a super state, that controls all states, individual member states of the international society must strive among themselves and arrive at mutually benefitting system of international law (Sandholtz and Whytock, 2017). From a realist point of view, as shared by Doyle (2015), international law is a product of security competition among states under the lawlessness condition. Liberalism school of thought is based on a thesis that internal organization of states that incorporate liberal democracy and human rights are the basic requirements of a just international order. The international order, as shared by Teson (1998), cannot be attained in the absence of respect for human rights and the democratic representation by individual countries. In such a situation, liberal countries are expected to form alliances to create a liberal system of international order to ensure peace across the world (Teson, 1998; Sandholtz and Whytock, 2017). Some liberal states have formed an alliance, famously known as the “international community” for the mentioned purpose. Buchan (2013) is of opinion that the influence of liberal states on international law has been increasing since the end of the cold war in 1990s.

Universalism of liberalism has been seriously challenged. Doyle (2015) holds the exposition that liberalism leads into a practice that corresponds to the very ideals opposed by liberalists. But perhaps more emphatically, liberalism appears to lead into international disorder. Doyle (2015) proposes a discourse of patient with non-liberal societies to attain the international order. Under this respect, non-liberal states should be allowed to experience their own evolutionary dynamics. Constructivists believe that liberalism is not likely to be fruitful in non-western cultures.

The major theory informing this article is constructivism. Other ancillary theories will be covered shortly. Constructivism, a newer line of thought in international relations, presents a critical account of realism and liberalism by highlighting the importance of prior social structures in communities that give meaning to material things and relations in a system of international law. Specifically, constructivism originates from the sociological theory whose key thesis is based on the role of social ideas. The ideas are transmitted through social interaction to create influential social structures (Ruggie, 1998). Ruggie (1998: 856) argues that human beings, unlike wild animals, can produce social

facts that do not exist in the physical object world. The social facts typically require human institutions for their existence. Examples of social facts include but not limited to facts such as sovereignty, marriage, and Valentine's Day. Within this framing, human beings have the potential to construct a cultural mind-set that influences their behaviour and the behaviour of those around them.

From constructivist perspective, ideas created on top by the actors themselves shape social structures that influence the behaviour of all members of a particular society. In turn, such structures form cumulative influence on systems of international law. The social structures that influence actors' conduct are transmitted through the interaction among such actors (Wendt, 1999). Conventional constructivists are of opinion that although existing social structures are socially constructed, they possess the potential to constrain actors' agency. That is, the structures have become well established (see Wendt, 1999; Buzan and Hansen, 2009). The constructivist view is also shared by some feminists. Feminists argue that what appear to be well established gender relations are in reality socially constructed relations (see Cornwall, 2005; Chant, 2007; Holmes, 2007).

Given this context, constructivism highlights the role of actors' identities and norms as they interact to arrive at a particular compromise in systems of international law. With this in mind, a culture as well as associated identities and norms created by Tanzanians may play a key role in the domestication of international law. The same culture may also influence the participation of Tanzania in systems of international law. Such identities and norms may render international law dysfunctional within the Tanzanian context. According to Haller and Shore (2005: 67), "transforming corruption from an endemic to an incidental problem will require a major change in social, political and organizational culture that cannot simply be legislated into existence, nor imposed by international organizations, however well-meaning." In other words, a culture has to change for a country to address corruption. From this view point, cultural relativity theory points out that the conduct of individuals, society and organizations should be understood with culture taken into consideration (Kong and Volkema, 2016). That is, corruption is understood across cultures differently. The mentioned reality has been taken into consideration in this article.

The article is also informed by clashing moral values theory of corruption. According to the mentioned theory, the distinction between the private and public realms in many societies is not clear. That is, there are no clear universal standards to determine if one uses public resources for private gain or not (see Kong and Volkema, 2016). Critical Theorist paradigm has also been helpful. Distinctively, critical theory, as shared by LeCompte and Schensul (1999),

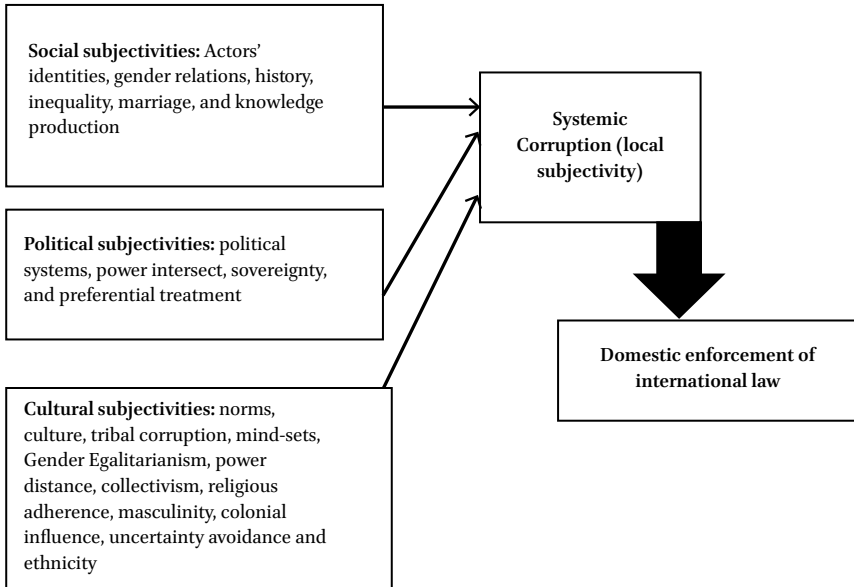


FIGURE 1 Conceptual framework
 SOURCE: ADOPTED FROM CONSTRUCTIVISM, CRITICAL THEORY, ANTI-COLONIAL DISCURSIVE THEORIES, AND HOFSTEDE, 1997

calls for a focus on the ways in which gender, class, culture, race, ethnicity, and power intersect to shape inequities. Proponents of critical theory examine the nexus between history and political systems to examine how ruling elites exert power over expressions of citizens or residents. Critical theory exposes sources and dimension of inequality in such systems (LeCompte and Schensul, 1999).

Finally, this study has deviated from conventional ways of studying corruption through borrowing some insights from anti-colonial discursive framework. What is important is that knowledge is highly political (Dei, 2006) because colonialism is embedded in the mind-sets of the colonised. The colonisers continue to proclaim their control through knowledge production (Cordova, 1998).

The anti-colonial discursive framework seeks alternative views from the standpoint of the colonised (Dei and Kempf, 2006). Figure 1 presents a conceptual framework combining key elements from constructivism, clashing moral values theories of corruption, critical theory and anti-colonial discursive theories. The elements have been categorized into three forms of subjectivities including social subjectivities, political subjectivities and cultural subjectivities. Social subjectivities include local actors' identities, gender relations, history, inequality, marriage, and knowledge production. Political subjectivities

include colonial influence, political systems, power intersect, sovereignty, and preferential treatment. Cultural subjectivities include norms, culture, tribal corruption, mind-sets, power distance, religious adherence, collectivism, masculinity, uncertainty avoidance and ethnicity (see Madaha, 2012; Husted, 1999; Cordova, 1998; Hofstede, 1997; Wendt, 1999; Buzan and Hansen, 2009; Dei, 2006; Cornwall, 2005; Chant, 2007; Holmes, 2007; Gutmann and Lucas, 2018). The study has also borrowed some insights from communitarian ethics that calls for the representation of multiple voices, the enhancement of moral discernment and the promotion of social transformation. The participation of people with different perspectives was encouraged throughout the study (see Denzin and Lincoln, 2000: 145–149). Next is a discussion on the methodology.

2 Methodology

The proposed theoretical framework highlights the influence of a local context on the conduct of a particular society. Within this framing, case study research design has been used in this study. The design is geared at examining context specific issues. Some studies (Madaha, 2012, 2014) have used the approach in similar contexts. Primary and secondary data have been collected, using ethnographic methods from year 2007 to 2020 and then analysed. Ethnography requires revisiting and extended stays at study locations. In this regards, the author also made use of research permits from Sokoine University of Agriculture (as part of an MA study and as a staff), the University of Dar es salaam (as part of a PhD study) and Tanzania Gender Network Programme (TGNP) as part of extended Participatory Action Research (PAR) studies from 2014 to 2020. Although the mentioned studies had other objectives, the objective of this study was also incorporated into those research projects. The author also managed to secure a permit to use data on corruption compiled by Tanzania Corruption Tracker System (CTS). The tracker was supported by a donor community and civil society. The author is also a founder of a National NGO which also served as an entry to the selected field sites. The author used the NGO to gather all of the data that were not captured through the previously mentioned studies. The NGO was founded in 2011.

The data collected over such a long period is massive. The presence of massive data necessitated the need to store them in an “ethnographic data bank.” An ethnographic data bank is composed of transcribed information of primary data and secondary data. The storage bank is an equivalent of a personal library, which has been updated as data arises. The storage bank has been

created following an emphasis by the case study approach on detailed contextual analysis of a limited number of events or conditions and their relationships (see Yin, 2009, 2017).

The study was carefully planned and crafted to reflect real-life situations, issues, and problems. The author used multiple sources of data and techniques to gather the required data. Data gathered through ethnographic case studies are usually qualitative. Data collection tools for case studies are surveys, interviews (formal and informal), documentation review, participant observation, questionnaire, focused group discussions, and even the collection of physical artefacts (see Yin, 2009, 2017; Hamel, et al., 1993; LeCompte and Schensul, 1999: 85). The principal forms of data collection for case studies are participant observation and various forms of face-to-face in-depth interviews; other forms serve as supplemental data collection tools (LeCompte and Schensul, 1999: 85). Ethnographers and other case studies researchers observe and talk to members of a group to find out what the member are doing and why. Narratives are also used to give voice to oppressed people. Finally, there is an emphasis to the examination of detailed practices and experiences of marginalized individuals (LeCompte and Schensul, 1999).

2.1 *Data Collection*

The author conducted in-depth interviews involving 132 interviewees from 2007 and arrived at a data saturation point on January 2020. Throughout the data collection exercise 25 respondents were interviewed in Singida region from January 2007 to August 2014; 15 respondents were interviewed in Iringa from August 2007 to July 2017; 20 respondents were interviewed in Kagera region from February 2013 to November 2014; 15 respondents were interviewed in Morogoro from March 2014 to June 2019; 7 key informants working for national and international NGOs based at headquarters in Dar es salaam from January 2014 to December, 2019; 25 respondents in Kishapu district, Shinyanga from march 2017 to January 2020; and 25 responds in Mbeya district from March 2015 to December, 2016.

Purposive sampling was used, to extract the views of as many respondents as possible. The data saturation point is a qualitative data collection technique originating from the grounded theory. The practice involves the collection of qualitative data until when there is no newer information obtained (Charmaz, 2006). The interviewees of the study were grassroots activists, leaders of national and international NGOs, journalists, university students, and government officials. The interviews were transcribed, translated (from Kiswahili to English), analysed and then stored in an ethnographic data bank. The author

also conducted participant observations at the selected. The author conducted participant field observations (particularly moderate participation to facilitate a good combination of the involvement and necessary detachment to remain objective). The experience of the author working as a consultant for national and international NGOs across the mentioned regions has been very instrumental in the data collection process (see Wolcott, 2008). Other sources of data were content analysis of secondary data provided by the Tanzanian and international media as well as content analysis of government and international reports. All participants of the study were treated ethically and with respect – most importantly, for security reasons, their identities were not revealed (LeCompte and Schensul, 1999; Delorme et al., 2001).

2.2 *Data Analysis and Interpretation*

Content analysis was used to systematically identifying, classifying, and analysing information relevant to this study (see Berelson, 1952; Holsti, 1969; Krippendorff, 2004; Neumann, 1994). Content analysis is useful in studying beliefs, organizations, attitudes, and human relations (see Woods, 1987; Patton, 1990; Whitaker, 1996; Hammersley and Atkinson, 2007; Wolcott, 2008; Woodrum, 1984). The method offers an opportunity for the investigator to learn about how subjects or authors of textual materials view their social worlds (Berg, 1998; Insch et al., 1997).

3 Findings and Discussion

This article is based on the perception of respondents. Overall, effects emanating from corruption cut across all sectors affecting people of all nationalities, classes, gender, ethnicity, and race. Corruption exacerbates poverty levels, hinders development, and discourages domestic and foreign investments (Yunus, 2007; Kapstein and Converse, 2008; Hope, 2017). Although, Cooter (2000) highlights that legal change and norm development in private and public bodies are prerequisites for minimizing corruption, the findings of this study imply that there is a need to go a step further in institutionalizing anti-corruption norms in the Tanzanian context. Legal changes alone cannot adequately eliminate corruption.

Good governance has been somewhat helpful in curbing corruption. According to UNESCAP (2009) good governance assures that corruption is minimized, the views of minorities are taken into account, and that the voices of the most vulnerable in society are heard in decision-making. A country with high levels of corruption has failed to practise good governance (see Teorell and

Hadenius, 2006). It is argued here that good governance can lead to successful norm development in private and public bodies as one of the prerequisite for minimizing corruption. With this in mind, international law on corruption can serve as an important ingredient in the creation of anti-corruption social structures. Anti-corruption social structures can in turn create anti-corruption norms. In turn, anti-corruption norms can create anti-corruption culture. From this perspective, democratic institutions can serve as anti-corruption social structures. However, they have to be fully developed to limit corruption (see Sung, 2004).

3.1 *A Synopsis of International Law on Corruption Adopted in Tanzania*

There are a number of international laws on corruption that have been ratified by Tanzania. Tanzania has signed and ratified the UNCAC of 2003, AU Convention on Preventing and Combating Corruption of 2003, and SADC Protocol against Corruption of 2001. Snider and Kidane (2007: 748) suggest that the AU Convention needs the support of UNCAC to be effective. However, the two authors have underestimated the role of the local context and local culture in the implementation of international law at a domestic level. Although UNCAC, as claimed by UNODC (2010), appears to be the only legally binding universal anti-corruption instrument, one may question how effective is the convention in curbing corruption at a local context without the domestic enforcement of the same. UNCAC highlights issues of great significance but for the convention and other international laws to be useful they must be incorporated into a judicial system of a particular country. The domestication of the international law on corruption in Tanzania has happened through the creation of the Prevention and Combating of Corruption Act in 2007. The act is a single pact supposedly to incorporate all of the international laws on corruption including SADC Protocol against Corruption of 2001, the African Union Convention on Preventing and Combating Corruption of 2003, and the United Nations Convention against Corruption of 2003. The Tanzanian parliament started to discuss the domestic enforcement of the international laws on corruption in January 2007. The discussion was sparked by the Tanzanian civil society following a discussion on multinational corporations' corruption scandal. Although the Prevention and Combating of Corruption Act in 2007 has played some instrumental role in anti-corruption efforts, there is a need to do more to eliminate corruption in Tanzania. That is, international laws on corruptions can become functional in Tanzania, if they are incorporated into the culture of Tanzanians. The finding implies that local subjectivities and culture remain powerful forces that hinder anti-corruption efforts. In this regard, there

is a need to understand corrupt local subjectivities to come up with strategies to address them. Next is a discussion on local subjectivities in Tanzania.

3.2 *Trend Analysis of Corruption in Tanzania*

The performance of Tanzania in the International Corruption Perception Index (CPI) compiled by Transparency International (TI) has been increasing since 2015. The trend of the performance of Tanzania is shown in Tables 1 and 2. The CPI record reveals that Tanzania has the second highest score in East Africa. Tanzania is listed by Transparency International among countries that have attained statistically significant changes in CPI scores for a period ranging from 2015 to 2019 (see 2019 CPI report). A significant record high was also attained in the same year (see Table 1). The results imply that the success of anti-corruption measures of the fifth phase administration was recognised internationally.

At the country level, the Prevention and Combating of Corruption Bureau of Tanzania (PCCB) has managed to rescue billions of money. The trends of the funds being rescued is shown in Fig. 2. Overall, the secondary data from TI and PCCB imply that although Tanzania is making significant progress in the fight against corruption, much more needs to be done. The following section focuses on the local subjectivities and their influence on corruption.

TABLE 1 East African community countries TI corruption perception index 1998–2011

Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Score*														
Tanzania	1.9	1.9	2.5	2.2	2.7	2.5	2.8	2.9	2.9	3.2	3.0	2.6	2.7	3.0
Kenya	2.6	2.0	2.1	2.0	1.9	1.9	2.1	2.1	2.2	2.1	2.1	2.2	2.1	2.2
Uganda	2.5	2.2	2.3	1.9	2.1	2.2	2.6	2.5	2.7	2.8	2.6	2.5	2.5	2.4
Rwanda	NA	NA	NA	NA	NA	NA	NA	3.1	2.5	2.8	3.0	3.3	4.0	5.0
Burundi	NA	NA	NA	NA	NA	NA	NA	2.3	2.4	2.5	1.9	1.8	1.8	1.9
Rank														
Tanzania	81	93	76	82	71	92	90	88	93	94	102	126	116	100
Kenya	73	90	82	84	96	122	129	144	142	150	147	146	154	154
Uganda	74	87	80	88	93	113	102	117	105	111	126	130	127	143
Rwanda	NA	NA	NA	NA	NA	NA	NA	83	121	111	102	89	68	49
Burundi	NA	NA	NA	NA	NA	NA	NA	130	130	131	158	168	170	172

* Ranging from 1 to 10 can convert to 1 to 100 by removing the period between the figures

SOURCE: TRANSPARENCY INTERNATIONAL

TABLE 2 East African community countries TI corruption perception index 2012–2018

Year	2012	2013	2014	2015	2016	2017	2018	2019
Score*								
Tanzania	35	33	31	30	32	36	36	37
Kenya	27	27	25	25	26	28	27	28
Uganda	29	26	26	25	25	26	26	28
Rwanda	53	53	49	54	54	55	56	53
Burundi	19	21	20	21	20	22	17	19
Rank								
Tanzania	102	111	119	117	116	103	99	96
Kenya	139	136	145	139	145	143	144	137
Uganda	130	140	142	139	151	151	149	137
Rwanda	50	49	55	43	50	48	48	51
Burundi	165	157	159	150	159	157	170	165

* 1 to 100 can convert to 1 to 10 by adding a period between the two figures

SOURCE: TRANSPARENCY INTERNATIONAL

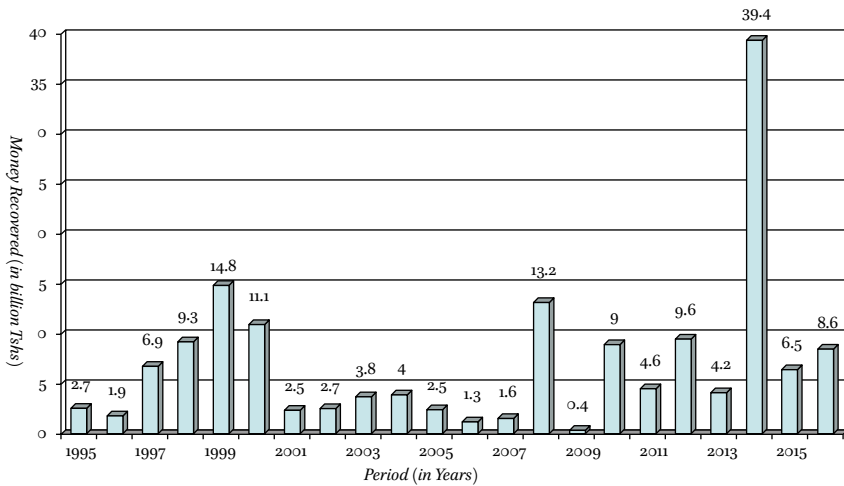


FIGURE 2 Money recovered by PCB and PCCB from 1995 to 2016

SOURCE: PCCB HEAD OFFICE, 2020

3.3 *Local Subjectivities Sustaining Corruption and Strategies for Addressing Them*

The tendency of compromising anti-corruption discourses and practices especially at the domestic level needs to be addressed through examining context specific measures and platforms. One of the starting points is a legal context of a particular country. The Tanzanian legal context is created by sources of law including the Constitution, Statutes (acts of parliament), Case Law, Received Laws, Customary and Islamic Law and International Law (Treaties and Conventions). The constitution of the country is more powerful source than the other sources including the international laws. Concerning the domestic enforcement of international laws, the Tanzanian legal framework does not accommodate self-executing or directly applicable international treaties. Unlike the United States which accepts self-executing treaties, Tanzania rejects – like most other common law countries – the doctrine (see Janis, 2008). That said, International Law (Treaties and Conventions) including international laws on corruption require formal domestic enforcement for them to be implemented in the country.

The formal domestic enforcement of such laws, as revealed in the study, renders them vulnerable to systemic corruption and local subjectivities in particular. In this regard, the local context, as advocated by constructivism line of thought (see Wendt, 1999; Fierke, 2007; Buzan and Hansen, 2009), needs to be seriously scrutinized and challenged. Janis (2008) points out that the United States has created a structure that allows lawyers to address some international legal problems through some sort of municipal legal proceeding or negotiation (you can also see Noyes, 2007; Rochester, 2006). The Tanzania's legal system is based on the English Common Law system emanating from the British Westminster parliamentary model (see Nyanduga and Manning, 2006) and does not accommodate such arrangements.

Recent observations of President Magufuli's administration, elected in 2015, revealed some astounding efforts aimed at the fight against systemic corruption in the country. That is, the administration focused on corrupt culture through the elimination of corrupt norms and subjectivities. Those efforts significantly contributed to the attainment of a middle-income status five years earlier than anticipated in the country (see National Vision, 2025). The government announced to the public that the country has attained a middle-income status on 1st July 2020. The finding supports past research showcasing that corruption has strong negative effects on economic growth, human development, environmental policies, and on foreign direct investment (Treisman, 2000). Even though, the government needs to institutionalize the measures to

ensure an anti-corruption culture is fully developed (see Wendt, 1999; Buzan and Hansen, 2009).

The prior anticorruption structures including the PCCB (the Prevention and Combating of Corruption Bureau) need to be revamped. Special attention should be on norm development, as proposed by Cooter (2000). The institutionalization of anti-corruption norms should be across all government institutions. The findings further imply that the president also needs to bring on board NGOs and the private sector. The public needs to be empowered to take action to create an anti-corruption culture and platforms that facilitate the enforcement of international laws on corruption. That is, there is a need for the public to be empowered through the creation of democratic institutions in the public and private sectors. The government cannot eliminate corruption without the support of informed and autonomous actors. The platforms need to take on board social, political and cultural subjectivities (see the conceptual framework and Wendt, 1999; Buzan and Hansen, 2009) because the mentioned subjectivities are socially constructed (see Cornwall, 2005; Chant, 2007; Holmes, 2007). The following few paragraphs focus on the themes that emerged during the data collection. The themes were proposed as strategies to support the domestic enforcement of international law on corruption.

The first theme proposes that there should be some amendments to the current government structure to accommodate international laws on corruption and curb corruption. The theme implies that although prior corrupt social structures play a key role on escalating levels of corruption in Tanzania, there is room for improvement. The proposed amendments can draw from past research (Gathii, 2009: 202) suggesting, “democratization of a country’s political, economic and social fabric to make it more attentive and responsive to the rights of the most marginalized segments of society.” Keliher and Wu (2016) further point out that anti-corruption norms and practices must develop to inform behaviour of citizens. That should be complimented by a shared set of anti-corruption values. From constructivist view point, prior social structures in communities give meaning to material things (see Teson, 1998; Widlak, 2012; Sandholtz and Whytock, 2017). Wendt (1999) is of opinion that corruption is embedded in existing social structures that influence actors’ conduct. In this regards, efforts should be directed at the attainment of good governance (see UNESCAP, 2009; Hope, 2017). The proposed recommendation is consistent with past research highlighting that corruption is rooted in poor governance (Buscaglia, 1996). The country needs to increase the quality of its institutional set-up to lower level of corruption (Voigt and Gutmann, 2015).

The study further highlights that President Magufuli's administration attained some key achievements in the fight against corruption through an anti-corruption cultural approach that target local subjectivities in the country i.e., "doing business as usual." The administration, among other things, disturbed established corrupt networks in the public sector by changing the cultural conduct of the government. The finding is in line with past research disputing African governments as weak incapable of addressing their challenges (see Dei, 2006). President's Magufuli's efforts were somewhat similar to those of President Xi Jinping of China. The Chinese president developed a single program juxtaposing anticorruption drive, administrative reforms, moral guidelines, and ideological refashioning, to transform political culture and curb corruption (see Keliher and Wu, 2016). Upon announcing running for a second term, President Magufuli said there was no one who could sustain his reforms on corruption. This study supports his views. In this regard, stringent measures need to be undertaken to institutionalize the anti-corruption reforms of Magufuli's administration to sustain them beyond his administration. Following the passing of President Magufuli, corruption levels are likely to be on the rise.

The second theme that emerged from the findings pinpoints a need to execute a revolution to remove the existing government and the ruling party from power. However, the view is unrealistic and a utopian one in democratic country. A simple explanation of the finding is that the international laws on corruption cannot eliminate corruption in Tanzania, if the existing ruling regime continues to remain in power. An argument that the existing government system, led by the ruling party that has been in power since independence of the country in 1960s, is corrupt and incapable of addressing corruption, is a misleading one. The blame game on the ruling party for institutionalizing corruption within the party and government systems unrealistically ignores the role played by corruption culture among citizens.

Besides, past research on revolutions, as a silver bullet solution to corruption, paints a different picture (see Wraith and Simpkins, 1964; Heywood, 2015). Wraith and Simpkins (1964) states that although revolutions in the developing world focus on driving out corrupt rulers and officials, they fail to eliminate corruption. This suggests that, revolutions can never eliminate corruption in Tanzania. In the same vein, communism sought to overthrow corrupt and exploitative regimes. Albeit unsuccessfully. Despite communist ideology being reinterpreted in different societies and by different leaders, it was characterized by a strong support for revolution rather than reform. The revolutions did not manage to eliminate corruption in those countries (see Heywood,

2015). In this case, reforms are better in addressing corruption than revolutions. President's Magufuli reforms somewhat proved to be useful at least in the Tanzanian context.

Similarly, Tanzania adopted African socialism in late 1960s, as a revolutionary ideology, to create an egalitarian state free from corruption. The ruling part of Tanzania that has been in power since independence is called *Chama Cha Mapinduzi* (CCM) meaning the revolutionary party. The party ideally envisions making Tanzania a socialist country. However, the influence of African socialism, as a variant of communism, diminished in mid-1980s. Although African socialism identified the proletariat and peasants as the revolutionary class, it has hardly managed to eliminate corruption (see Hyden, 1980). That is, revolutions cannot serve as a golden bullet solution to corruption.

Radical feminists call for a complete overhaul of government structures and replace them with feminist structures (Minow, 1991). They have not attained the goal. The findings of this study highlight that replacing the existing government leaders with new ones, who have been brought up in similar cultural context, can never yield any productive results. The government, alone, is not the major cause of on-going and escalating level of corruption but rather the mind-set or culture of all Tanzanians.

The third theme reveals that corruption is a cultural issue, deeply rooted in the mind-set of the majority of Tanzanians. The theme implies that international law on corruption is subjected to powerful influence of local culture and subjectivity. That is, for international law to operate in a particular country, it has to address cultural constraints. The analysis of all findings of this study supports the argument. Consistent with past research (see Mensah, 2013), culture is positively associated with higher corruption in European, Latin-American, Middle-Eastern, Caribbean, Pacific Islander, Confucian and South-East Asian countries. Mensah (2013: 4) stresses that, "attempts by reformers to induce countries with high levels of corruption to change their behaviour should also include cultural proclivities and norms in the set of factors to consider." That said, there is a critical need for creating specific long-term measures in the Tanzanian context, which target corruption from a cultural perspective. The reforms should induce behavioural changes by focusing on cultural proclivities and norms. The findings suggest that, identities and norms, as might be suggested by constructivists (see Wendt, 1999), play key role in making corruption persistent in Tanzania. The findings contradict those of Gutmann and Lucas (2018) who are of opinion that culture does not matter in developing countries due to lack effective formal institutions and competitive markets. The findings suggest that a mere presence of effective formal institutions and

competitive markets cannot eliminate corruption. Besides, Tanzania has made significant progress in creating effective formal institutions and competitive markets that led into the attainment of a middle income status.

The findings further reveal that the Tanzanian government has established good strategies and policies to wipe off corruption. Nonetheless, as long as the cultural constraints – as revealed in the study – remain unaddressed, the government can do little to control corruption. Anticorruption strategies and policies are always subjected to cultural subjectivities by the people of a particular country. The findings of the study imply that poorly organized communities produce disorganized leaders who in turn create poorly organized and corrupt governments. The findings support those of Mensah (2013) stressing that corruption can be offset by more effective political governance, greater political legitimacy, and greater political effectiveness. The findings of this study dispute those of Peter (1990) and Wilson (2010) who have arrived at a conclusion that states' failures are a major factor in disempowering people. The major finding of this study highlight that culture plays a key role. The findings also suggest that culture can be changed in the interest of all citizens. Within this context, government and other actors including civil societies can play a key role in influencing changes on public attitudes and stimulate parliamentary debates to create laws in favour of the public. The findings are in line with those of Squatrito (2016) and other scholars (Simmons, 2009; Murdie and Davis, 2012) who have highlighted a significant role of the civil societies in the creation of laws in favour of the public.

The findings of the study are also in line with those of Kaufmann (2005) who argues that fighting corruption by fighting corruption is misleading because one needs to challenge social structures that perpetuate corruption. Cooter (2000) correctly argues that minimizing corruption must involve both legal change and norm development. Cooter is of opinion that legal requirements on paper without observable changes in action may maintain the previous status quo. The absence of mentioned measures might be one of the key reasons for stagnant progress in Tanzania even after the domestic enforcement of international law on corruption. The next section focuses on a conclusion.

4 Conclusion

Overall, Tanzania has made significant progress in the fight against corruption. Its performance is also recognized internationally. Those efforts have to continue to ensure a successful domestication of international law on corruption

in the Tanzanian context. Moreover, as it might be argued by constructivists, people's identities and norms do indeed shape compliance to local and international laws. The findings indicate that international laws have been subjected to local subjectivities in the Tanzanian context. The identities of Tanzanians and their culture tend to tolerate corruption. Although anti-corruption measures by President Magufuli's administration were promising, corruption has continued to thrive even after the domestication of international laws in 2007. The leadership of the sixth phase administration, under her Excellency President Samia Suluhu, has adopted a different path in the fight against corruption. The approach calls for another study.

The adoption of the Prevention and Combating of Corruption Act No 11 of 2007 has indeed paved way for the domestication of all international laws on corruption in Tanzania. Yet, there is a need for the institutionalization of some of the anti-corruption measures of the fifth phase administration by the sixth phase administration. The proposed institutionalization can be attained through developing an anti-corruption culture and norms as well improving the overall situation of Tanzanians. The elimination of poverty among Tanzanians is the first step. Minimizing corruption must also involve both legal change and norm development against a corrupt mind-set. Legal requirements on paper without observable changes in people's conduct may maintain the corrupt status quo. The institutionalization of anti-corruption socio structure needs to involve good governance, democratization and the creation of an empowered public with strong civil society. The adherence to the international law must be initiated by actors from within the country and the same must ensure its sustainability.

Finally, this study has presented ample evidence that actual corruption is not a homogenous phenomenon as suggested by numerous cross-country studies on corruption. Further, the domestic enforcement of international law on corruption is affected by local subjectivities. That said, future research on corruption should gather primary data to explore how actual corruption and the domestic enforcement of international laws on corruption are influenced by local subjectivities in other countries.

References

- Berelson, B. (1952). *Content Analysis in Communications Research*. Free Press.
- Berg, B. L. (1998). *Qualitative Research Methods for the Social Sciences*, 3rd edition. Allyn & Bacon.

- Bierzanek, R. and Symonides, J. (2003), *Prawo międzynarodowe publiczne*, LexisNexis (in Polish).
- Buchan, R. (2013). *International Law and the Construction of the Liberal Peace*. Hart Publishing.
- Buscaglia, E. (1997). Corruption and judicial reform in Latin America. *Policy Studies Journal*, 17(4), 273–285.
- Buzan, B., & Hansen, L. (2009). *The Evolution of International Security Studies*. Cambridge University Press.
- Chant, S (2007), *Gender, Generation and Poverty: Exploring the Feminisation of Poverty in Africa, Asia and Latin America*, Massachusetts. Edward Elgar.
- Charmaz, K. (2006). *Constructing grounded theory*. SAGE.
- Collier, M. W. (2002). Explaining corruption: An institutional choice approach. *Crime, Law and Social Change*, 10(1), 1–31.
- Cooter, R. D. (2000). Three effects of social norms on law: Expression, deterrence, and internalization. *Oregon Law Review*, 79(1), 1–23.
- Cordova, T., (1998). Anti-colonial Chicana feminism. *New Political Science*, 20(4), 379–397.
- Cornwall, A (Ed). (2005). *Readings in Gender in Africa*. Indiana University Press.
- Corruption Tracker System (CTS) 2009. How corruption ‘eats’ Tanzanian taxpayers’ hard earned revenue. Retrieved from http://www.corruptiontracker.or.tz/index.php?option=com_content&task=view&id=25&Itemid=29.
- CTS (2010). Corruption Tracker System (CTS) official website. Retrieved from <http://www.corruptiontracker.or.tz>.
- Dei, G. J. S., & Kempf, A. (Eds.) (2006). *Anti-Colonialism and Education: The Politics of Resistance*. Sense Publishers.
- Dei, G. J. S. (2006). Introduction: Mapping the terrain – towards a new politics of resistance. In G. J. S. Dei, & A. Kempf (Eds.). *Anti-Colonialism and Education: The Politics of Resistance* (pp. 1–23). Sense Publishers.
- Delorme, D. E., Zinkhan, G. M., & French, W. (2001). Ethics and internet: Issues associated with qualitative research. *Journal of Business Ethics*, 33(4), 271–286.
- Denzin, N. K., & Lincoln, Y. S. (2000). *Handbook of Qualitative Research (Second Edition)*. SAGE.
- Doyle, T. E. (2015). When liberal peoples turn into outlaw states: John Rawls’ Law of Peoples and liberal nuclearism. *Journal of International Political Theory*, 11(2), 257–273.
- Fierke, K. M. (2007). *Critical Approaches to International Security*. Polity Press.
- Gathii, J. T. (2009). Defining the relationship between human rights and corruption, U. Pa. *Journal of International Law*, 37(1), 125–202.
- Gutmann, J., & Lucas, v. (2018). Private-sector corruption: Measurement and cultural origins. *Social Indicators Research*, 138(2), 747–770.

- Hamel, J., Dufour, S., & Fortin, D. (1993). *Case Study Methods*. SAGE.
- Hammersley, M., & Atkinson, P. (2007). *Ethnography: Principles in Practice Third Edition*. Routledge.
- Heywood, A. (2015). *Key Concepts in Politics and International Relations*. Palgrave.
- Hofstede, G. (1997). *Cultures and Organizations: Software of the Mind*. McGraw Hill.
- Holmes, M. (2007). *What is Gender? Sociological Approaches*. SAGE.
- Holsti, O. R. 1969. *Content Analysis for the Social Sciences and Humanities*. Addison-Wesley.
- Hope, K. R. (2017). *Corruption and Governance in Africa: Swaziland, Kenya, Nigeria*. Springer.
- Husted, B. W. (1999). Wealth culture and corruption. *Journal of International Business Studies*, 30(2), 339–360.
- Hyden, G. (1980). *Beyond Ujamaa in Tanzania: Underdevelopment and Uncaptured Peasantry*. University of California Press.
- Insch, G. S., Moore, J. E., & Murphy, L. D. (1997). Content analysis in leadership research: Examples, procedures, and suggestions for future use. *Leadership Quarterly*, 8(1), 1–25.
- Janis, M. W. (2008) *International Law*. Aspen Publishers.
- Jetter, M., & Parmeter, C. F. (2018). Sorting through global corruption determinants: Institutions and education matter – not culture, *World Development*, 109(c), 279–294.
- Kapstein, E. B., & Converse, N. (2008). *The Fate of Young Democracies*. Cambridge University Press.
- Kaufmann, D. (2005). Back to basics – 10 myths about governance and corruption. *Finance & Development*, 42(3). Retrieved from <https://www.imf.org/external/Pubs/FT/fandd/2005/09/basics.htm>.
- Kaufmann, D., Kraay, A., & Mastruzzi, M. (2010). The Worldwide Governance Indicators: A Summary of Methodology, Data and Analytical Issues. World Bank Policy Research Working Paper No. 5430.
- Keliher, M., & Wu, H. (2016). Corruption, anticorruption, and the transformation of political culture in contemporary China. *The Journal of Asian Studies*, 75(1), 5–18.
- Kong, D. T., & Volkema, R. (2016). Cultural endorsement of broad leadership prototypes and wealth as predictors of corruption. *Social Indicators Research*, 127(1), 139–152.
- Krippendorff, K. (2004). *Content Analysis: An Introduction to its Methodology*, 2nd edition. SAGE.
- Larmour, P. (2008). Corruption and the concept of 'Culture': Evidence from the Pacific Islands. *Crime Law Soc Change*, 49(3), 225–239.
- LeCompte, D. M., & Schensul, J. J. (1999). *Designing and Conducting Ethnography Research, (Ethnographer's Toolkit)*, Vol. 1. AltaMira Publications.

- Macrae, J. (1982). Underdevelopment and the economics of corruption: A game theory approach. *World Development*, 10(8), 677–687.
- Madaha, R. (2012). The Corruption Noose: Will Tanzania Ever Develop? *Africa Review*, 4(1), 48–64.
- Madaha, R. (2014). Organized and gendered media advocacy at the centre of the feminist movement in a patriarchal Tanzania. *Africa Review*, 6(1), 18–29.
- Madaha, R. (2018). Tribal corruption and preferential treatment: Contradictory African corrupt practices and Tanzania's progress. In S. Mutanga, T. Simelane, M. Mujuru, & T. Gumbo (Eds), *Africa at a Crossroads: the Continent's Future Prospects 50 years after the Formation of the Organisation of African Unity/African Union* (pp. 198–226). Africa Institute of South Africa.
- Mensah, Y. M. (2013). An Analysis of the Effect of Culture and Religion on Perceived Corruption in a Global Context. Rutgers University Center for Governmental Accounting Education and Research (CGAER) Working Paper 2012–4.
- Mercer, C. (2002). The discourse of Maendeleo and the politics of women's participation on Mount Kilimanjaro. *Development and Change*, 33(1), 101–127.
- Minow, M. (1991). *Making All the Difference: Inclusion, exclusion, and American Law*. Cornell University Press.
- Murdie, A., & Davis, D. (2012). Shaming and blaming: Using events data to assess the impact of human rights INGOs. *International Studies Quarterly*, 56(1), 1–16.
- Neuman, W. L. (1994). *Social Research Methods*, 2nd edition. Allyn & Bacon.
- Noyes, J. E., Dickson, L. A., & Janis, M. W. (2007). *International Law Stories*. Foundation Press.
- Nyanduga, B. T., & Manning, C. (2006). Guide to Tanzanian Legal System and Legal Research. Retrieved from <http://www.nyulawglobal.org/globalex/tanzania.htm>.
- Oppenheim, L. (2005). *International Law. A Treatise*, 3rd edition. eLawbook Exchange Ltd Clark.
- Patton, M. Q. (1990). *Qualitative Evaluation and Research Methods*, 2nd edition. SAGE.
- Rochester, J. M. (2006) *Between Peril and Promise: The Politics of International Law*. CQ Press.
- Ruggie, J. G. (1998). What makes the world hang together? Neo-utilitarianism and the social constructivist challenge. *International Organization*, 52(4), 857–861.
- Sandholtz, W., & Whytock, C. A. (2017). *Research Handbook on the Politics of International Law*. Edward Elgar.
- Scholl, W., & Schermuly, C. C. (2020). The impact of culture on corruption, gross domestic product, and human development. *Journal of Business Ethics*, 162(1), 171–189.
- Simmons, B. (2009). *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge University Press.
- Snider, T. R., & Kidane, W. (2007). Combating corruption through international law in Africa: A comparative analysis. *Cornell International Law Journal*, 40(3), 691–748.

- Squatrito, T. (2016). Domestic legislatures and international human rights law: Legislating on religious symbols in Europe. *Journal of Human Rights*, 15(4), 550–570.
- Sung, H. E. (2004). Democracy and political corruption: A cross-national comparison. *Crime, Law and Social Change*, 41(2), 179–194.
- Temin, P. (1997). Is it Kosher to talk about culture? *Journal of Economic History*, 57(2), 267–287.
- Teorell, J., & Hadenius, A. (2006). Democracy without democratic values: A rejoinder to Welzel and Inglehart. *Studies in Comparative International Development*, 41(3), 95–111.
- Teson, F. R. (1998). *A Philosophy of International Law*. Westview Press.
- Treisman, D. (2000). The causes of corruption: a cross-national study. *Journal of Public Economics*, 76(3), 399–457.
- UN (2000). The Cost of Corruption. Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders Press Kit Backgrounder No3. The United Nations Department of Public Information. Retrieved from <http://www.un.org/events/10thcongress/2088b.htm>.
- UN (2003). United Nations Convention Against Corruption. United Nations Office on Drugs And Crime.
- UN (2013). General Assembly, United Nations Declaration against Corruption and Bribery in International Commercial Transactions: resolution / adopted by the General Assembly. Retrieved from <https://www.refworld.org/docid/5290addf4.html>.
- UNDP (2007). Governance and Anti-Corruption. Retrieved from http://www.tz.undp.org/dg_proj_dg_intro.html.
- United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP). What Is Good Governance?. Retrieved from <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>.
- United Nations Office on Drugs and Crime (UNODC). (2010). Retrieved from <http://www.unodc.org/unodc/en/treaties/CAC/signatories.htm>.
- Voigt, S., & Gutmann, J. (2015). On the wrong side of the law – Causes and consequences of a corrupt judiciary. *International Review of Law and Economics*, 43(c), 156–166.
- Wendt, A. (1999). *Social Theory of International Politics*. Cambridge University Press.
- Whitaker, M. P. (1996). Ethnography as learning: A Wittgensteinian approach to writing ethnography accounts. *Anthropology Quarterly*, 69(1), 1–13.
- Widlak, T. (2012) *From International Society to International Community: the Constitution Evolution of International Law*. Gdańsk University Press.
- Wilson, W. J. (2010). *More than Just Race: Being Black and Poor in the Inner City* (Issues of Our Time). W. W. Norton & Company.
- Wolcott, H. R. (2008). *Ethnography: A Way of Seeing*, 2nd edition. AltaMira Publications.

- Woodrum, J. (1984). Mainstreaming content analysis in social science: Methodology, Advantages, obstacles and solutions. *Social Science Research*, 13(1), 1–19.
- Woods, P. (1987). Ethnography at the crossroads: A reply to Hammersley. *British Educational Research Journal*, 13(3), 297–307.
- Wraith, R., & Simpkins, E. (1964), *Corruption in Developing Countries*. W. W. Norton & Company.
- Yin, R. K (2009). *Case Study Research: Design and Methods*, 5th edition. SAGE.
- Yin, R. K. (2017). *Case Study Research and Applications: Design and Method*, 6th edition. SAGE.